**New South Wales**

# Legislative Council

## PARLIAMENTARY DEBATES
## (HANSARD)

**Fifty-Sixth Parliament**
**First Session**

**Wednesday, 9 August 2017**

Authorised by the Parliament of New South Wales

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# LEGISLATIVE COUNCIL

## Wednesday, 9 August 2017

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

**The PRESIDENT** read the prayers.

*Announcements*

### DEATH OF THE HON. JOHN RICHARD "JOHNO" JOHNSON, A FORMER PRESIDENT AND MEMBER OF THE LEGISLATIVE COUNCIL

**The PRESIDENT:** Sadly, I announce the death this day of the Hon. John Richard "Johno" Johnson, aged 87 years, who was a member of this House from 1975 to 2001 and a President from 1978 to 1991. On behalf of the House I will extend to his family the deep sympathy of the Legislative Council for their loss. Shortly, the Leader of the Government will move a motion of condolence after which debate will be adjourned until the next sitting day to allow all members to prepare for the motion.

*Members and officers of the House stood in their places as a mark of respect.*

*Condolences*

### DEATH OF THE HON. JOHN RICHARD "JOHNO" JOHNSON, A FORMER PRESIDENT AND MEMBER OF THE LEGISLATIVE COUNCIL

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (11:02):** I move:

(1) That this House expresses and places on record its deep sense of the loss sustained to the State and this House by the death this day of the Hon. John Richard "Johno" Johnson, a member of this House from 1975 to 2001 and President of the House from 1978 to 1991.

(2) That this resolution be communicated by the President to his family.

There are now only five members of this House who served with the Hon. Johno Johnson, but many others were touched by his life. Appropriately, and after consultation with the Leader of the Opposition, we will pause so that we can reflect and come back in September to pay tribute to the Hon. Johno Johnson. I move:

That the motion be adjourned until Tuesday 12 September 2017.

**Motion agreed to.**

*Committees*

### JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

#### Reference

**The Hon. Dr PETER PHELPS:** I move:

(1) That the Joint Standing Committee on Electoral Matters inquire into and report on:

(a) the current system of "'random selection" in the counting of preferences in local government elections;

(b) whether this system delivers fair results in all cases for candidates;

(c) whether there are any alternative methods of ballot counting that would produce more accurate preference flows; and

(d) any other related matter.

(2) That the committee report by 14 November 2017.

**Motion agreed to.**

*Motions*

### BATHURST LADIES PROBUS CLUB THIRTIETH ANNIVERSARY

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

That this House:

(a) congratulates the Bathurst Ladies' Probus Club, which was founded in 1987, on its thirtieth anniversary;

(b) notes that Probus Clubs provide opportunities for more than 130,000 retired and semi-retired persons in Australia and New Zealand to progress healthy minds and active bodies through social interaction and social outings; and

(c) thanks the Bathurst Ladies' Probus Club for its work and congratulates its members and President Nola Ramsay and Vice President Jenny Hector on their successful thirtieth anniversary luncheon, which was held on 6 July 2017 at the Bathurst Panthers Rugby League Football Club.

**Motion agreed to.**

## INTERNATIONAL DAY OF THE WORLD'S INDIGENOUS PEOPLES

**The Hon. SHAOQUETT MOSELMANE (11:06):** I move:

(1) That this House notes that:

(a) Wednesday 9 August 2017 is the International Day of the World's Indigenous Peoples, an annual observance designed to promote and protect the rights of the world's indigenous peoples;

(b) 2017 will also mark the tenth anniversary of the United Nations Declaration on the Rights of Indigenous Peoples, a major milestone with respect to cooperation and solidarity between indigenous peoples and member states;

(c) over the last decade the implementation of the United Nations Declaration on the Rights of Indigenous Peoples has achieved some major successes at the national, regional and international levels; and

(d) despite these achievements, there continues to be a gap between the formal recognition of Indigenous peoples and the implementation of policies on the ground.

(2) That this House notes that:

(a) there are an estimated 370 million Indigenous people in the world, living across 90 countries;

(b) Indigenous peoples have sought recognition of their identities, way of life and their right to traditional lands, territories and natural resources for years, yet throughout history their rights have always been violated by other cultures and societies;

(c) Indigenous peoples today are arguably among the most disadvantaged and vulnerable groups of people in the world; and

(d) the international community now recognises that special measures are required to protect the rights of Indigenous peoples and maintain their distinct cultures and way of life.

(3) That this House notes the urgent need for the provision of greater resources to our Indigenous communities to help them tackle disempowerment, poverty, marginalisation and substance dependency.

**Motion agreed to.**

## TRIBUTE TO MR MICHEL JARJOURA, OAM

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

(1) That this House notes that on Tuesday 27 June 2017 Mr Michel Jarjoura, OAM, passed away peacefully aged 88.

(2) That this House notes that Mr Jarjoura:

(a) was born in Betram, Lebanon in 1929;

(b) moved to Australia at the age of 19;

(c) worked initially as a travelling hawker, like many of the Lebanese migrants to Australia at the time;

(d) established the Mansours chain of retail homeware specialty stores, beginning in Lakemba in 1956;

(e) worked to develop the Mansours chain across New South Wales, ultimately turning these stores into the MyHouse homewares company, now managed by Mr Jarjoura's sons Richard and Stephen; and

(f) was a tireless community leader, serving as:

(i) Chairman of the Antiochian Orthodox Committee of Sydney from 1983 to 1992;

(ii) President of the Australian Lebanese Association New South Wales Branch from 1977 to 1980;

(iii) Vice President of the World Lebanese Cultural Union from 1979 to 1984; and

(iv) Dean of the Lebanese Humanitarian Appeal Committee since 2007.

(3) That this House notes that Mr Jarjoura's exceptional contribution to his community and Australia was recognised through:

(a) the Order of the Cross of St Peter and Paul awarded in 1989;

(b) the Gold Merit Award from the World Lebanese Cultural Union awarded in 1983; and

(c) a medal of the Order of Australia in the General Division for service to the Lebanese community in New South Wales in the Queen's Birthday Honours for 2012.

(4) That this House acknowledges that Mr Jarjoura lived a complete life, touching everyone he met in his own distinct way through his belief that "life is what you make of it", and sends its thoughts and prayers to his family, especially his beloved children Ann, Michael, David, Richard, Gary, Stephen and Peter.

**Motion agreed to.**

## AUSTRALIA RAINBOW TV FIFTH ANNIVERSARY

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

(1) That this House notes that:

(a) on 7 July 2017, Australia Rainbow TV celebrated its fifth anniversary since beginning operations in Australia; and

(b) Australia Rainbow TV is a 24-hour Mandarin language broadcaster, the first of its kind in Australia, which provides coverage and service to the Chinese-Australian community in New South Wales and beyond.

(2) That this House congratulates Australia Rainbow TV, its volunteers, employees and its President, Mr Henry Wong, on their work in enriching the lives of so many within our community.

**Motion agreed to.**

*Documents*

## UNPROCLAIMED LEGISLATION

**The Hon. SCOTT FARLOW:** According to Standing Order 117, I table a list detailing all legislation unproclaimed 90 calendar days after assent as at 8 August 2017.

*Disallowance*

## WATER MANAGEMENT (GENERAL) AMENDMENT (FLOODPLAIN) REGULATION 2017

**The PRESIDENT:** According to standing order the question is: That the motion of the Hon. Walt Secord proceed as business of the House.

**Question resolved in the affirmative.**

**The Hon. WALT SECORD:** I move:

That the matter proceed forthwith.

**Motion agreed to.**

**The Hon. WALT SECORD (11:21):** I move:

That, under section 41 of the Interpretation Act 1987, this House disallows the Water Management (General) Amendment (Floodplain) Regulation 2017, published on the NSW Legislation website on 30 June 2017.

Make no mistake, we are here today for a simple reason. We are here today to overturn a regulation created to facilitate corrupt activity. It was drafted and crafted by the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry, the "rural water Minister". This was because he was unable to get the member for Vaucluse and the Minister for the Environment to legalise illegal irrigation works by his mates of and donors to The Nationals. When the Minister failed in his exercise, he then resorted to the conspiracy of a flood plan with a regulation behind it. This is what we are debating to disallow today.

It is a total surprise to everyone who follows politics that the member for Vaucluse was able to stand up to the rural water Minister. Today we should join her in her fight against corruption in The Nationals and strike down this corrupt regulation. Today's regulation is rural water Minister Niall Blair's payback for the $10,000 donation The Nationals received in 2011 from irrigator Mr Peter Harris. The culture conducive to corruption began under the then water Minister Kevin Humphries, continued under the next water Minister, Katrina Hodgkinson, and reached a fever pitch under the current rural water Minister, Niall Blair.

As Deputy Leader of the Opposition, I take my role as a member of our State's House of review seriously. As legislators, we often find ourselves in a position to moderate the excesses of Executive government. This is a primary purpose of this Chamber, which dates back to its original inception as the Legislative Council advising the appointed Governor of the day in the colonial era. It is our original role and a longstanding tradition. We see how that role of scrutiny on the excess of Executive power is as valid today as it was in the colonial era. This is especially true when Ministers, using Executive orders, make decisions without proper scrutiny to hide their decisions in the dark corners of government. They secretly publish those decisions in the *Government Gazette* on a Friday afternoon, hoping no-one sees their dark activity.

Of course, one of the tools available to the Executive, if so approved by this Parliament, is to create law by regulation or by publication in the *Government Gazette*. But that power remains subject to the review of the Parliament and this Chamber. It remains subject to the longstanding Westminster and common law traditions known as the Doctrine of Parliamentary Supremacy. That doctrine recognises that amongst the three branches of government, it is the Parliament that most directly represents the power of the community to make laws—and with that power comes great responsibility. It is a responsibility that those opposite cannot shirk from to save their own political hides. As the House of review, we can examine these regulations and decisions by way of a disallowance motion under section 41 of the Interpretation Act 1987. Accordingly, I eagerly await the publication of the New South Wales *Government Gazette* every Friday afternoon.

**The Hon. Dr Peter Phelps:** As we all do.

**The Hon. WALT SECORD:** It is the highlight of my Friday afternoon. There are always dozens of water leases published each week in the *Government Gazette*. Each year there are some 45,000 water licences granted in New South Wales, so there is much to look into. I am always keen to see what decisions the Berejiklian Government has made outside the Parliament, in the dark corners; what Government members are trying to do away from the people's House. Sometimes they are trying to do things that would not stand the scrutiny of parliamentary debate or, as we saw yesterday, things that would not stand the scrutiny of questions without notice. Yesterday, we saw the rural water Minister reading from a carefully crafted script, so that he would not step on self-placed landmines. Sometimes it takes a bit of time before the impact of those decisions or the regulations is known or realised. Sometimes it takes a program like ABC's *Four Corners* by Linton Besser, Mary Fallon and Lucy Carter or an investigative journalist like Andrew Clennell at the *Daily Telegraph* to bring matters of corruption to light; but there it is, the corruption is exposed.

**The Hon. Niall Blair:** Be very careful; you will eat your words. Keep going.

**The Hon. WALT SECORD:** Maybe I will remind the Minister why we are here today.

**The Hon. Niall Blair:** Point of order: The member is casting aspersions—

**The Hon. WALT SECORD:** I am not casting aspersions; they are landing exactly in your bunker.

**The PRESIDENT:** Order! The Hon. Walt Secord will resume his seat. The Deputy Leader of the Government has the call.

**The Hon. Niall Blair:** I ask the member to withdraw his comments.

**Mr Jeremy Buckingham:** To the point of order: The member is making a contribution by way of a substantive motion in this House and a contribution that reflects the views of the vast majority of people in New South Wales.

**The PRESIDENT:** That is a debating point. Mr Jeremy Buckingham will resume his seat. I call Mr Jeremy Buckingham to order for the first time. Let me make it clear, members will not use such ploys when I am in the chair. If members want to take a point of order, they will get the call. But if they use the point of order to make a debating point I will not accept it.

**The Hon. Lynda Voltz:** To the point of order: The Minister interjected when the member was speaking and the speaker responded that he would remind us why we are here. I do not see that as an aspersion on the Minister. The speaker should be allowed to continue his contribution unimpeded.

**The Hon. Niall Blair:** Further to the point of order: I took a legitimate point of order—

**The Hon. Penny Sharpe:** You were the one who was interjecting.

**The Hon. Niall Blair:** —as is my right. If a member is putting forward those sorts of allegations about me, it is my right to take a point of order and ask for those comments to be withdrawn.

**The Hon. WALT SECORD:** To the point of order: The Minister sat in the Chamber for four minutes before taking a point of order. It is customary for members to take points of order immediately after the comments have been made. The Minister waited for four minutes.

**The Hon. Ben Franklin:** To the point of order: To assist the Chamber, the rules of debate under Standing Order 91 (3) state:

> (3) A member may not use offensive words against either House of the Legislature, or any member of either House, and all imputations of improper motives and all personal reflections on either House, members or officers will be considered disorderly.

I suggest that the imputation of corruption is disorderly under Standing Order 91 (3) and should be ruled as such.

**The PRESIDENT:** Stop the clock. I have heard sufficient argument on the point of order. Making reflections against another member can be done only by way of substantive motion. This is not a substantive motion relating to a member but it is a substantive motion relating to section 41 of the Interpretation Act that the House disallow the Water Management (General) Amendment (Floodplain) Regulation 2017. If members wish to make imputations against other members it should be done by way of a substantive motion against that member.

I also note a number of former rulings. In 1976 President Budd ruled that it was unparliamentarily to call members of the House corrupt. In 1987 President Johnson ruled that allegations of a personal nature against members can be made only upon a direct and substantive motion. Members must exercise their privilege of free speech with good sense and good taste so as to be courteous in the use of language towards other members in debate. Personal references not only reduce the standard of debate, provoke retaliation and lead to disorder in the House but also degrade the Parliament in people's estimation.

Earlier in debate the Hon. Walt Secord reflected on two members from the other House and on the Deputy Leader of Government. No objection was taken. But when the Hon. Walt Secord said, "I will repeat what I said earlier", it is clear that he intended to repeat the words that he had said four minutes earlier. It was on that basis that the Deputy Leader of Government took a point of order. I uphold the point of order and I ask the Hon. Walt Secord to refrain from any reflection or imputation on another member during this debate.

**The Hon. WALT SECORD:** Journalists Linton Besser and Andrew Clennell exposed a systematic rorting and subverting of the entire Murray-Darling Basin system. We also found that instead of properly investigating this, the Berejiklian Government attempted to skirt scrutiny by setting up a flimsy inquiry with a terms of reference so limited that it did not cover the activity of the two previous Ministers. Furthermore, the terms of references carry no protection for those cooperating or those who give evidence to expose corruption. It is another inquiry by the Liberal-Nationals Coalition that is not an actual inquiry, just as we saw with the chemotherapy underdosing inquiry conducted by Professor David Currow. It was a woeful investigation.

**The Hon. Niall Blair:** Point of order: My point of order relates to relevance. We are debating the disallowance of a regulation in the *Government Gazette*; we are not exploring other investigations and matters.

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

**The Hon. WALT SECORD:** I take on the member's comments. I refer specifically to the Water Management (General) Amendment (Floodplain) Regulation 2017, which was published on the New South Wales Government website on 30 June. This regulation provides the framework, zones and maps that gave Minister Niall Blair the discretionary power to retrospectively pardon irrigators who broke the law by committing unauthorised and illegal works to steal water from the Murray-Darling Basin. The regulation created four zones: A, B, C, and D. It is in these zones that the greatest crimes of water theft have occurred in this State. It is no coincidence that this regulation relates to those specific zones. The maps apply to section 38 and section 39 of the Murray-Darling valley floodplain management plan. This regulation backs up the plan that the Minister gazetted. I thought Minister Blair was different and that he would be the handbrake on The Nationals. I thought he was part of a new generation of Nats. He is no different from Sir Joh's National Party Nats.

**The Hon. Ben Franklin:** You are a disgrace.

**The Hon. WALT SECORD:** No, you are a disgrace.

**The PRESIDENT:** Order! I call the Hon. Walt Secord to order for the first time. The Hon. Walt Secord will withdraw his last comments relating to the imputation made about the Deputy Leader of Government, which clearly flouts my previous ruling.

**The Hon. WALT SECORD:** I withdraw my comment. I state for the record that I support law-abiding farmers and irrigators. I support those who are doing the right thing by the State and by the taxpayer, such as the citrus growers in the State's south who are now ripping up their trees because they do not have water. They are perplexed because all the water has disappeared and they are now pulling up their trees. I object to a Minister making retrospective laws to protect his mates and donors. We have a situation—

**The PRESIDENT:** Stop the clock.

**The Hon. Ben Franklin:** Point of order: Once again I refer the House to Standing Order 91 (3), which states in part:

> … all imputations of improper motives and all personal reflections on either House, members or officers will be considered disorderly

Once again, the member imputed an improper motive. He is flouting your ruling and is being disorderly.

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

**The Hon. WALT SECORD:** This regulation is important; it is about the theft of water and about irrigators taking up to five times the legal limit which amounts to billions of litres of water. Irrigators were stealing water at a time when Broken Hill, a town comprising 19,000 families, was on severe restrictions and was almost out of water. The irrigators stole water and the Menindee Lakes dried up. They pumped millions and millions of litres of illegal water from the Barwon-Darling River. Furthermore, The Nationals were passing on the burden of the drought to the families of Broken Hill.

Now The Nationals want to pardon their mates who deliberately stole water from the mouths of families in Broken Hill, from the people in Menindee Lakes and from fishermen in Brewarrina. The worst aspect of this whole matter is that The Nationals want the families and businesses of Broken Hill to pay for the $500 million pipeline from Wentworth to Broken Hill. The Nationals do not have a business plan; they just want the families of Broken Hill to pay the costs and to carry the burden of the pipeline which was created by people who stole water from the river.

**The PRESIDENT:** Stop the clock.

**The Hon. Niall Blair:** Point of order: My point of order relates to relevance. The member is now straying into other areas and matters rather than debating why this regulation should be disallowed. He should come back to the substantive matter that is before the House rather than straying into other areas.

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

**The Hon. WALT SECORD:** The regulation is very clear; it relates to the facilitation of water theft in zones A, B, C, and D, which were highlighted by the ABC and the *Daily Telegraph*. The water theft was highlighted also by former NSW Farmers' President Mal Peters, who on ABC described the $13 billion spent on the Murray-Darling Basin and the theft of the water as a "betrayal". This water was purchased with taxpayers' money and was handed over to The Nationals donors and irrigators. It is a clear case of a small number of irrigators extracting as much as they could and benefiting from such an extraction while allowing the farms of families downstream to go dry.

They said, "Stuff the families and farmers downstream. Let them suffer. Let them live in dirt. Let them walk on dry riverbeds." That is what they said. That is what the northern irrigators did with the permission of the Minister for Regional Water, and it is unacceptable. At one point the river disappeared for a solid eight months. One could walk right through the riverbed, and this from a party that claims to represent the bush. The dry Murray-Darling was a man-made disaster created by the irrigators who were allowed to suck out billions of litres. It was a drought that was manufactured by The Nationals. [*Time expired.*]

**The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (11:39):** I oppose the motion and will clearly articulate to the House the misunderstandings of the member opposite. He has moved a motion that seeks to disallow a regulation that has as its purpose to manage the risk to life and property from the effects of flooding and to protect and maintain flood connectivity to flood-dependent ecological and cultural features of the Barwon-Darling Valley floodplain. The Water Management (General) Amendment Floodplain Regulation 2017 is made under section 400 of the Water Management Act 2000. The regulation amends the Water Management (General) Regulation 2011 by declaring certain land identified on a map to be the Barwon-Darling Valley floodplain. This is necessary before a floodplain management plan can be made under section 50 of the Water Management Act.

The amending regulation was required to declare land to be the Barwon-Darling Valley floodplain before making the Barwon-Darling Valley Floodplain Management Plan, as I have said. The draft Barwon-Darling Valley Floodplain Management Plan, which included a map of the proposed Barwon-Darling Valley floodplain, was on public exhibition from 31 October to 9 December 2016. The Barwon-Darling Valley Floodplain Management Plan is the second of six whole-of-valley floodplain management plans [FMPs] being developed under the NSW Healthy Floodplains Project, which is a Commonwealth-funded joint project of the New South Wales Department of Primary Industries [DPI]—Water and the New South Wales Office of Environment and Heritage. Funding for the NSW Healthy Floodplains Project is provided by the Australian Government's Sustainable Rural Water Use and Infrastructure Program as part of the implementation of the Murray-Darling Basin Plan in New South Wales.

The Minister for the Environment concurred with the making of the Barwon-Darling Valley Floodplain Management Plan. I repeat for the member opposite, who misrepresented and clearly showed he does not understand this process: The Minister for the Environment concurred with the making of the Barwon-Darling Valley Floodplain Management Plan. The plan commenced on 30 June 2017 in the Barwon-Darling Valley and is pivotal in ensuring healthy floodplain management for the area. The plan provides the framework for coordinating the development of flood works for each valley, building on current practices. The plan outlines the

type of flood works that may be approved, assessment criteria for flood work applications and rules for granting or amending flood work approvals, including advertising requirements. The types of works this plan provides for include flood refuge for stock and embankments to protect critical farm infrastructure, as well as access roads and irrigation supply infrastructure. Water supply infrastructure for environmental assets such as wetlands can also be assessed through this plan.

The Barwon-Darling Valley Floodplain Management Plan builds on current practice and uses improvements in knowledge and technology to deliver a streamlined approvals process for new and amended flood works. Bringing flood works under the Water Management Act 2000 framework benefits landholders by ensuring greater consistency with other approval types. Let us look at the development of the plan. The development of floodplain management plans under the Water Management Act 2000 is undertaken in partnership between DPI Water and the Office of Environment and Heritage. The Office of Environment and Heritage is responsible for developing the content of floodplain management plans based on the advice of a technical advisory group. DPI Water is responsible for the consultation and review processes for the development of floodplain management plans. Preparation of the Barwon-Darling Valley Floodplain Management Plan involved community consultation and was overseen by an interagency regional panel, incorporating representatives from DPI Water, the Office of Environment and Heritage, DPI Agriculture and Local Land Services.

I approved public exhibition of the draft Barwon-Darling Valley Floodplain Management Plan on 18 September 2016. DPI Water undertook public exhibition of the draft plan during the period from 31 October to 9 December 2016. This included a map of the proposed Barwon-Darling Valley floodplain. Key stakeholders engaged during public exhibition included NSW Farmers, Darling River Food and Fibre, Bourke Cotton Growers' Association, floodplain landholders across the Barwon-Darling Valley, local Indigenous communities and other members of the community. Eight submissions were received from the public exhibition. The interagency regional panel reviewed submissions received from the public exhibition of the draft Barwon-Darling Valley Floodplain Management Plan. Four minor refinements to the configuration of the management zones and one minor change to the rules were made in response to feedback received during the public exhibition. I am advised that further refinement of the management zones also occurred after the public exhibition period.

The Office of Environment and Heritage and DPI Water undertook additional targeted consultation on the management zone configuration for the draft plan during the period from 20 February 2017 to 15 March 2017. Fifteen minor refinements to the configuration of the management zones were made in response to that targeted consultation. These changes were as a result of updated ecological information and additional information about cultural sites and to ensure alignment with neighbouring floodplain management plans. Support material is available on the DPI Water website to help the community understand the Barwon-Darling Valley Floodplain Management Plan, including the following documents: the Barwon-Darling Valley Floodplain Management Plan rules and assessment criteria summary sheets, summarising the key information for each management zone; the technical manual, which describes the method for development of floodplain management plans; and a background document which describes how the method for development of FMPs has been applied to the development of the Barwon-Darling Valley Floodplain Management Plan.

I make it very clear that the regulation those opposite are seeking to disallow is about declaring floodplain for the purpose of flood works. It does not provide additional water access licences or floodplain harvesting licences. During formal and informal consultation regarding the draft Barwon-Darling Valley Floodplain Management Plan, traditional owner communities of the Barwon-Darling floodplain raised concerns about continuing lack of cultural recognition and loss of cultural identity through government initiatives. In recognition of these concerns and out of respect for the traditional owners of the Barwon-Darling floodplain, four geographical reaches within the plan have been named after the traditional owners of each reach.

The four geographic reaches of the Barwon-Darling Valley Floodplain Management Plan are referred to as Gomeroi Reach; Euahlayi, Gomeroi and Wayilwan Reach; Ngemba, Wayilwan, Euahlayi and Baranbinja Reach; and Wangaaypuwan, Ngemba, Baranbinja and Gunu Reach. I have in my hand a similar regulation that was used to enact the Gwydir Valley Floodplain Management Plan in August 2016. Those opposite did not seek to disallow that regulation, even though the Gwydir Valley Floodplain Management Plan adopts the same fundamental principles as the Barwon-Darling Valley Floodplain Management Plan. Is that what we can expect next, that the first of the six management plans will be subject to a disallowance motion moved by those opposite?

**The PRESIDENT:** Order! I remind Mr Jeremy Buckingham and the Hon. Walt Secord that they are both on one call to order. I also remind Mr Jeremy Buckingham of the motion standing in his name on the *Notice Paper*. I am sure he will want to be in the Chamber when that is called on.

**The Hon. NIALL BLAIR:** The main purpose of a floodplain management plan is to manage the risk to life and property from the effects of flooding. In the Barwon-Darling Valley, management zones A and D discharge significant amounts of water during times of flood. The Barwon-Darling Valley Floodplain

Management Plan prescribes the types of flood works that are eligible for approval in these areas. Uncontrolled flood work development in management zones A and D would significantly impact on the passage and distribution of water during times of flood, increasing the risk to life and property from flooding. We should not let those on the other side of the Chamber play politics with the safety, the lives and the livelihoods of those living in this floodplain area. Opposition members do not understand what these floodplain management plans are designed for, the process of consultation with affected communities, and the time frames within which people have been allowed to comment on the development of these zones.

After what we have witnessed in other areas, Opposition members are now using this opportunity to target the work that is being undertaken jointly by the New South Wales Department of Primary Industries—Water and the Office of Environment and Heritage, with funding from the Commonwealth, to address an issue about which they are so passionate relating to the Murray-Darling Basin Plan. It reveals their disdain for those who are affected in these areas and shows to what lengths they will go to use whatever tools they can to try to score political points. It reveals the Opposition's complete lack of consistency. It says we should be supporting the Murray-Darling Basin Plan and talking to communities about this issue; that we should have a transparent set of rules that is available to everyone in the valley. That is what this Government is doing. Opposition members did not raise concerns about the Gwydir plan or say that it was a bad thing. All that they said was that the Government must have gone through the right processes.

**The Hon. Walt Secord:** Point of order: My point of order relates to relevance. The Minister has not responded to a single allegation about why this regulation should be disallowed.

**The PRESIDENT:** That is a debating point. The Minister was being generally relevant.

**The Hon. NIALL BLAIR:** The Hon. Walt Secord has been caught out and is desperately taking points of order. My contribution to the House could not be clearer. This Government has gone through the correct processes, the project has been funded by the Commonwealth and the Murray-Darling Basin Plan has been established to ensure that we look after the health of the rivers. This project was undertaken in conjunction with the Office of Environment and Heritage and was signed off by the Minister for the Environment after consultation with the community, having investigated and made changes in line with the concerns raised by traditional owners in that area. Ultimately, this plan is designed to protect life and property in times of flood in that part of New South Wales. I guarantee that the Hon. Walt Secord would not have given communities in that area any thought during times of flood.

**The PRESIDENT:** Stop the clock.

**Mr Jeremy Buckingham:** Point of order: The Minister is casting aspersions on the Hon. Walt Secord and straying from the substantive debate on this disallowance motion. He should be asked to withdraw those awful comments.

**The PRESIDENT:** I remind the Deputy Leader of the Government of my earlier rulings and I ask him to withdraw his comments.

**The Hon. NIALL BLAIR:** I withdraw the comments.

**The Hon. Catherine Cusack:** Point of order: Earlier you asked that the clock be stopped and it was not stopped. During the Minister's speech repeated points of order were taken that you ruled were debating points. When the Hon. Walt Secord was speaking and points of order were taken the clock had to be stopped for a substantial time. The Minister was not afforded the same courtesy when he was making his remarks. I believe that his time has been wasted and I ask that consideration be given to winding back the clock.

**The PRESIDENT:** Was the clock stopped? There was a short moment of about 20 seconds when the clock was not stopped. The clock will be reset at one minute. The Minister has the call.

**The Hon. NIALL BLAIR:** I clearly articulated the reasons why this floodplain management plan is a good idea for many stakeholders. We should not get caught up in politics. This plan was formulated after consultation, which is good for communities and for the environment in regional New South Wales. The plan was signed off by the Office of Environment and Heritage and funded by the Commonwealth. I understand that we will be talking about many other matters involving water in the next few weeks. Opposition members are picking on the wrong person. They are seeking to disallow this regulation when there are many good things in this plan. It does not matter whether someone is standing up for the environment, for people's lives or assets, or for the farming community, this is the right way forward. This disallowance motion should be defeated.

**The Hon. Catherine Cusack:** Point of order: My point of order relates to the starting and the stopping of the clock. You asked that the clock be stopped when Mr Jeremy Buckingham was taking points of order and it

was not stopped. For the benefit of members, there should be a more concise ruling as to when clocks should be started and stopped.

**The PRESIDENT:** The stopping and starting of the clock is a matter for my discretion. I have already ruled on the member's earlier point of order. On that basis I extended the time on the clock from 38 seconds to one minute. I remind members that the problem relates to continuous interjections by members when another member is speaking. It is getting out of hand and it is causing difficulties not only for me as the Chair but also for Hansard. This is a sensitive debate and members have the right to be heard in silence. The rulings I made relating to imputations against members are the same rulings that will apply to every member who will now speak in debate. I will take it as a flouting of my earlier ruling if it is breached.

**The Hon. ROBERT BROWN (11:58):** Motions like this must be carefully crafted to correct any problems that have arisen in regulations. Disallowance motions must be fairly succinct. When a disallowance motion is moved, governments always argue that if they are supported there will be unintended consequences. I note, as you did, Mr President, that there is another notice of a disallowance motion on the books. Perhaps when we debate that we might see some difference between the clarity of that motion and what we are debating now. With all due respect to the Opposition, I agree with the Minister on one point: the Opposition has picked the wrong instrument on which to have a fight about allegations of impropriety. Disallowing this regulation has far-reaching implications, but not necessarily the implications that the Opposition is looking for. An independent inquiry is being run and chaired by me. It is a current inquiry, which may well have its terms of reference extended, so there will be plenty of opportunity for the Opposition to probe for impropriety. However, the disallowance of the regulation is not the best instrument by which to do that. Therefore, the Shooters, Fishers and Farmers Party will not support this disallowance motion.

**The Hon. PAUL GREEN (12:00):** I will not reiterate what has been said by my fellow crossbencher the Hon. Robert Brown because he said it so eloquently. The Christian Democratic Party agrees with his view. We will support the Government in relation to this matter.

**Mr JEREMY BUCKINGHAM (12:00):** On behalf of The Greens, I support the Opposition's motion for disallowance and lament the fact that up until yesterday I was prepared to give the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry the benefit of the doubt. But the Minister's performance yesterday during question time caused me grave concern. I was of the opinion—and I think many other people were too—that the Minister may have been dealing with legacy issues from former Ministers. But rather than strike a new path of transparency and openness, I think we have seen a doubling down of poor governance by this Government in this area that is a massive scandal involving the theft of millions of dollars' worth of water and billions of litres of water for the profit of a minority of people.

**The Hon. Niall Blair:** Point of order—

**The PRESIDENT:** Order! The Minister wishes to take a point of order. Stop the clock.

**The Hon. Catherine Cusack:** Oh!

**The PRESIDENT:** No "Oh!". I made it very clear I have a discretion and I intend to use it during this debate. The Minister has the call.

**The Hon. Niall Blair:** Mr Jeremy Buckingham has used 10 per cent or more of his time already, yet he has failed to address the disallowance motion. Rather, he is speaking about other matters that are not related to this regulation. Mr Jeremy Buckingham should confine his remarks to the subject at hand.

**Mr JEREMY BUCKINGHAM:** To the point of order: The regulation exists within the Water Management Amendment Bill 2014, and that is exactly the point I was about to get to. The regulation sits within that and that is the legacy issue that I will explore further during my contribution.

**The PRESIDENT:** Order! Members are allowed wideranging ambit when debating a motion, but I strongly recommend to Mr Jeremy Buckingham that when he says, "I was about to get to" the point, he do so immediately.

**Mr JEREMY BUCKINGHAM:** Thank you, Mr President, for your wise ruling. I recommend that members do a bit of research and examine the history. In 2014 when this House was passing the Water Management Amendment Bill 2014, I was ringing the alarm bell. Singularly, The Greens were saying in this House that the new bill, which was designed by the Hon. Kevin Humphries, was an absolute abomination. It was designed singularly to benefit irrigators through the bill itself and ultimately through the regulations, some of which The Greens are seeking to disallow. I also encourage members to have a look at my website to see "Humphries' Horrible Histories on Water Management".

The key point is that that bill not only allowed for the retrospective validation of what I and others call illegal floodplain works but also set a new path because it has created floodplain harvesting licences—licences that allowed those illegal works to effectively steal the water. That is the key difference. The then Minister not only retrospectively validated the illegal works but also created the regime in which those works could steal the water. There has been talk of consultation. The Darling River floodplain group was absolutely and vehemently opposed to what it saw then, which were illegal works being validated retrospectively and a regime that would allow a few people to harvest millions of dollars at immense profit.

The Minister was very slippery during his contribution to debate. He did not go to section 38 or section 39 of the Act which basically give him, or whoever is the Minister, the discretion to validate those works. Rather, he talked about the benefit of floodplain management plans, which no-one contests. What he said was that it gives them the discretion to approve new and amended works. That is not true. It also gives the Government the capacity to validate old works, illegal works, works that were constructed for the benefit and greed of a few people very closely associated with The Nationals. It is misleading and a misdirection from a slippery government.

Yesterday the Minister had the opportunity to say whether or not one of the applications for validation under this regulation was from Mr Peter Harris, but the Minister refused to do that. He said, "Well, we don't let people know what is going on." The Minister did not say whether or not he knew. The Greens will pursue him vigorously until he comes clean on what he knew and when. My concern is that a man for whom I have a lot of respect has set down a path that is fraught with danger and not in the interests of the people of New South Wales. The Minister also said that this regulation does not provide for additional floodplain harvesting licences. That also is very slippery because the legislation that The Nationals introduced through the Hon. Kevin Humphries created the floodplain harvesting licences.

They may not be additional, but they certainly created the regime where the floods—those intermittent and episodic events that flush the Darling River, the Culgoa, the Condamine and the north-west part of the State—which are the lifeblood of the Barwon-Darling, the Warrego and surrounding areas, could be intercepted and stolen. What has been the outcome? I am not talking about floods that are rushing through and are metres deep. I am talking about a slow-moving and rejuvenating flood that was dissected, harvested and used by a greedy few for immense personal benefit. The Harris Farm family is now worth hundreds of millions of dollars because of the changes of Government and they are big donors The Nationals. That does not pass the sniff test or the pub test in Brewarrina, Bourke, Broken Hill or anywhere in the region.

The Nationals should tell them, "Oh, well, we've validated all these illegal works retrospectively. We created the licences whereby they could harvest millions of litres of water. They're now rich. They're putting money into our party." Come on, what a joke. This is an absolute disgrace because the losers are the people that The Nationals should be standing up for: those The Nationals used to stand up for in the bush, which is the people of Broken Hill, Pooncarie and Tilpa. The McBride family, which is the absolute heart and soul of the Coalition, consists of former Federal Ministers and it is the largest private landowner in this State. The McBrides, who own Tolarno Station and have other massive holdings in the place where the Labor Party began and who are an integral part of Australian history, went to the wall because of decisions made by Minister Humphries to release water out of the Menindee, to allow harvesting licenses in the first place, and to lift embargoes at every opportunity.

What do we see from this Government and the bureaucrats that serve them? We see erring on the side of the big irrigators and standing up for big cotton. I notice that in his contribution to this debate the Minister did not say he had spoken to people in Broken Hill and he did not go down to the Lower Darling or down to South Australia. The Menindee area, which should be an absolute jewel of irrigation and agriculture, has died on the vine. There is no tourism and no agriculture. The Minister is busy looking at his tweets. But he should go out there, look those people in the eye and tell them that the decisions he made benefited them. He sent Broken Hill to the wall. There are kids living in dust full of lead. They cannot hose or grow grass because he decided that the Harrises and the money that they cough up to The Nationals were more important to the life of the Darling River. It is an absolute disgrace.

**The Hon. Scott Farlow:** Point of order—

**Mr JEREMY BUCKINGHAM:** You sit down, because you would not know.

**The PRESIDENT:** I call Mr Jeremy Buckingham to order for the second time. He will not tell members when to stand or sit down. That is my job.

**The Hon. Scott Farlow:** Mr President, I refer to your earlier ruling relating to Standing Order 91 (3) with respect to an imputation of improper motive. I ask you to call the member to order.

**The PRESIDENT:** The member has one minute and 20 seconds remaining to speak. I suggest that he cease making any further imputations. He clearly has crossed the line. I am surprised no-one took a point of order earlier.

**The Hon. Ben Franklin:** Point of order: As you asked the Deputy Leader of the Government to withdraw a comment, I ask that you ask Mr Jeremy Buckingham to do the same.

**The PRESIDENT:** I have already given my ruling. Mr Buckingham will finish his contribution. He has 53 seconds in which to do so.

**Mr JEREMY BUCKINGHAM:** Thank you, Mr President.

**The Hon. Niall Blair:** Did you withdraw?

**Mr JEREMY BUCKINGHAM:** Yes, I withdraw. But we will not withdraw from this fight. I have been going out to the Darling River the entire time I have been out here because you gave up. Hollywood Humphries, the Hon. Kevin Humphries, spends his time at Port Macquarie, not out at Moree anymore. He has given up.

**The Hon. Ben Franklin:** Point of order: It is Standing Order 91. The member is reflecting once again on a member and once again blatantly refusing to adhere to your ruling.

**The PRESIDENT:** The member will withdraw the imputations made against the member for Barwon.

**Mr JEREMY BUCKINGHAM:** I withdraw. But it is a matter of fact. We will pursue this until the Darling River is restored and the people who have corrupted this regime are held to account. [*Time expired.*]

**The Hon. MICK VEITCH (12:11):** My contribution in this debate will be brief, mainly because a lot of the matters I would like to discuss have been raised by other speakers. But I am keen to continue exploring the disallowance motion of the Water Management (General) Amendment (Floodplain) Regulation 2017. In his contribution, the Minister spoke about the good things that that instrument or arrangement will enable. There is no-one who disagrees that that instrument will provide some good and important works. But this is an issue that has risen to the top. This must be looked at in the context of all of the other matters that are currently in place, not in isolation. That is the problem with this regulation.

If one looks at it individually, it would appear to be okay, but in the context of all the other things that are in play it becomes a concern. It is important to look not only at the context but also at the chronology around the water issue in the Barwon-Darling. That is the context within which we are looking at this regulation. As everyone in this Chamber would appreciate, once the media spotlight hit this issue, members' offices—certainly my office and no doubt others—have been inundated with people ringing or emailing and saying, "By the way, this was a concern." A part of our job is to fact check.

People are raising concerns with our office about this instrument and it is because of what it does in conjunction with other arrangements. On its own it may be okay, but it is what happens when it is put with other arrangements that are in place, and one of the other arrangements is the water sharing plan. The original water sharing plan was created in 2012. One has to wonder just what was afoot at that time. A memorandum of understanding [MOU] around the Menindee Lakes was in place between the Commonwealth and State governments. One of the first actions of the O'Farrell Government was to get rid of that MOU. That MOU involved funding the re-engineering of the Menindee Lakes. One of the reasons given for removing the MOU was that concerns relating to upstream operators were raised. This was way back in 2011.

**The Hon. Niall Blair:** We are still re-engineering.

**The Hon. MICK VEITCH:** That was way back in 2011. We then move to the creation of the 2012 water sharing plan. People have been ringing my office and saying that for quite some time they have been flagging concerns about that water sharing plan and the way it was brought into play.

**The Hon. Niall Blair:** And we are reviewing it. We are going through the process now to address that.

**The Hon. MICK VEITCH:** The water sharing plan that was put in place, I am told—and you can now check and see—was markedly different to a draft version that went out for consultation. People want to know what happened between the draft consultation version and the one that was gazetted. They want to know what happened in the meantime to change it. That happens a lot: the consultation takes place and is taken into consideration, then what is finally gazetted or put in place is different to the consultation draft. But the concern with the water sharing plan that has been raised with me contains three elements: the cease to pump, the conversion of the B and C licences to A class licences, and the size of the pumps for extraction.

**The Hon. Niall Blair:** All picked up in the issue paper that is out for consultation now.

**The Hon. MICK VEITCH:** What I will say is that when you look at this—

**The PRESIDENT:** Order! I remind all members—the Deputy Leader of the Government and the Hon. Penny Sharpe—that interjections are disorderly.

**The Hon. Niall Blair:** He should be the shadow water Minister, because he actually knows what he is talking about.

**The Hon. MICK VEITCH:** When you look at this regulation on its own, it has good elements that people would support. But when you look at this instrument in conjunction with other matters that are at play, you have to be concerned about what is enabled by this instrument. That is why we are casting scrutiny on the instrument. In his contribution, the Minister spoke at length about the good things that the instrument enables. But there are people watching this on the live stream or who will read the *Hansard* tomorrow who will say, "Hang on a second," in the broad context of the issues being raised at the moment—and they are substantial and significant issues that are being raised, and rightly so, about what is happening in the Barwon-Darling.

**The Hon. Niall Blair:** In the issues paper—and they are going through the stakeholder advisory panel [SAP], developing the water resource plan.

**The Hon. Penny Sharpe:** Point of order: I know this has been a very heated debate, but the Minister has had many opportunities to speak. He did speak and now he is continually interjecting on the Hon. Mick Veitch.

**The PRESIDENT:** Order! The Hon. Mick Veitch should direct his comments through the Chair. It appears to me he is directing them straight to the Deputy Leader of the Government, who is responding by way of interjection, which he should not be doing.

**The Hon. MICK VEITCH:** In the current context, you cannot look at this as an instrument on its own. You have to look at how it interacts and interplays with all the other things that are in place in the Barwon-Darling. It is quite rightly the role of the Opposition to pursue the issues that we are currently and forensically pursuing. It is also quite rightly the role of this Chamber to scrutinise the actions of Executive government. This is the result of concerns that have been raised about alleged illegalities. There are people who are doing the right thing in these valleys who are concerned that they are being slighted by the actions of a few. It is our job to make sure that those few are held to account, and rightly so. The good folk, the people doing the right thing out there, do not deserve to be slighted by those individuals. We will continue to forensically pursue this issue until we get answers. I say one more time that you cannot look at this instrument on its own. You need to look at its interplay and interaction with other instruments that are in place in this valley because that is when you get the true picture. I will support the disallowance and I urge all members to support it.

**The Hon. DANIEL MOOKHEY (12:18):** I speak in support of the disallowance motion. I begin by setting out the context of its passage and the passage of its enabling legislation. There are three facts. First, former water Minister Kevin Humphries, in moving the enabling legislation in the other place and his campaign for its adoption and acceptance in the community, openly proclaimed that this law would provide a firm legal footing for all people in the affected valley. Indeed, the principal benefit he argued for in passing the enabling legislation was the ability to provide firm legal certainty. In the interregnum period between the passage of the enabling legislation and the arrival of the regulation on 29 June, there was widespread concern throughout the valley about a soft attitude towards prosecution and enforcement undertaken by the department.

This time last year media reports were surfacing about illegal diversions, illegal construction and a go-slow, go-soft culture adopted by the Department of Primary Industries, the principal authority and a regulator designed to enforce the law. A few weeks ago it came to light that since the commencement of this year, the department's officials have been providing advice to select irrigators, which is inconsistent with the law as it currently exists. That advice was provided before this regulation was proclaimed. The advice provided by the department's officials to a select group of irrigators happened to presage and otherwise flag that their conduct, which was alleged to be illegal at the time, would become legal because a regulation like this would be forthcoming. We found out about this advice in an explosive context. We found out about secret recordings, secret meetings and secret conspiracies with a select group of irrigators, whom we do not know.

On 29 June, five days after Parliament rose for its winter break, in that Friday afternoon's *Government Gazette*—shock, horror—in black and white for all to see was the regulation that provides retrospective legal authorisation for illegal construction. This regulation was flagged to a select group of irrigators by the department's own officials, and now it was proclaimed in law. That is the narrative of events that has been publicly established. We now know that three applications have already come forward for the enabling legislation with the powers of this regulation to be used. We do not know who has lodged these applications and we do not know when the applications were lodged. We have no idea whether the applications for retrospective authorisation of illegal works were investigated by the strategic investigation team of the department or any other like body that exists. We

know nothing about who will be the first three irrigators to benefit from the application of the law and this regulation.

The Minister had the opportunity yesterday and today to answer that basic question, and he will have the opportunity to do so in the future. Who are the first three people who will use the powers that the Minister says the Parliament should not withdraw from him? What we did hear from the Minister, as we expected, was an argument essentially for beneficent public purpose. We were told that floods happen and need to be managed, and therefore it is better to have laws to manage them. Of course, we agree with that point; that has never been in dispute. However, there are other questions about this regulation that need to be answered. First, why now? The Minister outlined one, when he waved around with great glamour a report about the Gwydir floodplains last year. Why was that floodplain so important? Why was it seem to be so urgent? Why was the regulation published on 29 June?

**The Hon. Niall Blair:** There are six of them.

**The Hon. DANIEL MOOKHEY:** I note the Minister's interjection. I call on the Minister to outline the full sequence and when others will be proclaimed. If the Minister is asking us to accept his argument about beneficent public purpose, then the onus is on him to provide full transparency about what he is doing. He says that rules are coming; he should come forward and list the six.

**The Hon. Niall Blair:** The rules are there and there is full transparency.

**The Hon. DANIEL MOOKHEY:** Minister Blair should allow the Parliament to know the full context in which this is being done. In addition, why section 38 and section 39 of the Water Management Act? These sections provide him and him alone with the power to provide retrospective authorisation of illegal construction. It is open for the Minister to release the advice provided to him by his department in favour of this regulation. If it is the case that he is asking us to take the department's officials on trust and to accept his argument that he is doing this with advice, he must release the advice to allow that to be scrutinised by this Parliament.

Even if we were to accept all of the Minister's arguments that absent this instrument it would be impossible to manage floods—and I accept that an instrument like this is needed—the core point of concern expressed throughout the valley is that a select group of irrigators always manipulate this type of publicly beneficent instrument to their advantage. It happens in a culture of secrecy and with an absence of transparency. We will find out about the full magnitude of the crime being committed, but the moral crime is that it undermines the trust on which the entire plan depends. The fact is that communities throughout the Murray-Darling and Barwon-Darling basins expect the department to act impartially and with transparency, because it is only under those conditions that communities can have faith that everyone else is meeting their obligations. When allegations like this are made—

**The Hon. Niall Blair:** Which department?

**The PRESIDENT:** Order! The Deputy Leader of the Government will cease interjecting.

**The Hon. DANIEL MOOKHEY:** —and there is such a paucity of information from the Government, all the affected people are entitled to feel that they are being taken for a ride. The simple solution to all of this would be full public disclosure. In addition, there should be the understanding that the department itself is subject to serious allegations, and therefore a special commission of inquiry is required. The Parliament may or may not assent to the disallowance of this regulation—and in time we will understand the call for a departmental review, a debate we have heard about. But there is only one instrument able to investigate the concerns about this regulation and its enabling legislation, and that is an independent special commission of inquiry with the powers to put people under oath, the ability to subpoena documents, and the ability to look beyond the conduct of the department and inquire into irrigators.

**The Hon. Niall Blair:** Is ICAC not good enough for you?

**The Hon. Walt Secord:** Is ICAC looking at it?

**The Hon. Niall Blair:** It has been referred to ICAC. You know that.

**The Hon. DANIEL MOOKHEY:** The problem we have now—

**The Hon. Penny Sharpe:** Point of order: Please ask the Deputy Leader of the Government to cease interjecting.

**The Hon. Ben Franklin:** To the point of order: Please ask the Deputy Leader of the Opposition to cease interjecting.

**The PRESIDENT:** I was about to make that comment. I direct both the Deputy Leader of the Government and the Deputy Leader of the Opposition to cease interjecting. Their conversation is so loud that I can hardly hear the member's contribution.

**The Hon. DANIEL MOOKHEY:** My point is that if the Government wishes to have its representations taken in good faith, it has to accompany those representations with more information delivered by an impartial and independent authority. We need a special commission of inquiry with the ability to subpoena irrigators, put irrigators under oath and look beyond the conduct of just the department to see whether this regulation was a result of a lobbying campaign and resulted from what we know to be secret meetings between DPI Water and a select group of irrigators. We need to know about the full context that led to the establishment of this regulation. Because unless we look into all of those circumstances and see whether this regulation was one of the documents shared on Dropbox, no-one in the valley will accept the Minister's representations. The Minister may well win this debate, but he is losing the fight for community trust. The more he doubles down on his position, the worse he is making his own standing in the wider community.

**The Hon. PENNY SHARPE (12:27):** My contribution to this disallowance motion will be short. I have listened carefully to the debate and to what the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry has said in relation to the Water Management (General) Amendment (Floodplain) Regulation 2017. I am sure that there are many aspects to this regulation that are reasonable and important and should be in place. The revelations we have heard over the past few weeks show a system that the people of New South Wales can no longer have any faith in. We cannot trust the plan, and the community of New South Wales cannot trust the plan.

Let us review where we are at: allegations of water theft on a diabolical scale. Some of us are members of Portfolio Committee No. 5, which is currently inquiring into the augmentation of water supply for rural and regional New South Wales. During the inquiry process, we have travelled all over the State and heard from farmers, members of local communities and traditional owners pleading with us to make sure that not one drop of water is ever wasted and that every single drop of water is allocated fairly and within the rules. In recent weeks we have heard that there is theft of water on a grand scale, worth millions and millions of dollars, and that seemingly those who have perpetrated this theft have been let off the hook. These allegations of water theft are squarely against donors to The Nationals, and yet somehow they seem to have escaped prosecution. That is why we cannot trust the plan. There are allegations—

**The Hon. Ben Franklin:** Point of order: Mr President, you have made a number of rulings in terms of the imputations made about motive. I ask that you consider the comments the honourable member has made.

**The PRESIDENT:** There is no point of order. I will not waste the member's time.

**The Hon. PENNY SHARPE:** Thank you. I have been very careful in what I have said.

**The PRESIDENT:** I know you have.

**The Hon. PENNY SHARPE:** There are serious allegations of compliance work done by dedicated public servants. Every day we put our trust in public servants to do their jobs. We stand in here and fight word by word to give public servants the powers they need to pursue people who are doing the wrong thing. What we have found is that public servants have done good work and have found rorting, malpractice and theft. What has happened? That compliance activity has not led to prosecution but instead has been downgraded and in some cases disbanded. There are allegations of reports of theft by property owners being ignored by a series of Ministers in this Government. The Ministers have been written to and nothing has happened. There are allegations of mysterious changes to original water-sharing plans that do not reflect the community consultation and do not seem to have come out of anywhere but that are alleged to have been changed to, yet again, benefit a small select group over the rest of the public.

There are allegations of a public servant sharing confidential information, again with a select group of favoured irrigators. There are allegations of National Party Ministers allowing a select group of irrigators to pump during an embargo. That is an extremely serious matter. We have allegations of laws and regulations being changed to, yet again, benefit a select group of irrigators at the expense of traditional owners' desire and right to traditional flows, and at the expense of downstream irrigators and graziers, who do not have enough water to feed their stock and who have had to pull out plantings that they thought they would be able to grow based on the water predictions. Those farmers and irrigators have been thrown under the bus by the National Party and its donors and no-one seems to care. This Government continues to try to cover it up.

The expense of the outlined problems falls on the river towns and cities like Broken Hill. Broken Hill is a city of 20,000 people and it almost ran out of water. Everyone was throwing up their hands and saying it was just drought, but billion of litres of water that should have gone downstream to Menindee, Broken Hill, and every

river town were stolen from the river. Those communities have been ripped off by this theft and the Government is doing nothing to try to get to the bottom of it. There are many causes of the problems, not just from this regulation, but the Government has responded with cover-up and obfuscation. We need transparency and we need to know what has happened. That is why we moved this disallowance motion. This regulation is tainted and should not be allowed to stand until we get to the bottom of these very serious matters.

**The Hon. WALT SECORD (12:32):** In reply: I thank the Hon. Niall Blair, the Hon. Robert Brown, the Hon. Paul Green, Mr Jeremy Buckingham, the Hon. Mick Veitch, the Hon. Daniel Mookhey, and the Hon. Penny Sharpe for their contributions. Today we see a tainted regulation and a Minister who refuses to respond to a single allegation or claim about the conduct of certain people or the rationale behind this regulation. This regulation allowed a small group of irrigators in northern New South Wales to extract as much water as they possibly could to seek benefit for themselves, which led to families, businesses and farms downstream going without water. It all happened with the approval of three consecutive National Party Ministers, who said "Stuff the families and farms downstream. Let them suffer and let them live in the dust."

**The Hon. Niall Blair:** Point of order—

**The PRESIDENT:** I do not need to hear the point of order. The honourable member will withdraw his last comment in relation to the three members.

**The Hon. WALT SECORD:** I withdraw. At one point we saw a river disappear for an entire eight months. It was a drought manufactured by the excessive withdrawal of billions of litres of water. What we saw was an insult to Australian farmers and an assault on their livelihoods. Australian and New South Wales farmers are used to natural droughts; they prepare for them and they accept them. But they do not expect a manufactured drought, created upriver by their own Government.

**The PRESIDENT:** Order! I remind the honourable member that he is in reply to the debate. The purpose of the reply is to speak to matters that have been raised by other members. What the member appears to be doing is speaking to the substance of the motion.

**The Hon. WALT SECORD:** In his defence of the placement of the flood plan, the regional water Minister referred to a statement that was issued on 3 July by the Minister's department that stated that the Barwon-Darling Valley floodplain management plan was in place. The statement was issued by the Acting Deputy Director-General of the Department of Primary Industries, Dr Christobel Ferguson. The statement said that the plan outlined "a coordinated approach to management of risk to life and property from flooding, coordinates the development of flood works in the area and maintains connectivity to existing flood dependent features". What the statement did not say was that it was a map and zones for the Minister to give himself discretionary powers to pardon irrigators who broke the law by committing illegal works to harvest floodwaters.

**The Hon. Niall Blair:** Point of order: The member is not only casting aspersions, he is also misrepresenting me. He should withdraw those remarks. If he wants to make those types of comments he should do so in a substantive motion.

**Mr Jeremy Buckingham:** To the point of order: The member was not casting an aspersion and a misrepresentation is not a point of order.

**The PRESIDENT:** There is clearly an imputation in what the member is saying about the Deputy Leader of the Government. I ask the honourable member to withdraw. I again remind him that he is in reply.

**The Hon. WALT SECORD:** Mr President, I was actually quoting directly from a media statement issued by the Minister's department by Dr Christobel Ferguson. I think there has been a misunderstanding.

**The PRESIDENT:** I have given my ruling. I ask the member to withdraw the comment.

**The Hon. WALT SECORD:** I withdraw. In sections 38 and 39 on page 26 of the floodplain management plan that the Minister spoke at length about, it states:

> A flood work approval must not be granted or amended to authorise the construction or modification of a flood work in Barwon-Darling Management Zone A…

That is very important.

> … unless, in the Minister's opinion, the flood work approval is for one of the following:

Then there is quite a comprehensive list, and the first item on the list is "an access road." Is this the same access road that was shown by ABC journalist Linton Besser, which was altered by an irrigator in 2015 to make way for an illegal channel? Is this the access road in Miralwyn owned by the Peter Harris family? Or is this just a coincidence, Deidre Chambers? This is not a coincidence. I understand the Minister said by way of interjection

that this was being looked at by the Independent Commission Against Corruption. It is no wonder that former Minister Hodgkinson and former Minister Humphries have hastily announced their retirements. One could see the turnstiles spin as they raced out of the building.

**The PRESIDENT:** Order! The member will resume his seat.

**The Hon. Ben Franklin:** Point of order: Standing Order 91 is about imputing inappropriate motivations.

**The PRESIDENT:** It is absolutely. There could not be a clearer indication. The honourable member will withdraw and apologise.

**The Hon. WALT SECORD:** I withdraw and I apologise for making comments about those two Ministers and their departure.

**The PRESIDENT:** I want the member to make an unqualified apology.

**The Hon. WALT SECORD:** I make the apology without qualification. Minister, I give some advice in my concluding remarks.

**The Hon. Niall Blair:** Point of order: The member knows that all comments must be directed through the Chair at all times.

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

**The Hon. WALT SECORD:** Through the Chair, and conveying through the Chair to the Minister some friendly professional advice: A cover-up is always worse than the crime. I suggest that the Minister make a full explanation. He did not answer a single question in question time or a single question posed in relation to this regulation. The cover-up is always worse than the crime. Yesterday we referred to considerable discovery of water theft. As the Hon. John Graham said yesterday in an interjection, "Minister, you cannot avoid the question forever."

The Minister can either tell us in the Parliament or he can be hauled down to the Independent Commission Against Corruption, where they will squeeze out the answers. I advise that he cooperate, tell the truth and tell them why he pushed through this regulation in secret. He should tell them why he drafted this regulation and the associated flood plan on 30 June, less than a week after the explosive ABC *Four Corners* documentary and repeated questions from the *Daily Telegraph* which repeatedly refused to answer. I think this is a clear case of donors to the National Party in northern New South Wales sucking as much precious water from the river—

**The Hon. Ben Franklin:** Point of order: My point of order is the same one I made previously, that inappropriate motives are being imputed and they should be withdrawn.

**Mr Jeremy Buckingham:** To the point of order: My understanding of the standing orders is that the imputation must relate to a member of one of the Houses. The member did not refer to a member of either House.

**The PRESIDENT:** I refer to a ruling of President Primrose in 2009:

> … there is a distinction between expressions applied to an individual member and those applied to a group of members. However … some expressions may be so offensive that even when applied to a group … rather than an individual they may be regarded as unparliamentary.
>
> … all members … [should] seek to use good temper and moderation when canvassing the opinions and conduct of opponents in debate.

In his last 30 seconds I strongly recommend that the Deputy Leader of the Opposition uses good temper and moderation.

**The Hon. WALT SECORD:** Yesterday the Minister said there were 500 investigations a year, but he did not say how many of those investigations turned into convictions or prosecutions. I ask: How many millions or billions of litres of water were stolen? A blank cheque was issued, they stole and they stole, and if they got caught their illegal activity was legalised. [*Time expired.*]

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

**The House divided.**

Ayes .....16
Noes .....20
Majority.....4

AYES

| | | |
|---|---|---|
| Buckingham, Mr J | Donnelly, Mr G (teller) | Faruqi, Dr M |

AYES

| | | |
|---|---|---|
| Field, Mr J | Graham, Mr J | Mookhey, Mr D |
| Moselmane, Mr S (teller) | Pearson, Mr M | Primrose, Mr P |
| Searle, Mr A | Secord, Mr W | Sharpe, Ms P |
| Shoebridge, Mr D | Veitch, Mr M | Voltz, Ms L |
| Walker, Ms D | | |

NOES

| | | |
|---|---|---|
| Amato, Mr L | Blair, Mr N | Borsak, Mr R |
| Brown, Mr R | Clarke, Mr D | Cusack, Ms C |
| Farlow, Mr S | Franklin, Mr B (teller) | Green, Mr P |
| Harwin, Mr D | MacDonald, Mr S | Maclaren-Jones, Ms N (teller) |
| Mallard, Mr S | Martin, Mr T | Mason-Cox, Mr M |
| Mitchell, Ms S | Nile, Reverend F | Pearce, Mr G |
| Phelps, Dr P | Taylor, Ms B | |

PAIRS

| | |
|---|---|
| Houssos, Ms C | Khan, Mr T |
| Wong, Mr E | Colless, Mr R |

**Motion negatived.**

## NATIONAL ENERGY RETAIL LAW (ADOPTION) AMENDMENT (DEREGULATION) REGULATION 2017

**The PRESIDENT:** According to standing order the question is: That the motion of Mr Jeremy Buckingham proceed as business of the House.

**Question resolved in the affirmative**.

**Mr JEREMY BUCKINGHAM:** I move:

That the matter proceed forthwith.

**Motion agreed to**.

**Mr JEREMY BUCKINGHAM (12:51):** I move:

That, under section 41 of the Interpretation Act 1987, this House disallows the National Energy Retail Law (Adoption) Amendment (Deregulation) Regulation 2017, published on the NSW Legislation website on 23 June 2017.

This is the second disallowance motion that members have heard today. This is particularly distinct and I put on the record what this disallowance will do. This disallowance motion gives the House the opportunity to cap retail gas prices in this State. It reintroduces the role of the Independent Pricing and Regulatory Tribunal [IPART] in setting a benchmark price for retail gas in New South Wales, a role that was removed from it with the abolition of various Acts some years ago. This is an essential role because energy is an essential service. Energy should be considered in the same way as water and health, and other essential services that the State has a responsibility either to provide or to regulate.

We have a diabolical situation in this country with escalating energy prices. The head of the Australian Competition and Consumer Commission, Rod Sims, said one of the principal reasons that we have seen an escalation in prices is privatisation, basically the vertical integration of generators and retailers and effective oligopolies and monopolies in the energy sector. There is not the competition that was promised in the energy sector, including the gas sector, to ensure that gas prices can decrease. That has led to some catastrophic outcomes. A recent submission by the NSW Council of Social Service [NCOSS], which reveals the cost of energy bills on the community, said:

For these individuals and families—

These individuals and families who are struggling to pay energy bills.

> the reality is that they are skipping meals, delaying health treatment, not using hot water for bathing and going to bed early to save energy—all to pay their energy bills.

That was the outcome in June 2017. Thirty per cent of the people who were surveyed by NCOSS—a reputable polling company—said they were skipping bathing, and 60 per cent said they were going to bed early to avoid energy bills. This winter, right now, people are sitting in their houses not turning on their gas because they are terrified of rising bills. What was promised when the deregulation was passed was that competition, new people in the market, would drive down prices. On 26 September 2016 we heard the former Minister say in a press release about boosting competition in the retail gas market:

> This Government is determined to drive down the cost of living in regional areas. The NSW Government will consult with key consumer groups to develop an information campaign and support NSW gas retail customers shop around for the best deal for their circumstances.

The trouble is that 96 per cent of our gas market is controlled by three big players. The reality for people who live in regional New South Wales is they have only one company they can buy their gas from. They may have two products, but effectively there is a monopoly. People are going to the wall as a result of much higher prices. Since deregulation on 1 July, the increase in the price of gas in New South Wales is: AGL up 9 per cent and Origin up 8.5 per cent. Where are prices going to go in the future? There is no longer any government control. We are asking the Government to look at what IPART used to do and potentially in the future expand its terms of reference to consider matters other than just the cost to the retailers and increasing competition, to make sure that there is a regulated gas market. At the time of deregulation, 20 per cent of people were purchasing from the regulated retail gas market. There was an option. They could step from the regulated price to the unregulated price, the market price. That meant that the market price had to follow the regulated price. It acted as a cap on prices. It worked.

When regulation is taken away, prices go through the roof and people do not have an option. NCOSS went on to say that electricity is an essential service. It is not an expense people can easily avoid and rising prices have put increasing pressure on households We all need hot water, we all need to cook, we all need to keep our homes warm or cool. In the last financial year, 31,979 households in New South Wales were disconnected from their electricity. NCOSS said that the Government must do absolutely everything it can to deal with that issue and help lower energy costs. Today the Prime Minister sat down with the big energy providers and said, "Can you do more to protect your customers?" It is our role to protect customers. It is our role now to have IPART, a reasonable agency, oversee a regulated gas price because this is an absolute catastrophe.

**The Hon. Shayne Mallard:** Everything is a catastrophe for you.

**Mr JEREMY BUCKINGHAM:** I acknowledge the interjection from the Hon. Shayne Mallard who said that everything is a catastrophe for me. That is absolutely not true. There is no hyperbole in this. By any measure, a reasonable and rational appraisal of the Australian energy market shows that it is failing. We are all price takers. We cannot shop around. In regional New South Wales, the Government promised that a typical household in Wagga Wagga could save approximately $135 a year and a typical household in Queanbeyan could save approximately $165 a year by switching from the regulated offer to the best available market offer. People not only are not seeing savings but are seeing massive increases because there is no-one from whom to buy the gas. The producers of the gas are the retailers of the gas and the price is going through the roof.

The wholesale gas market, as I was at pains to say in 2014-15, is being absolutely smashed by the export of liquefied natural gas [LNG]. Although it is not yet enacted, the Federal Government will put in place an export mechanism. The wholesale market, which is run by a few big players who are keen on exporting, has certainly driven up prices. Last week I met with representatives of Origin Energy who said that they are telling their shareholders that Origin is booming and the company is reaping massive profits because the retail gas market now is linked to the international price. Australia exported its cheap gas and lost its competitive advantage. Origin, while not doing very well out of that business because it is extremely expensive, is doing very well out of retailing gas at double or triple the previous price. That is because of the increase in the wholesale gas market.

It is time to intervene. The Greens are not talking about nationalising the gas market. We are talking about giving the Independent Pricing and Regulatory Tribunal [IPART] a role in overseeing and setting a benchmark price. Undoubtedly the Minister for Resources, Minister for Energy and Utilities, Minister for the Arts, and Vice-President of the Executive Council will say that IPART will have a role, which is to monitor gas prices, hold inquiries and perhaps make recommendations; but that will be before the price is set, which is the key point. We can monitor the collapse of the market—we can all do that and we are all doing it—and we can monitor our electricity bills and gas bills as prices go through the roof, but it is now time to act. We should not put it off to the never-never. We should do it now. I urge the Government to act today in this Parliament to lower energy prices.

I am arguing, as a member of The Greens, that gas is an essential service. I recognise that we are in transition. This is a greenhouse gas. Effectively, some of it is coal seam gas because there is a national market. There is no doubt about that. But I do not want to see people in Queanbeyan, the Riverina or Orange or people in the colder parts of the State—and this State can be pretty cold—literally suffering ill health and misery because they cannot heat their homes. They are missing out on bathing; they are not cooking as they should. That is the reality today, according to the New South Wales Council of Social Service [NCOSS]. It is time to admit that energy deregulation has been a failure. This House can disallow the regulation and set up that benchmark.

Other jurisdictions are considering this very issue. The Federal Government will put an export mechanism in place, which is a massive piece of regulation. The community, business, manufacturing industries, mums and dads, The Greens, farmers and everyone else said, "Put the national interest in the public interest first." They welcomed the Federal Government's action. Other jurisdictions are considering exactly those types of measures. For example, the Australian Capital Territory, where prices for all forms of energy are the lowest in Australia, has a deregulated gas market and is considering re-regulating it. I urge Government members to not be sold the line that the Australian Capital Territory because it has a Green in government is somehow a place where gas prices are going through the roof. New South Wales has experienced a massive increase in gas prices and that is symptomatic of having left setting prices up to a market that is controlled by a few greedy players.

In energy, the generators and the retailers are the very same corporations. The retailers have been saying to the community, "We have to charge you more because we had to buy the electricity from ourselves at a price that is so much more." That is the situation that has been created by the coal-fired power generators. They say, "It has cost us so much more to buy the electricity from ourselves, so now you have to pay more." Now the gas companies effectively are operating as a cartel and are price gouging. It is now time to put the national interest and the State interest first for the sake of the wellbeing of our people. The Public Interest Advocacy Centre [PIAC] has called for a review of the gas market to find out how it is operating.

The submission from PIAC expresses the view that the competition in New South Wales has stalled, particularly in regional areas, and that NCOSS also considers the current level of competition in rural and regional areas to be insufficient for deregulation to occur. The peak bodies foreshadowed that deregulation would not work because competition in the market does not exist. The small players have been shut out basically because the market is being run by a few big players. I urge all members of all parties to consider taking action today to lower energy prices, to put the wellbeing of the people of New South Wales first, to help households across the State that are struggling with all kinds of bills, and to act—do this one thing—that will help them in such a massive way. [*Time expired*.]

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

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

*Questions Without Notice*

## MURRAY-DARLING BASIN PLAN INQUIRY

**The Hon. ADAM SEARLE (14:30):** My question without notice is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Given the Government-initiated Matthews water inquiry does not provide the same legal protections as would a judicial or parliamentary inquiry—for example, qualified privilege that protects witnesses from defamation and the like—what guarantees will the Minister provide to any person who in good faith seeks to provide information and evidence to this inquiry to ensure their legal rights are protected and they are not exposed by coming forward?

**The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:31):** I thank the Leader of the Opposition for his question. I am not in a position to provide legal advice on those protections, but it is my understanding that Mr Matthews will conduct the investigation thoroughly and that it will be a professional investigation. I am also aware that some of the allegations that were made in things such as the *Four Corners* program have been referred to the Independent Commission Against Corruption [ICAC]. I am sure that the member would understand the legal position and privilege that would be afforded to people who appear before the inquiry.

**The Hon. Penny Sharpe:** It is your inquiry.

**The Hon. NIALL BLAIR:** I am happy to take the member's question on notice. I am certainly not a lawyer, so I would be more than happy to come back to this place to talk about the Matthews inquiry. I also note that there are many other inquiries into the matters surrounding some of the allegations made on the *Four Corners* program. I am aware that matters have been initiated by the Commonwealth Government in relation to the Commonwealth Auditor-General. I believe the office of the Auditor-General will look into some of these matters

or its terms of reference have been extended to look at some of the allegations. I also believe that the Murray-Darling Basin Authority is looking into some matters. As I have said, it is clear that some allegations have been referred to the ICAC, and I believe the Senate is discussing this matter this afternoon. I will take the legal aspects of the question on notice, being a horticulturalist and not a lawyer. I think that would be the best course of action for the House.

## NATIONAL ELECTRICITY MARKET SECURITY

**The Hon. BEN FRANKLIN (14:33):** My question is addressed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts, and Vice-President of the Executive Council. Will the Minister update the House on the Government's response to the Finkel review?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:33):** Energy security and energy affordability are front and centre for the New South Wales Government. Everyone in this place has heard me explain what is causing higher prices and what we need to do to fix this situation. We need greater certainty for new investment by the private sector, which will increase competition and put downward pressure on prices. Without new investment, we are seeing old generators leave the market interstate and expensive gas generation sets the price in a tighter supply-demand balance. That is why I have been focused at the Council of Australian Governments [COAG] Energy Council on leading a sensible debate to deliver real results. Anything else is playing politics with energy.

It is this simple: we need to end the capital strike by providing a clear blueprint for the energy market. A pipeline of projects is ready to go across a range of generation types in New South Wales: pumped hydro and gas generators, large solar and wind projects, efficiency projects at coal generators such as Mount Piper and even growing interest in batteries and biomass. Many projects are ready to go in New South Wales when the national plan is endorsed. This is in addition to the huge amount of investment in new capacity underway in New South Wales due to the Renewable Energy Target, which will help us to meet summer peaks.

Our approach is bearing fruit. At the COAG Energy Council meeting on 14 July 2017, energy Ministers accepted 49 of 50 recommendations from the Finkel blueprint. This means that we are advancing a nationally agreed plan to improve security and to ensure that our grid remains secure as our generation mix changes. What comes out of Finkel does not need to be perfect, but it does need to be good. We cannot let the perfect be the enemy of the good. I commend the Federal Minister for the Environment and Energy, Josh Frydenberg, for his work thus far. In particular, New South Wales is prioritising those recommendations that will have the greatest benefits for New South Wales.

**The PRESIDENT:** Order! The volume and level of interjections are too high.

**The Hon. DON HARWIN:** These are restored confidence for investors, certainty around when large ageing generators retire and a strategic approach to transmission planning to unlock new energy zones. The Commonwealth is taking some more time with a final recommendation, the mechanism to give certainty. We will consider what the Commonwealth comes back with. But this task has been a decade in the making, so a few months to work through that recommendation is appropriate in the grand scheme of things. We will be finalising an implementation plan in August, and New South Wales will continue to be the sensible voice on energy policy to address the trilemma of price, security and reliability while our energy becomes cleaner.

## BARWON-DARLING RIVER WATER SHARING PLAN

**The Hon. WALT SECORD (14:37):** My question without notice is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Will the Minister guarantee that large-scale water theft is not occurring in New South Wales at this moment?

**The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:38):** I thank the member for his question. One thing I can guarantee is that New South Wales takes compliance with water regulation very seriously in relation to any investigations or allegations that suggest that people are working outside the compliance rules. Today I will provide the member and the House with some context. Obviously, this matter was reignited particularly in the *Four Corners* program that was broadcast a few weeks ago. Prior to that program being broadcast, WaterNSW had identified the Barwon-Darling water source as a priority as part of its end-of-year meter reading activities.

In the Barwon-Darling, WaterNSW is undertaking a full audit of all work approvals to identify any potential breaches. WaterNSW is also developing and rolling out a targeted education program for customers on the conditions contained in the Barwon-Darling unregulated and alluvia water sharing plan and the conditions of their water licences, in relation to the water sharing plan. WaterNSW has advised my office that it is halfway

through this audit and expects it to be finalised by the end of the month. In relation to what has happened with compliance in New South Wales, I can provide more information than what I touched on yesterday.

In 2010-11, the final year that Labor was in power, 475 water compliance investigations were finalised. In the five years after this, an average of 665 investigations were finalised. In the last year that Labor was in Government, an average of 99 warning letters, remedial notices and stop work orders were issued. In the five years that followed, an average of 250 were issued. That is just some more information to contrast where we are with compliance now compared to what was happening five years ago. In 2010-11, 27 penalty notices were issued, but in the following five years an average of almost 70 were issued every year. We also have had an average of five prosecutions every year.

**The PRESIDENT:** Order! The Minister has the call.

**The Hon. NIALL BLAIR:** We are absolutely committed to ensuring that we have a system that looks at the areas that it should look at and that when people report these matters they are investigated and that the appropriate actions are taken. The statistics show that the number of matters that are investigated now is up on what it was five years ago, as are the number of notices and completed prosecutions. This is ongoing. If anyone has any information or allegations, they should report them to WaterNSW, and they will be investigated. WaterNSW has the staff to do it and has a record of doing it. We will continue to look at this matter.

**The Hon. WALT SECORD (14:42):** I ask a supplementary question. Will the Minister elucidate his answer in regard to his use of the phrase "working outside compliance rules"? What does that mean? Is it water theft and is it criminal, according to his Government?

**The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:42):** In my previous answer, I clearly articulated that not only do we take these compliance matters seriously but when allegations are made or people report things they are investigated. The average number that we have seen over the past five years—

**The Hon. Walt Secord:** Point of order: My point of order goes to relevance. My question was very clear, and I used his words. I asked about "working outside compliance rules." Is that water theft? Is that illegal? Is that criminal or not?

**The PRESIDENT:** The Minister is being generally relevant.

**The Hon. NIALL BLAIR:** The whole reason we have an investigation is to determine the facts in the matters that are reported. That is why we have compliance teams that look into these matters and why a number of actions then take place. As I said, that can lead to prosecutions. The average number of prosecutions is up compared to five years ago. The average number of matters that is investigated is up, and the number of warning letters is up. If people report things, they are investigated and a subsequent action takes care of it. I am happy to run through each of the statistics that I have been advised of for each of the years in relation to allocations for investigations, investigations finalised, advisory letters, warning letters, remediation notices, licence suspensions, stop work orders, penalty notices, and prosecutions. A number of different actions can occur and they are happening as we speak. We have teams on the ground. It would be incorrect to suggest that compliance has stopped or frozen; it has not. It has continued and it will continue, and we want to strengthen the system in which our compliance officers work.

## LOCAL GOVERNMENT AMALGAMATIONS

**The Hon. ROBERT BORSAK (14:44):** My question without notice is directed to the Hon. Don Harwin, representing the Minister for Local Government. In light of the Minister for Local Government's statement in the other place last Thursday during debate on the Local Government Amendment (Amalgamation Referendums) Bill 2017 that "the bill is a road block to all future merger proposals", will the Government now give another 100 per cent guarantee that no further council amalgamations will take place under a Liberal-Nationals Coalition Government?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:45):** I have not seen the remarks that the Hon. Robert Borsak is referring to, but it is very clear that the announcements the Premier and the Minister for Local Government made during the last few days bring an end to the uncertainty that has been facing 14 councils and their communities while court action has been underway. The legal limbo is over and councils can get back to what they are best at, which is serving their communities, not serving legal briefs. The fact is that the logistics of the merger process, including the multiple and overlapping court actions, have been frustrating and costly for all involved. The uncertainty was set to continue for many more months. In particular, the announcements have provided certainties for candidates and voters in the 9 September election, who will now know that elected councillors will be able to serve their turn.

This Government was not going to allow any decision by the courts to cut short the term of a council and force voters back to the poll. It would have been a waste of time and money. Speaking of money, the decision to create 20 new councils in 2016 has delivered benefits for the involved communities, including improved services, cost savings and new infrastructure spending. The 20 new councils have reported that over $50 million in savings have been delivered to date, almost three times the original target. Over the next 10 years the councils are expected to save close to $457 million. That money will be reinvested back into communities. New councils have also received up to $15 million to invest in new infrastructure and services for local communities from the Stronger Communities fund.

It is worth remembering that prior to the creation of new councils, there were 41 councils in metropolitan Sydney, 43 if we include Central Coast councils. The independent local government review panel concluded that the number of local councils in Sydney should be significantly reduced and identified 18 councils as the preferred number. The situation of uncertainty that was facing 14 councils and their communities from court action is now over. In terms of the other aspects of the Hon. Robert Borsak's question, I would be happy to direct them to the Minister for Local Government and obtain a response for him.

## BIOSECURITY

**Mr SCOT MacDONALD (14:48):** My question is addressed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industries, who is doing a wonderful job. Can the Minister update the House on how this Government is protecting regional New South Wales from biosecurity threats?

**Mr Jeremy Buckingham:** Point of order: The question is clearly out of order, according to standing orders, because it did contain an epithet. It ascribed a particular quality or attribute, and so it is out of order because it said the Minister was doing a wonderful job.

**The Hon. Niall Blair:** To the point of order: Even though the question may have contained some argument, I am happy to answer the part that does not contain argument. We can leave whether I am doing a great job for debate at another time, but I am happy to answer the part of the question that does not contain argument.

**Mr Jeremy Buckingham:** Further to the point of order: I did not raise an argument.

**The Hon. Niall Blair:** I did.

**Mr Jeremy Buckingham:** I know you did, but my point of order was that it ascribed an adjective—

**The Hon. Niall Blair:** So sit down. I did that part, you did the other part. So now you sit down.

**Mr Jeremy Buckingham:** Having a bad day, mate? Under pressure?

**The PRESIDENT:** Order! I remind Mr Jeremy Buckingham that he is on two calls to order.

**Mr Jeremy Buckingham:** My point of order was that the question clearly ascribed an attribute. It used the adjective "wonderful" to ascribe an attribute to the Minister. It was a key part of the question and therefore it is out of order.

**The Hon. Scott Farlow:** To the point of order: Whether it contained an attribute or not, that was not part of the question but part of the preamble to the question. Therefore it is not part of the question and cannot be ruled out of order.

**The PRESIDENT:** I will allow the question. The Minister has the call.

**The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:50):** Last month saw the start of a new era for preventing, managing and eradicating pests, weeds and diseases in New South Wales with the commencement of the Biosecurity Act. This single piece of legislation provides our State with a modern approach to biosecurity that will help us maintain our reputation for world-class food and fibre production. The Act reduces red tape, it applies equally across the State and it provides greater flexibility in managing biosecurity risks. The new legislation creates a high-risk category that acknowledges the severe consequences of some pests and diseases, such as foot-and-mouth disease. It also includes tough emergency powers that allow the Government to take swift action to respond to potential threats in the event of an outbreak in New South Wales.

It is absolutely crucial that in the case of a plant or animal disease outbreak we can act immediately to contain and eradicate the disease. This Act allows us to do that. One of the most important changes the new legislation introduced is a general biosecurity duty that requires anyone who deals with biosecurity risks to take reasonable steps to manage them. Effective biosecurity is everyone's business. It is a shared responsibility of government, industry and individuals. The House will hear a lot about general biosecurity duty. No longer can the

management of animal and plant pests and diseases be pushed from one agency to another or from one neighbour to another. All of us have an important role to play. Shared responsibility means industry and community stakeholders are expected to play a proactive role in developing and implementing solutions to manage their biosecurity risks effectively.

A good example of this in practice is the discovery last month of an infestation of Amazon frogbit near Forster on the Mid North Coast, the first known infestation of this aquatic weed in New South Wales. Frogbit is listed as "prohibited matter, new high-risk category that outlines very clear actions that must be taken. With the new streamlined process, the local council knew its role and requirements for this prohibited matter. An emergency response was quickly triggered, with local council working closely with Local Land Services, the NSW National Parks and Wildlife Service and the Department of Primary Industries, and the public was given clear guidelines for reporting the weed and the consequences of offences under the legislation.

Importantly, the Act also supports a national approach to biosecurity and provides legislative support for the responsibilities of New South Wales under intergovernmental biosecurity agreements. Pests, diseases and weeds do not recognise local government areas or State borders, meaning biosecurity measures must be applied within a national framework. The New South Wales Government is committed to reducing red tape for our farmers and businesses while ensuring we maintain our excellent biosecurity status. I am proud to say our new biosecurity legislation delivers on both of those commitments.

It is fundamental that New South Wales has a good system and that we continue to work with other jurisdictions. The recent meeting of agricultural Ministers in Melbourne had a big focus on biosecurity. We need only look at some of the threats in other parts of Australia, particularly on our borders with Queensland in relation to things like red imported fire ants or white spot disease, to see the need for an absolute commitment from all jurisdictions. New South Wales has stepped up to the plate, particularly in relation to funding for red imported fire ants. We must make sure we work with our agencies across borders. Having a strong system in New South Wales is the first principle, and that is what this Act has delivered.

## WORKING WITH CHILDREN CHECK

**The Hon. ROBERT BROWN (14:54):** My question is directed to the Hon. Niall Blair, representing the Minister for Health. Is the Minister aware that the State Government is forcing public sector paramedics and nurses to pay $80 to another government department for their own Working With Children Check? Given that this Government is trumpeting that it has a $4.5 billion budget surplus, why is it continuing to tax public sector paramedics and nurses to provide what is essentially a critical public health and safety service?

**The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:55):** I thank the member for his question, asked of me representing the Minister for Health in this House. The Working With Children Check is an important tool in New South Wales. Many members served on the Committee on Children and Young People, and I was part of the committee when changes to the Working With Children Check were made in New South Wales. From listening to the question, it seems the concern the member raises is not with the check itself but with the fact that those workers are being charged for it as part of their role. I will refer the question to the Minister for Health and come back to the member with a detailed response as soon as possible.

## MURRAY-DARLING BASIN PLAN INQUIRY

**The Hon. MICK VEITCH (14:56):** My question is directed to the Minister for Regional Water. In light of his recent answer to the Deputy Leader of the Opposition, will the Minister guarantee that irrigators are not being advised of inspections before they occur in New South Wales?

**The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:56):** I thank the member for his question. I can say that Mr Matthews is looking at all compliance matters in his deliberations. To suit the member and the convenience of the House, I will outline specifically the terms of reference of the investigation Mr Matthews will undertake.

**The PRESIDENT:** Order! The member who asked the question will allow the Minister to answer it without interjecting.

**The Hon. Walt Secord:** Point of order: To assist the Minister, we will allow him to table the terms of reference and we will move on to other questions.

**The PRESIDENT:** That is not a point of order.

**The Hon. NIALL BLAIR:** To assist members, part of the terms of reference are specific regarding the role of compliance, particularly point 4:

Allegations that compliance resourcing decisions, including the abolition of the Strategic Investigation Unit and transfer of some staff and functions to WaterNSW was motivated by the Department not having an interest in pursuing compliance matters.

That directly relates to the investigation goals, which we have requested to be to:

1. Determine the facts and circumstances related to the above matters.

2. Assess whether the Department's policies and procedures (including the Department's Code of Conduct) were complied with in relation to the above matters.

3. Assess whether Departmental actions in relation to the above matters were appropriate in the circumstances—

**The Hon. Mick Veitch:** Point of order: I have been listening intently to the Minister's response. It does not go to the question. It is not about Mr Matthews inquiry but whether or not irrigators are receiving advance warning of their inspections.

**The Hon. Catherine Cusack:** That is not a point of order; it is an abuse.

**The Hon. Mick Veitch:** It is relevance. This is quite serious.

**The PRESIDENT:** Order! I note the honourable member's point of order relates to relevance. The Minister was being generally relevant. The Minister has the call.

**Mr Jeremy Buckingham:** Point of order: The standing orders and previous rulings prohibit the reading of lists in answers. The Minister is clearly reading a list and therefore is outside the rules of question time.

**The Hon. Shayne Mallard:** To the point of order: While standing orders may talk about lists, the Minister is reading a term of reference, he is not reading a list. The standing orders also talk about long lists. The Minister is not reading a long list and is being quite relevant, as you have ruled already.

**The PRESIDENT:** Order! It is clear that honourable members are permitted to read extracts from documents, in particular if the document has been identified. The Minister has identified the document and the Minister is reading extracts from that document. It is in order. The Minister has the call.

**The Hon. Walt Secord:** You were on number four.

**The Hon. NIALL BLAIR:** The investigation goals include:

4. Identify whether further action should be undertaken in relation to the above matters, including for example further investigation or referral to other authorities.

5. Identify opportunities to improve the Department's water management, compliance and enforcement performance.

What is clear is that Mr Matthews is looking at the procedures and the way in which the department conducts its investigations, and he will provide advice on that. Mr Matthews is looking at operational matters in the department and will provide further advice on them. If the member opposite has something that he wants Mr Matthews to look at, his contact details are on the release. If the member opposite wants to make allegations, he should make them. If the member opposite has some evidence that he needs to pass on, he should do it. If the member opposite is concerned about corrupt activities, he should report them to the Independent Commission Against Corruption. If any member opposite has any information or thinks that I am doing something wrong, they should have the guts to step outside the castle of courage and make the allegations. If members have information, they should pass it on to the correct authorities.

**Mr Jeremy Buckingham:** Point of order: The Minister cast a very serious aspersion on this House, calling it the "castle of courage". This is the Legislative Council and I would ask you to instruct the Minister to withdraw that disgraceful aspersion on this good House.

**The PRESIDENT:** That was a debating point, not a point of order. I remind Mr Jeremy Buckingham that he is on two calls to order. I am certain he wants to be here later this afternoon. The Minister has the call. Interjections will cease.

**The Hon. NIALL BLAIR:** Our compliance officers and the agency they work under conduct the investigations. Mr Matthews is looking at the procedures and the rules under which they operate. I am sure he will have some information at some stage on those matters. If members have any information that Mr Matthews does not have, they should send it to him. If members have any allegations, they should make them. If members have any proof, they should provide it and allow the investigations to continue.

## EARLY CHILDHOOD SERVICES

**The Hon. MATTHEW MASON-COX (15:03):** My question is addressed to the Minister for Early Childhood Education. Will the Minister update the House on how New South Wales is leading the nation in providing safe and quality early childhood services across New South Wales?

**The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (15:04):** The health, safety and wellbeing of children in early childhood services across New South Wales is of the utmost importance to this Government. New South Wales is leading the nation on compliance and regulation in its use of a risk-based approach to identify and respond to known and emerging risks. The more services that I visit, the more I can see that we are moving in the right direction in ensuring our early childhood education services are of the highest quality. Since becoming Minister I am yet to come across a service that has not impressed me with its dedication to providing the highest quality care to our children.

Last month I visited a number of exemplary services across the State, including Kinda Kapers in Maitland, Lilly Pilly Early Learning Centre in Coffs Harbour and Bourke District Children's Service. I commend the staff at those services for their hard work and thank them for all that they are doing to align with the rules and regulations that this Government imposes. The National Quality Framework is a national system for the regulation and quality assessment of child care and early learning services. It applies to most long day care, family day care, preschools, kindergartens and outside school hours care services. The National Quality Framework also ensures more information is available to families in New South Wales about the quality of the services their children attend. It also provides a strong regulatory system promoting compliance and continuous improvement in the sector.

As part of the national framework a quality assessment and rating system is available to enable families to compare services and make informed choices about which service will best meet their child's needs. New South Wales is the only jurisdiction to develop and implement an information management tool, an electronic structured assessment methodology, which has streamlined processes and tasks associated with assessment and rating. New South Wales has also developed a quality improvement plan template that can assist services in preparing their quality improvement plan. The template adopts a workbook approach that steps services through the requirements under the national law. From 1 January 2016 to 31 December 2016, the New South Wales Department of Education, as the State regulator, assessed and rated 1,185 early education and care services. This equates to 22 per cent of services; well above the 15 per cent performance benchmark required under the National Partnership Agreement on the National Quality Agenda for Early Childhood Education and Care.

Since the introduction of the National Quality Framework in 2012, up to December last year New South Wales Department of Education officers have made nearly 21,000 visits to services. They have quality rated more than 85 per cent of all services. New South Wales has also pioneered efforts at the national level, including the establishment of an inter-jurisdictional family day care working group to develop mechanisms such as increased information sharing between jurisdictions and other departmental agencies. These act as a disincentive to fraudulent practice and enable jurisdictions to use the full force of the national law successfully to eject dishonest providers from the sector. New South Wales has the toughest entry requirements for family day care in Australia, and other States are looking to introduce our measures to deal with issues related to family day care in their jurisdiction.

The department, as the State regulator, conducts mandatory information sessions for all new providers during which their obligations are clearly spelt out. A compulsory knowledge test is also required for all new applicants and for all persons with management or control of a service before approval to operate is granted. This is also applicable when services are sold or transferred. Through our State's strong lead in compliance and regulation, families can rest easy that their children are being educated in high-quality early childhood centres and are receiving the best start to their school lives that is possible. This is what families in New South Wales deserve and as a government we are committed to delivering it.

## WATER MANAGEMENT

**Ms DAWN WALKER (15:08):** My question is directed to the Hon. Niall Blair as Minister for Regional Water. Section 381B of the Water Management Act excludes the use of post-2004 data, which excludes the millennium drought and the past 13 years of data to inform decisions about water releases. Will the Government commit to amending the Act to ensure that up-to-date data is used, even if it results in less water being allocated to irrigators?

**The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:08):** I thank Ms Dawn Walker for her question. I think it would be foolish for me to commit to updating any water Act at the moment. I will take the question on notice. Considering the amount of detail in the question, I will examine the question before I commit to anything.

## MURRAY-DARLING BASIN PLAN AND MR GAVIN HANLON

**The Hon. PENNY SHARPE (15:09):** My question without notice is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. In the light of Gavin Hanlon's appointment to the role of Acting Executive Director, Industry, Investment and Export Support, which the Minister has assured the House is "a role nowhere near the DPI Water office", will the Minister confirm that there was a formal selection process prior to Mr Hanlon's appointment?

**The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:09):** I thank the Hon. Penny Sharpe for her question. I do not employ members of the public service; that is a matter for the Secretary. I am not sure what requirements or rules are in place when someone is acting or moving to other roles. However, I am happy to take the question on notice and refer it to the department which would have that knowledge, employs those people, and goes through those processes.

## REGIONAL ARTS AND CULTURE

**The Hon. DAVID CLARKE (15:10):** My question is addressed to the Minister for the Arts. Will the Minister update the House on how the New South Wales Government is supporting arts and culture in regional New South Wales?

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:10):** I thank the Hon. David Clarke for his question and welcome him back to the House. I am glad to see that he is in better health. Regional New South Wales is the largest and most significant regional economy of any Australian State. Its diverse communities make up one-third of the State's population. The New South Wales Government recognises the significant role that cultural infrastructure plays in regional New South Wales and we believe that additional investment is needed. That is why I am so very pleased to advise that through the new Regional Cultural Fund the New South Wales Government is investing $100 million in regional towns and cities to develop new and existing arts and culture projects. This fund will help to attract major cultural productions to regional New South Wales by investing in regional projects that often miss out to metropolitan areas on funding.

Regional New South Wales has long been home to producers of unique and diverse arts and cultural works across a wide variety of disciplines, including visual, performing and Indigenous arts. Regional New South Wales also has Australia's most extensive network of art galleries and public libraries and many dynamic performing arts and screen organisations. Arts and culture are at the heart of every regional community, with many local organisations running on the smell of an oily rag and on the time of generous volunteers. Over the past few weeks I have had the opportunity to tour some of our regional communities and discuss with organisations the plans they have for new infrastructure.

In Bathurst, Paul Toole showed me around the Australian Fossil and Mineral Museum where it is hoped that a lift for disabled people will be installed. In Lismore, with Thomas George I visited the new regional gallery, which already has received some State government funding but where there is a demand for funding for new programs. In the fine electorate of Tweed, Tweed Unlimited Arts needs funding for a community arts project. In Armidale, with the member for Northern Tablelands I toured the New England Regional Art Museum, which wants to improve sustainability, upgrade the loading dock area, and upgrade facilities. And only this week I toured—

**The Hon. Walt Secord:** Bega.

**The Hon. DON HARWIN:** —down the far South Coast to Merimbula, Bega, Narooma and Batemans Bay with the member for Bega and discussed some of the excellent opportunities for regional cultural funding in that electorate. The Hon. Walt Secord will be delighted to know that I visited the Bega Valley Regional Art Gallery while I was there—a place that the Hon. Walt Secord raised with me during the museums and gallery inquiry. During the next seven days I look forward to visiting Taree, Terrigal and Griffith to see some of those communities' plans for what they could do with Regional Cultural Fund money. The Regional Cultural Fund will help to facilitate bold and exciting arts and cultural experiences that reflect the rich diversity of New South Wales, making sure that communities across the State remain exciting and vibrant places in which to live, work and visit. Only this Liberal-Nationals Government is committed to supporting arts and culture. Only this Liberal-Nationals Government has put the State in a position to be able to make this commitment to our cultural infrastructure right across regional New South Wales.

## WASTE MANAGEMENT

**Dr MEHREEN FARUQI (15:14):** My question without notice is directed to the Minister for Resources, Minister for Energy and Utilities, Minister for the Arts, and Vice-President of the Executive Council. Given the disturbing revelations and allegations on *Four Corners* about the waste industry, including systematic illegal dumping, corruption, shifting waste across borders and the secret recordings of the Environment Protection Authority's director of waste management joking with industry and mocking the Government's own systems, will the New South Wales Government establish a special commission of inquiry into the whole waste industry in New South Wales?

**Mr Jeremy Buckingham:** The wheels have come off. Oh, the arrogance.

**The Hon. Shaoquett Moselmane:** What else then?

**Mr Jeremy Buckingham:** The rot has set in.

**The Hon. Ben Franklin:** Point of order: Mr President, in a previous ruling you instructed Mr Jeremy Buckingham not to interject any further because he was on two calls to order. He not only is interjecting but also is offensive in doing so. Mr President, I ask you to consider this matter.

**The PRESIDENT:** Order! I did not instruct Mr Jeremy Buckingham; I reminded him that he was on two calls to order. I again remind him that he is on two calls to order. He interjected twice before the Minister began answering the question. The Minister has the call.

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:15):** I did not get a chance to see the *Four Corners* program, although of course I have seen reports since. I was in the process of returning from a visit to the far South Coast. Very serious allegations were raised in that program. I know that those matters are being studied very closely by the Minister. The Government expects to release a draft regulation for comment in coming weeks that proposes to introduce changes to tighten up recycling. The proposed changes aim to reduce the amount of waste moving interstate and increase recycling in New South Wales.

Initial consultation was undertaken in November last year. A national approach to regulate waste moving between States will be discussed at a meeting of State environment protection authorities later this year. New South Wales is leading this work. The Government wants waste to be managed locally so that it can reduce the quantity of waste that is sent to landfill and ensure that recycling rates continue to increase. Illegal dumping is an environmental crime and completely unacceptable. The Government is committed to stamping it out. It is caused by a range of factors and occurs in non-waste levy paying areas as well as in areas that pay the levy.

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

**The Hon. DON HARWIN:** The Environment Protection Authority [EPA] is completing an investigation into the illegal dumping matter in Spencer. A brief is being prepared for criminal prosecution and the EPA is in court with persons of interest. The local council advised the EPA of the matter in December 2014 but the council also confirmed that it would lead the investigation. The EPA took over the investigation in December 2015 because the scale of the waste had increased, and that made the EPA the appropriate regulatory authority. I trust this information is of assistance to Dr Mehreen Faruqi. I also will refer the question to the Minister for the Environment in case there is any other aspect of Dr Faruqi's question on which the Minister would like to comment.

## MURRAY-DARLING BASIN PLAN AND MR GAVIN HANLON

**The Hon. JOHN GRAHAM (15:18):** My question without notice is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Given that the Deputy Director General, Gavin Hanlon, is still on duty within the department, will the Minister guarantee to the House that he is not in contact with other staff who may be assisting with formal inquiries into water theft, illegal tampering with water meters and unauthorised irrigation earthworks on the Barwon-Darling?

**The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:19):** I thank the member for his question. First, I am advised that Mr Matthews has been provided with any assistance and is availed of anything that he needs to conduct a thorough investigation. I am also advised that the Secretary has taken appropriate measures to make sure that that investigation is conducted thoroughly and also that any access by Mr Hanlon to any parts of the investigation is prohibited. I believe and I am advised the Secretary has taken the appropriate steps to manage that issue while moving Mr Hanlon to another position within the department.

## OFFSHORE ARTIFICIAL REEF PROGRAM

**The Hon. CATHERINE CUSACK (15:20):** 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 New South Wales Government's offshore artificial reef program?

**The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:20):** I thank the Hon. Catherine Cusack for her question, particularly as a resident of the North Coast, because I recently had the pleasure of visiting one of the most spectacular parts of our coastline, Tweed Heads. As part of my visit, along with the member for Tweed, I had the opportunity to experience firsthand the region's fishing. I think it is important to note that I only had time for about four or five casts and I was able to land a very nice flathead off one of those casts. I reassure the Hon. Mark Pearson, although he is not in the Chamber, that the flathead, although it was very large, was returned to the water and went on its merry way.

The good news is that the fishing in that part of the world is about to get even better. The New South Wales Government will spend $1.1 million on the construction of an offshore artificial reef off the Tweed Heads coast. But it does not stop with the Tweed. The Government is investing millions of dollars up and down the coast of New South Wales. In the past six years, three offshore reefs have been built, but they are so popular that over the next three years we will build an extra six. Our scientists have said that the artificial reef to be deployed off the Tweed coast will be one of the best the country has ever seen.

The Tweed coast is in a unique position in New South Wales where the east Australian current moves close to the coast, bringing with it an amazing diversity of warm water fish species, many of which are highly prized and targeted by recreational fishers. All new artificial reef proposals undergo a rigorous environmental assessment. Construction is expected to be completed by the end of 2019. Whilst specific details such as the materials to be used and the size and configuration of the artificial reef will be known following public consultation and a tender process, I can assure fishers the reef will be located in close proximity to boat ramps, where there is currently no natural reef.

Fishing is big business in New South Wales. Each year approximately 850,000 anglers wet a line, contributing to an industry which generates $3.4 billion of economic activity and creates the equivalent of approximately 14,000 full-time jobs. Anglers using our current offshore artificial reefs report excellent catches of very popular and iconic fish species including yellowtail kingfish, snapper and mulloway, while scientific monitoring has documented more than 50 different species of fish that call the reefs home. This shows just how effective they are in boosting fish numbers by creating a new habitat.

This Government's offshore artificial reefs program is a great example of how we are reinvesting the proceeds from recreational fishing licences back into fishing. Artificial reefs are already located off Sydney, Shoalhaven and Port Macquarie, while other reefs are going to be installed at Port Hacking in September and Merimbula next year. Fishers are calling for more and more. Just last week my colleague in the other House, Andrew Constance, presented me with a petition from locals in the Eurobodalla shire. Almost 1,000 people are requesting this Government to consider a reef in their local community. They know the benefits. They know the tourism dollars it can bring. They know the diversity it can offer to local fishing habitats. They know an artificial reef is a big win for a community. They have been overwhelmingly popular up and down the New South Wales coastline. I am pleased that we are continuing on with them, I am pleased that other communities are looking for more spots, and I was even more pleased to land that flathead in front of the television cameras while I was up there.

## BARWON-DARLING RIVER WATER SHARING PLAN

**Mr JEREMY BUCKINGHAM (15:24):** My question is directed to the Hon. Niall Blair, Minister for Regional Water. Will the Minister inform the House as to whether he, his office or the department have received any correspondence or communications from Mr Peter Harris, his family or his business interests in relation to an application for the retrospective validation of flood works in the Barwon-Darling region?

**The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:25):** I thank the member for his question. I do not believe so. It was a broad question, but I do not believe that I have received any correspondence in my office in relation to an application of any sort in relation to the matters that he has spoken about. I am more than happy to take the—

**Mr Jeremy Buckingham:** Point of order: It is relevance. I clearly said to "his office" and "the department", so I was not just referring to the Minister himself. I made it up off the top of my head. I referred to him as the Minister, to his office, and to the department.

**The PRESIDENT:** The question clearly identified the three separate entities. The Minister was being generally relevant. I believe he was mid-sentence about taking the question on notice but was interrupted. I will allow the Minister to complete his answer. I can then determine whether he is being generally relevant.

**The Hon. NIALL BLAIR:** As I was saying, I am not aware that I have received any correspondence of such nature in my office. I am happy to go back and have a look—to do another search to see if my office has received any information. I am certainly not aware as to what correspondence my agencies receive. I am not kept up to speed with every piece of correspondence that my agencies receive. With 45,000 water licence holders in New South Wales, I would not expect to be kept up to speed with every piece of correspondence in relation to water licences.

**Mr JEREMY BUCKINGHAM (15:27):** I ask a supplementary question. Will the Minister elucidate his answer by informing the House as to whether he will report back to the House in relation to the agencies he described and whether they have received correspondence or communication from Mr Peter Harris regarding an application for validation of works in the Barwon region?

**The Hon. Scott Farlow:** Point of order: What the member has put forward is a completely new question or even a restatement of his old question but instead asking for the Minister to take it on notice. It should be ruled out of order as it does not seek an elucidation.

**Mr Jeremy Buckingham:** To the point of order: I was clearly asking for an elucidation of an aspect of the Minister's answer.

**The PRESIDENT:** I will allow the Minister to answer the supplementary question.

**The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:28):** I am a little bit confused, Mr President.

**The PRESIDENT:** That is why I allowed you to answer it.

**The Hon. NIALL BLAIR:** I refer to my previous answer, which is that all questions that are taken on notice come back to the House.

**Mr Jeremy Buckingham:** Slippery!

**The PRESIDENT:** Order! The member will withdraw that comment.

**Mr Jeremy Buckingham:** I withdraw.

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

*Members*

## LEGISLATIVE COUNCIL VACANCY

**The Hon. DON HARWIN:** Mr President, in view of the holding of a joint sitting at 3.45 p.m. today in this Chamber to fill the vacancy in the Legislative Council caused by the resignation of the Hon. Duncan Gay, I suggest that you do now leave the chair until after the joint sitting.

[*The President left the chair at 15:30.*]

*Joint Sitting*

## ELECTION OF A MEMBER OF THE LEGISLATIVE COUNCIL

The two Houses met in the Legislative Council Chamber at 15:48 to elect a member of the Legislative Council in the place of the Hon. Duncan Gay, resigned.

**The PRESIDENT:** I declare the joint sitting open and call upon the Clerk of the Parliaments to read the message from the Governor convening the joint sitting.

**The Clerk of the Parliaments** read the message from the Governor convening the joint sitting.

**The PRESIDENT:** I am now prepared to receive proposals with regard to an eligible person to fill the vacant seat in the Legislative Council caused by the resignation of the Hon. Duncan Gay.

**Mr JOHN BARILARO:** I propose Wesley Joseph Fang as an eligible person to fill the vacant seat of the Hon. Duncan Gay in the Legislative Council, for which purpose this joint sitting was convened. I move:

> That Wesley Joseph Fang be elected as a member of the Legislative Council to fill the seat in the Legislative Council previously vacated by the Hon. Duncan Gay.

I indicate to the joint sitting that if Wesley Joseph Fang were a member of the Legislative Council, he would not be disqualified from sitting or voting as such a member and that he is a member of the same party, The Nationals, as the Hon. Duncan Gay was publicly recognised by as being an endorsed candidate of the party, and who publicly represented himself to be such a candidate at the time of his election at the eleventh periodic council election held on 26 March 2011. I further indicate that the person being proposed would be willing to hold the vacant place if chosen.

**The Hon. NIALL BLAIR:** I second the motion.

**The PRESIDENT:** Does any member desire to propose any other person to fill the vacancy? As only one eligible person has been proposed and seconded, I hereby declare that Wesley Joseph Fang is elected as a member of the Legislative Council to fill the seat vacated by the Hon. Duncan Gay. I declare the joint sitting closed.

**The joint sitting closed at 15:51.**

*Members*

## ELECTION OF A MEMBER OF THE LEGISLATIVE COUNCIL

**The PRESIDENT:** I announce that at a joint sitting of the two Houses held this day Mr Wesley Joseph Fang was elected to fill the vacant seat in the Legislative Council created by the resignation of the Hon. Duncan Gay. I table the minutes of proceedings of the joint sitting.

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

That the document be printed.

**Motion agreed to.**

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

That the President inform his Excellency the Governor that Mr Wesley Joseph Fang was elected to fill the vacant seat in the Legislative Council caused by the resignation of the Hon. Duncan Gay.

**Motion agreed to.**

*Bills*

## SYDNEY PUBLIC RESERVES (PUBLIC SAFETY) BILL 2017

### First Reading

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

**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 of this sitting.

**Motion agreed to.**

*Disallowance*

## NATIONAL ENERGY RETAIL LAW (ADOPTION) AMENDMENT (DEREGULATION) REGULATION 2017

**Debate resumed from an earlier hour.**

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:03):** This motion for disallowance is an entirely misconceived response to the challenges of energy affordability that we are facing. Sadly, this disallowance motion is the triumph of populism, and is not a serious contribution to energy policy. It will not reduce gas prices. In fact, it constrains all of the safeguards to protect energy consumers that have been put in place in the measures that we have adopted thus far. Worst of all, it is just more of the same that we hear from too many people on all sides of politics who are serving in our State parliaments and our Federal Parliament, and who are more interested in playing politics than finding real solutions.

Australians want their elected representatives to meet in the sensible centre and to deliver certainty on energy policy, because certainty is crucial in ensuring that there is new investment in generation, new investment in exploration and, most importantly, that there is new investment to ensure that there is downward pressure on energy prices. This disallowance motion is the sort of rash behaviour and the triumph of spin over substance that we see all too often in this place.

I invite the Opposition and other crossbench parties to consider what they are about to do very carefully, because their credibility is on the line in this debate. I will explain why. This disallowance motion fails to understand how the regulation relates to the main Act. The disallowance motion removes consumer protections and other clean-up processes. In the Energy Legislation Amendment (Retail Electricity and Gas Pricing) Act 2015, Parliament has already passed the law to implement gas deregulation. It commenced on 1 July. There is no longer a head of powers for the Independent Pricing and Regulatory Tribunal [IPART] to set a regulated price. The regulation removes the requirement for retailers to offer a regulated price, but this is merely a clean up. They can no longer offer a regulated price because there is no regulated price set by IPART anymore.

Disallowing the regulation therefore will not undo the primary changes in the legislation. It will tell retailers to do something that is impossible. The Government no longer has any instrument to direct IPART to set a regulated price. Mr Jeremy Buckingham is wrong about that. Parliament removed those powers in 2015 and the changes passed in this House without even a division. Disallowing this regulation will not allow a change of mind on that issue. Disallowing this regulation therefore will not undo this; it will create a regulatory mess to no benefit. The regulation that is the subject of this disallowance motion is a supporting tool and includes critical consumer safeguards. In particular, the regulation appoints IPART as the market monitor for the New South Wales gas retail market. Passing this motion would remove IPART from the role it has been given.

Removing IPART's role as market monitor will not help consumers. It will disadvantage them, as the independent oversight of the market would be removed. If this is passed, IPART would not be able to undertake market monitoring this financial year. But, make no mistake, passing this motion will not re-regulate gas prices in this State. This ought to give the Opposition and the other crossbench parties reason to be very cautious about supporting this disallowance motion.

Let us just understand the context: The deregulation of gas markets has occurred over the past decade in all other mainland States in the national electricity market, South Australia, Victoria and Queensland. In Queensland on 1 July 2007 under the Beattie Labor Government; in South Australia on 1 February 2013 under the Wetherill Labor Government; and in Victoria on 1 January 2009 under the Brumby Labor Government. Contrary to what was said by Mr Jeremy Buckingham in his remarks, prices are still regulated in the Australian Capital Territory under a Labor-Greens alliance Government.

It is important to note that a regulated tariff provides no protection against wholesale price rises, and we see this quite clearly in the Australian Capital Territory [ACT]. In a jurisdiction with prices regulated under a Greens energy Minister, prices rose 17.3 per cent for gas on 1 July. Moreover, that is $247 for the average user of gas in the ACT. I have known Shane Rattenbury for some time. When I was President of the Legislative Council, he was Speaker of the ACT Legislative Assembly; now we are both energy Ministers and members of the Council of Australian Governments Energy Council. The reality is that regulated tariffs offer consumers no protection at all against what is happening in the wholesale market. That is why I say that an attempt to re-regulate is not a solution to higher prices.

This is why deregulation mattered: 80 per cent of people are already on a market offer, particularly in Sydney, Newcastle and Wollongong. These are big markets, but some regional markets were too small for other retailers to compete with those who by law had to offer a regulated tariff. Because a company did not know how government would regulate its price, if that company was not the one required by law to offer a regulated tariff, there was no incentive for it to enter the market as it was too risky to spend time and effort entering a small market when facing the uncertainty of government regulating a tariff. This means regulated tariffs were a barrier for new retailers to enter the market. As Mr Jeremy Buckingham noted, that was a monopoly and it stifled competition in the regions—but no more.

With Origin in Wagga or ActewAGL in Queanbeyan, these towns were effectively single retailer towns but now it has all changed. Queanbeyan proves the point. There are now three retailers in Queanbeyan with 10 offers available in contrast to what was on the table under regulation. If we compare the ActewAGL standing offer to new offers from Energy Australia in Queanbeyan we see a potential saving of $108. The other energy companies are coming in, discounting and competing for customers. These companies have spent money advertising in these regional towns and are putting better offers into the market. To disallow puts this new competition in jeopardy.

I will talk about some other towns. From January 2016 to July 2017 the number of retailers in Wagga Wagga has increased from one to three, and the number of offers has increased from four to 11. In Albury, the number of retailers has increased from two to three, with the number of offers increasing from seven to 13, and there are already bill savings. For example, a family in Albury with the average use of approximately 44,000 megajoules a year can find a market offer of $1,007 including GST. Customers on a regulated offer can save between $128 and $483 by switching to a deregulated market offer. Albury customers on a deregulated contract can already make savings of up to $429 by shopping around. The message here is simple: The deregulation of the gas market passed by this Parliament in 2015 without any division has increased competition in the market and led to lower prices for consumers. This has assisted in easing cost-of-living pressures on families.

Let me be clear: This disallowance is not a solution. Disallowance will not give the Independent Pricing and Regulatory Tribunal a role in regulating gas prices, despite what the mover of this motion says. It will instead create a regulatory mess. It is a stunt that will lead to uncertainty and put all of the benefits of competition, particularly for regional communities, at risk. The credibility of Opposition and crossbench members is on the line. They should be careful about supporting the disallowance motion moved by Mr Jeremy Buckingham, and they would be well advised to reject it.

**The PRESIDENT:** I remind Mr Jeremy Buckingham of two things. First, he has been called to order twice and he is the mover of the disallowance motion. It will put me in a difficult position if I am forced to call him to order for a third time before his motion is dealt with, and I do not want to see that happen. Secondly, he has the opportunity to reply at the end of the debate. I ask him to refrain from making any further comment until he is in reply.

**The Hon. ROBERT BROWN (16:15):** I admit that I came into the House thinking that the Shooters, Fishers and Farmers Party would probably support this motion. We respect the work of the Government in reassuring the House that the facts presented by The Greens may not be as they seem. I accept the Minister's advice that this disallowance motion will not reduce gas prices in this State. However, I take exception to the tone and the language the Minister used when he described members on the crossbenches. The Government is not the font of all knowledge, and we are not idiots. We all think seriously about these issues. If I for one moment thought that the arguments of the Minister did not hold water and that the arguments of Mr Jeremy Buckingham did, we would support his motion—but I accept what the Minister says.

That does not, however, get the Government off the hook. The Minister, his ministry and this Government are responsible for trying to deliver something, not just talking about it, with respect to bringing down power prices in this State. Tens of thousands of consumers rely on the Minister to do his job and to get this done quickly. That is why I make speeches in adjournment debates that I think may assist the Government in coming to certain conclusions. I believe the Government should be rolling out—and should have rolled out a number of years ago—extra coal-fired power stations. Mr Jeremy Buckingham obviously has a different view, but our intention is to do something for the State. I do not know whether the agenda of Mr Jeremy Buckingham is simply political, but I assure the Minister that mine is not.

**The Hon. ADAM SEARLE (16:17):** I thank Mr Jeremy Buckingham for moving this motion and the Leader of the Government and the Hon. Robert Brown for their contributions. I indicate that the Opposition will not support the disallowance motion. Let it be very clear that deregulation of the retail electricity market has failed. In 2014 the Government, by regulation, deregulated the retail electricity market—

**The Hon. Shayne Mallard:** We are talking about gas. What about gas?

**The Hon. ADAM SEARLE:** We will come to that, because the two are linked. For the benefit of the member, gas prices feed directly into inflated electricity prices because gas, as well as being a fuel in its own right, is used to generate electricity. The Minister has acknowledged on more than one occasion that gas prices are one of the cost drivers increasing electricity prices in this State and elsewhere. The Government deregulated retail electricity prices. It is true that the regulated tariff was not by itself delivering lower prices anymore but it did have the benefit of acting as a touch point in the market—a comparator, if you will—that is now missing. From the research of Carbon Market Economics and others we know that within months of deregulation of retail electricity prices the retailers had marked up their margins by 10 to 15 per cent on consumers.

Those margins have continued to be marked up by percentages well in excess of inflation and wage growth, stripping money out of businesses and forcing households to the wall through escalating electricity prices. If disallowing this regulation would have the effect not necessarily of bringing down gas prices but at least of slowing their rate of increase, we would vote for the disallowance motion. But it will not have that effect because, as the Minister indicated, the machinery for fixing the regulated tariff has itself been stripped out. I acknowledge

that my party voted for it because at that time—more than two years ago—the effect of deregulation on electricity was not clear, as it is today, and it was to be hoped that competition would lead to lower prices.

**The Hon. Robert Brown:** That was the promise.

**The Hon. ADAM SEARLE:** That was the promise, which has significantly failed. We are not in a position to support the disallowance motion because it would muddle the regulatory position and the very limited work being done by the Independent Pricing and Regulatory Tribunal [IPART] in this area. I think the Minister has overcooked the pudding by referring to the terror and the catastrophe that might result if this disallowance motion is agreed to. But that is not the case and nor is it the case that making this disallowance a reality will slow the rate at which gas prices increase. When the legislation was passed the Government delayed deregulation of retail gas prices to improve competition. I note what the Minister said but the truth is otherwise. The price of gas has been escalating way in excess of inflation repeatedly since the Government embarked on the deregulation of energy at a retail level. It may not be entirely the result of deregulation.

**The Hon. Don Harwin:** There is a big thing at the Curtis—

**The Hon. ADAM SEARLE:** I acknowledge the Minister's interjection. There is no doubt that that is one of the effects. The opacity in the gas market and the lack of competition are factors in gas prices going up and, as I indicated at the outset, that is one of the key factors driving electricity prices. The Government said that retail electricity price deregulation and privatisation would bring down power costs but that is not what occurred. I note what the Minister said about the Australian Energy Regulator and how network prices are allegedly 3 per cent lower. The truth is that they would be much lower today if the Government had not gone to court to stop the energy regulator cutting those network costs even further. That would have offset this most recent round of increases.

It is true that wages are growing at less than 2 per cent but the energy retailers in electricity have marked up the price of their product by up to 20 per cent from 1 July on top of an 8 per cent increase last year and on top of 10 per cent to 15 per cent increases in the first year of deregulation. The whole energy market needs attention, not just gas on the one hand and electricity on the other hand, which is why the Opposition will not be supporting this disallowance motion. When the Leader of the Opposition said in the other place in his speech in reply to the budget that the market was broken and that his party, if elected, would commit to re-regulating electricity retail prices, a number of commentators pooh-poohed us. Some said it was too soon to say that competition had failed. Others said that the heavy hand of regulation would not lead to better outcomes.

Yesterday I was bemused to hear the Australian Energy Market Operator saying that the way things were going governments would have to regulate. It was clear that there would be further regulation. The whole premise of the Prime Minister calling the retailers to Canberra to talk to him and to have a stern chat—as he had with the gas producers—was that if the companies did not bring prices under control governments would have to act. It is not much of a threat from this Prime Minister. He said to the gas companies, "If you do not behave yourself I will do something. From 1 July I will restrict gas exports." But of course 1 July became 1 January next year.

**The Hon. Don Harwin:** The prices are already coming down.

**The Hon. ADAM SEARLE:** We will see how far and how fast. The issue here is whether any government is prepared to step up. Re-regulating retail electricity prices or gas prices does not mean only a fixed tariff through IPART. There are a number of regulatory mechanisms. The big energy companies have said to me that they favour a comparator rate in the market as a touchstone, and a regulated price could be one of the contributors to that. This Government has regulated the profit margins of private insurers in the motor accident scheme by having a monitor on profit margins. It was not something done by a Labor government but something done by those opposite in the most recent motor accident reforms. There are many approaches to regulation.

What is clear is the lack of regulation and deregulation. Letting powerful companies charge whatever the market can bear to pay is not working for households and businesses in New South Wales and elsewhere. The Opposition makes no apologies for committing to re-regulation. In the weeks and months to come we will be outlining the different ways in which we hope to achieve that. What might have been seen in the budget reply speech as a bit of a fringe concern is now very mainstream. The Commonwealth Government is prepared to embrace it and the Australian Energy Market Operator is saying that it will come. The Grattan Institute says that if things do not turn around governments will have to re-regulate. It is becoming inevitable if the settings do not change that governments have to do other things to provide certainty to the market, to provide a clean energy target and a price on carbon. There are many things that governments can and should do to provide certainty for investors so that we have more electricity generation and more gas production.

A number of moving parts are required to enable prices to come down. One of them may well be regulation or the threat of regulation. We make no apologies for embarking on that course of action. In opposing

the disallowance motion today we are not embracing market economics alone. We understand that competition has a role to play but we cannot blindly put our faith in competition alone. If there was a regulated price on which people could fall back or a mechanism for providing such a regulated price in the market for retail gas, make no mistake about it, we would be supporting this disallowance motion. Because there is not, we will not be supporting this motion. We will not hold out false hope. We think that gas and energy should form part of the one regulatory network—if I can use that term—because gas plays a role in the production of electricity.

**The Hon. Robert Brown:** Do you want a moratorium?

**The Hon. ADAM SEARLE:** For coal seam gas, yes. The issue is that Australia has three times the amount of gas it needs. In domestic demand for businesses and households we produce more than three times what we need. The issue is that by 2020, 73 per cent of it will be sold offshore. The gas producers are losing their social licence because they are putting profit ahead of public interest. That is where governments also need to act. We will not support this motion but we support re-regulation of the energy market.

**The Hon. PAUL GREEN (16:27):** On behalf of the Christian Democratic Party I speak in debate on the disallowance motion moved by Mr Jeremy Buckingham. He referred to energy prices—one of the top three issues in Australia let alone New South Wales. He referred to the report from the NSW Council of Social Service, which said that families are doing it tough. I assure the House that not only families are doing it tough with higher electricity and energy prices; small businesses are also doing it tough.

**The Hon. Robert Brown:** And manufacturing—big businesses.

**The Hon. PAUL GREEN:** Big businesses are also doing it tough. No doubt it has exacerbated the profit margins of big and small businesses. That little profit margin often enables many businesses to get through bad seasons as well as good seasons. Every member in this Chamber is concerned about that. When the Christian Democratic Party confronted the Government and referred to Mr Jeremy Buckingham's concerns, it was informed of the role of the Independent Pricing and Regulatory Tribunal. More than 80 per cent of the 1.3 million gas customers in New South Wales have already switched to a market offer.

The Government noted that the main protection is competition, which requires strict oversight to avoid anti-competitive behaviour, and that the Independent Pricing and Regulatory Tribunal [IPART] has been monitoring competition in the electricity market since 2014. More particularly, this regulation appoints IPART as a market monitor and requires IPART to report annually on the competition in the gas retail market, which is an important protection. The regulation also enables a special review to be carried out by IPART into New South Wales retail gas prices. I am advised that the Minister already has requested that IPART review gas price movements in 2017 and 2018. Because IPART will be reporting on prices and whether they are above the market rate, this will allow the Government to assess the additional protections or regulations that may be required, or if competition is working to keep a lid on prices, so to speak.

The Christian Democratic Party knows that there is a lot of pain in our communities. Those who operate in the political realm must have their heads in the sand if they do not sense the overwhelming burden that increased energy prices are have placed on people, especially families, across New South Wales. The Christian Democratic Party is so concerned about high prices for energy that it has been working with the Shooters, Fishers and Farmers Party in respect of a motion of which notice was given yesterday for an inquiry into energy pricing in New South Wales. Tomorrow the Hon. Robert Borsak is likely to move a motion to set up that inquiry.

I look forward to the House unanimously supporting the motion to set up a select inquiry into energy prices and securing sufficient energy supply well into the future. After all, we do not govern just for today but for generations to come and so that businesses will be certain of a consistent, reliable and affordable energy supply. That is what the Christian Democratic Party is about, and I would be honoured to be selected by the Shooters, Fishers and Farmers Party to chair that inquiry and to ensure that all the concerns stated in the terms of reference are examined. There are some concerns about big companies. Today there was the announcement by the Commonwealth Bank of Australia of a massive profit of $4 billion plus, which makes the total profit of that bank nearly $10 billion over a year.

**The Hon. Adam Searle:** How much of that was laundered?

**The Hon. PAUL GREEN:** Apparently there are more than 50,000 cases. It was great to see that the Australian Transaction Reports and Analysis Centre [AUSTRAC] is on top of that. Another part of AUSTRAC's role is to deal with human slavery and anti-slavery, but that is a topic for another time.

**The Hon. Robert Brown:** That is what regulators are good at.

**The Hon. PAUL GREEN:** It is great that AUSTRAC is tracking key trigger points to ensure that big companies are not profiting on the backs of our most vulnerable people. The Christian Democratic Party

acknowledges shifts in the market and that our domestic supply of gas is now linked to international prices and demand for gas. Despite the fact that we can monitor market shifts, I agree with Mr Jeremy Buckingham—we must act now. By "now", I do not mean this minute or in relation only to this disallowance motion. If we get the supply of energy wrong, we will screw it up for a long time and it will be even harder to undo at some point in the future than it is now. The Christian Democratic Party accepts in good faith the Government's statement on the record today that it is dealing with this matter. Like Mr Jeremy Buckingham, I come from a regional area of New South Wales and I know that in regional areas people do not always have a choice and sometimes are held hostage by prices that have been set by a local regulator. While I accept that every business must have an opportunity to succeed and prosper, that does not mean that retailers should be ripping people off to make maximum profit.

The Hon. Adam Searle suggested that there are other solutions besides a motion for disallowance that will address increased energy prices. For example, first, he cited a comparative rate in the market and, secondly, he made the very good point that the Government did not hold back when the insurance industry was making super profits. The Government should be able to exercise control when prices are unreasonable and providers are taking advantage of monopoly status as well as a lack of competition. Competition is good, but that does not mean that all competitors act appropriately. I cite for example the four major banks. Competition for the banking industry is good, but when banks profit amazingly and reap super profits I can understand why people get a sense that some colluding is taking place.

**The Hon. Robert Brown:** More than a sense.

**The Hon. PAUL GREEN:** At this point in time I do not have evidence of collusion; otherwise, I would make an allegation. Nevertheless, I am sure that industries that have full control of market opportunities must be tempted to collude. Some policy settings will need to change. As stated by the Hon. Adam Searle, at the end of the day when push comes to shove the Government will act. Any government that does not act to address increases in the cost of energy currently experienced by consumers will no longer be the government. In addition, other economic levers will need to be pulled to relieve the cost of living pressures on the people of New South Wales.

The Christian Democratic Party acknowledges that increased costs of energy are a concern. Mr Jeremy Buckingham has drawn the concern to the attention of the House, and members are very familiar with that concern. I assure members that if an opportunity is provided to inquire into increased prices—for example, by motion that has been foreshadowed—it will be a no holds barred interrogation of suppliers and we will get down to the business end of the factors leading to increased prices. Such an inquiry will find out just where companies have been unscrupulously imposing late fees and any other fees simply to add cost to the bills that are sent to their customers. We will not be fooled by the short-term deals that are offered while customers are ripped off in the long term.

The Christian Democratic Party is very aware of unscrupulous practices. All I can say to energy companies is that we may well be coming after them through an inquiry. We will be asking some very tough questions because it is not right that energy companies should capitalise on opportunities to profit on the backs of families in New South Wales. People do not mind paying prices that are fair and reasonable but, as Australians, we hate being ripped off. We often hear about reservation of gas supplies for domestic use. In common with the Shooters, Fishers and Farmers Party, the Christian Democratic Party firmly believes that there should be a gas reservation policy. We believe that the policy should be implemented soon and it should be nationwide.

Legislators should lead by example and put Australians first when it comes to Australian resources that are taken from the land that taxpayers own. For the reasons I have stated, members of the Christian Democratic Party will be confidently voting with the Government on this occasion. But that is not the end of the story. We are not voting with the Government because we believe that no action is required in relation to energy prices; actually, we do. But let us do the right things in the right way and in the right order.

**The Hon. Dr PETER PHELPS (16:37):** It would take the hide of a rhinoceros to believe The Greens and support the motion for disallowance because that is a party that has done more than any other to destroy the gas industry in New South Wales.

**Mr Jeremy Buckingham:** Oh!

**The Hon. Dr PETER PHELPS:** More than any other!

**Mr Jeremy Buckingham:** What gas industry?

**The Hon. Dr PETER PHELPS:** I am not going too far when I say that Mr Jeremy Buckingham has done more to destroy the gas industry in this State than anyone else. Imagine the size of the gas supply in this State if we had supplies coming from Gloucester, Lismore, the northern rivers area or the Pilliga. Imagine how

much gas we would have. Imagine that we could get gas out to consumers at less than $5 a petajoule as opposed to tapping into an international market at $12 a petajoule. How much greater ability would gas suppliers in this State have if The Greens had not spent the past six years utterly demonising a legitimate industry? How much more gas would we have available if that were not the case?

Now The Greens come into this House and cry crocodile tears about not having enough gas and about gas prices increasing. Why are gas prices increasing? One of the reasons prices have increased is that the State is not producing enough gas. The Greens have long been divorced from the basic laws of economics, so let me remind them that the equilibrium price of a product is brought about by supply and demand. If you restrict supply then the price will go up. That is exactly what they have been doing. And now they come in here and tell us how concerned they are about the cost of gas when they have done all in their power to ensure that gas supply would be reduced in this State and that it would lead inexorably to a price rise. And why do they want to do that? They want to make energy expensive, and they particularly want to make hydrocarbon energy expensive. At the bottom of Mr Buckingham's web page is the coal and coal seam gas policy for The Greens NSW. The first statement of principles is:

> … each state and nation substantially reduce greenhouse gas emissions and bring about a transition away from fossil fuels to a 100% renewable energy economy.

And that is followed up over the page by this statement:

> The Greens NSW will:
>
> … promote a fast transition of our energy systems from fossil fuels to renewable energy.

In other words, here are people who say, "We care about people who are using gas," when in their very own policy documents they are saying, "We want to shut down the gas industry in this State in its totality." If I am wrong about this then Mr Jeremy Buckingham will come to the microphone in his reply and enunciate in detail all of those gas projects he and The Greens actively support. I challenge him to do that in his reply—come forward and state all of the energy projects in New South Wales that The Greens actively support. Does he support the Camden gas field? I am guessing the answer is no. Does he support Narrabri gas field? I am guessing the answer is no. I could be wrong about this.

I look forward to listening to what he has to say, because I am sure that, if he is sincere and genuine about his concern for gas prices in this State and the necessity to increase supply, he will be all too willing to demonstrate exactly which projects he and The Greens NSW actively support. But I will not hold my breath. What do they suggest we do? They suggest we transition towards a 100 per cent renewable energy economy. That is very interesting. I was on a wonderful site called Aneroid Energy looking at the major commercial wind farms in New South Wales. The information is dated Wednesday at 4.30 p.m. eastern standard time.

At Taralga Wind Farm, output 25 per cent, 27 megawatts; at Gullen Range Wind Farm, output 22 per cent, 37 megawatts; at Gunning Wind Farm, output 18 per cent, 9 megawatts; at Cullerin Range Wind Farm, output 29 per cent, 9 megawatts; at Woodlawn Wind Farm, output 20 per cent, 9 megawatts; at Capital Wind Farm, output 10 per cent, 14 megawatts; and, last and certainly by all means least, Boco Rock Wind Farm, output 1 per cent, 1 megawatt of 113 megawatt rated capacity. Indeed, the entire megawattage produced across every wind farm in Australia at that last recorded time of 4.30 p.m. was 2,200 megawatts. That might sound like a lot, but it is only 10 per cent more than Liddell. Every wind farm in Australia is producing only 10 per cent more than one power station. In fact, it is 400 megawatts less than Bayswater and 600 megawatts less than Eraring.

That is what The Greens are relying on to provide our base load energy into the future—less than one power station across Australia. One has to ask: Why are they doing that? Once again it comes down to the basic principle that The Greens are not really interested in humanity. The Greens dislike humanity intensely. Their idea is to force us back into a neo-primitive existence in which we scrounge around, barely surviving on subsistence food, subsistence energy and subsistence water. Subsistence is their chief goal in life. The only way they can achieve that is to make energy prices prohibitively expensive, which is why they oppose every opportunity this State has had to increase the supply of gas. It is why they consistently oppose any opportunity we have to increase base load power in this State. That is what they are interested in. They are not interested in reliable base load power; they are interested in turning us into energy poverty stricken people. I have to say, my own Government is not without blame. On 26 July, Minister Roberts, whom I love dearly, issued a press release with the heading "Four new solar projects approved in NSW". The final paragraph states:

> When the four new farms begin operation, New South Wales's 16 large-scale solar farms will generate sustainable power for 423,000 households, with a combined capacity for 1,131 megawatts …

Just doing a bit of calculation, that indicates that there are 2.67 megawatts for every 1,000 households. Yet in a previous paragraph he speaks about 275 megawatts of energy for 100,000 households, which would be 2.75 megawatts per 1,000 households. That in turn is different from what AGL has indicated with the Broken Hill

Wind Farm. It indicated that 3.97 megawatts are required per 1,000 households. It would be good if some consistency could be achieved as to what is being proposed. It seems that Minister Roberts is not exactly sure about how much solar is required to feed 1,000 households. That being the case, this is a bad motion that has been moved purely for political purposes by a bunch of opportunists that has, for the past six years, consistently been critical of gas exploration and production in this State and now seeks to pretend that it cares about the consumers when it is the very actions of The Greens that have led us into this situation. It is a terrible motion, it is a cynical motion, it is a hypocritical motion and the honourable member should be ashamed of himself.

**The Hon. MARK PEARSON (16:46):** This is a complex issue, but I tend to see the point of the Hon. Dr Peter Phelps, and that is that this Government has something very serious to answer. One of the first bills I had to consider and speak to was the poles and wires—the privatisation of energy. Numerous promises were made by the Government that we would not end up in the situation we are now in—many people are suffering from lack of warmth, are unable to maintain their family's hygiene and are unable to pay bills. We are in this situation directly because we sold the poles and wires to private organisations.

The Greens are rightly concerned about those people and have moved this disallowance motion out of that concern. But the Animal Justice Party will not support the motion because, having turned my mind to it, I think the Opposition has a very good point. The concern is that this is a piecemeal opportunity to change something and it really will not to address it. We must look at regulation and address what regulation should be put in place after the committee has reviewed this concern. Therefore we should look at the regulation of all energy resources, as the Opposition put forward, rather than just a specific aspect of it. For that reason, the Animal Justice Party will not support the motion, although in principle we respect the meaning and intent behind it.

**Mr JEREMY BUCKINGHAM (16:48):** In reply: I thank all honourable members for their contributions to the debate on the disallowance motion on the National Energy Retail Law (Adoption) Amendment (Deregulation) Regulation 2017, the Minister for Resources, Minister for Energy and Utilities, Minister for the Arts, and Vice-President of the Executive Council, the Hon. Adam Searle, the Hon. Robert Brown, the Hon. Paul Green, the Hon. Dr Peter Phelps and the Hon. Mark Pearson. This is an important debate, and if we consider some of the matters that come before this House, this matter is at the very top of the list.

I join with the Hon. Paul Green and the Hon. Robert Brown in looking forward to the select committee that will examine these issues in much more detail. The committee will forensically test what the Minister has said and, I hope, put forward a range of recommendations to the Government to make sure that we can keep the lights on in the State as well as drive investment in the energy sector. We must look after humanity and we can turn New South Wales and Australia into an energy superpower.

**The Hon. Dr Peter Phelps:** Which gas projects?

**Mr JEREMY BUCKINGHAM:** I will get to that. The Greens have an aspiration to increase energy supply in this nation by 50 per cent from its current level. Australia should have more energy than it can deal with. That is the way to drive down prices. Of course, if the supply of energy exceeds demand for energy, we will drive down prices. The way to increase supply is to provide investment certainty to the market and ensure that we have a functioning market. It is not a case of either investment certainty or a functioning market. We have been trying to ensure that we have a market and a regulatory system to guide that market.

In response to what the Minister said, I would like members to think about all the things that this Government has described as catastrophically wrong in terms of energy. There was a consensus between Labor and the Coalition 10 years ago that we had to build thousands of new coal-fired and then gas-fired power stations to supply thousands of megawatts of energy. Wrong, they were not needed. Approved gas-fired power and coal-fired stations around the State were not built. There was a view in this House that photovoltaic [PV] and wind power would never be competitive when compared with coal or gas. Wrong, it is cheaper today.

**Mr JEREMY BUCKINGHAM:** There was a view in this House that we would always burn coal in this State. Wrong again, every major coal-fired power station in this State will be closed in 15 to 20 years.

**The Hon. Robert Borsak:** No, they won't.

**Mr JEREMY BUCKINGHAM:** Ask the people who own them. We were told that the gas exploration around the country would ramp up supply and drive down prices—wrong. We were told that opening up to the international market would be fantastic for the gross domestic product [GDP] and productivity but would not impact on our natural advantage from gas—wrong again. This Government and most of the previous Labor governments have been blinded by ideology and have failed to look at the reality of global energy economics.

The repeal of the carbon price was a catastrophic failure that drove up prices, and now there is a failure to enact another carbon price. This is the one recommendation from the Finkel review that the Government will

not accept. The love that dares not speak its name is the fact that this Government knows that fossil fuels are over and the future lies with PV. In his contribution the Hon. Dr Peter Phelps said that wind is a brand-new industry and on a bad day is equivalent to the power generated by the Eraring coal-fired power station. In 10 years there will be six, seven or more wind farms plus we will have PV on roofs, pumped hydro and solar thermal.

**The Hon. Dr Peter Phelps:** Who is paying for all this capital infrastructure?

**Mr JEREMY BUCKINGHAM:** The companies are, and all of it is being built without subsidies, which shows you are stuck in the past. In terms of gas projects we support Bass Strait.

**The Hon. Dr Peter Phelps:** Tax leaches.

**The PRESIDENT:** Order! I call the Hon. Dr Peter Phelps to order for the first time. Mr Jeremy Buckingham will address his comments through the Chair.

**Mr JEREMY BUCKINGHAM:** We want to see conventional gas continue to supply energy while we transition. We do not want to see our landscape ruined by a Ponzi scheme of gas—

**The Hon. Don Harwin:** Are you going to support exploration in the far west of New South Wales?

**Mr JEREMY BUCKINGHAM:** We certainly do not need new gas because there is enough gas in Bass Strait. I know, because my dad built the gas platform at Kingfisher. They burn off—

**The Hon. Matthew Mason-Cox:** Point of order—

**The PRESIDENT:** Mr Jeremy Buckingham will resume his seat.

**The Hon. Matthew Mason-Cox:** The member is clearly outside the terms of the disallowance motion he has moved. His contribution is now turning into an unfashionable rant. Mr President, I ask that you draw him back to the leave of the motion and ask him to bring his reply to a close. He needs to remember that his contribution is in reply, not to a substantive motion.

**The Hon. Robert Brown:** To the point of order—

**The PRESIDENT:** Order! All members will cease interjecting.

**The Hon. Robert Brown:** Mr President, that was my point of order. There is so much noise from interjections, including my own—and I apologise to the House—that it does not take much to get a member on his feet forgetting to address the Chair and therefore, on two calls, perhaps making the mistake of going too far. Mr President, I believe you should call all interjectors, including me, to order.

**The PRESIDENT:** That is the best argument I have heard today. Clearly, the interjections are getting out of hand. I have tried to be patient, but members are making it impossible for Hansard. Mr Jeremy Buckingham should not have to scream over the top of interjections, which is what is occurring. Mr Buckingham, you are straying from speaking in reply and entering into debating the motion. You had an opportunity to contribute to the debate, and I ask you to focus on giving a reply.

**Mr JEREMY BUCKINGHAM:** Mr President, I thank you for your erudite ruling. In his contribution the Minister said that it is an either/or proposition, and I think that he has sold everyone a pup. He suggested that if we get rid of this regulation somehow the wheels will fall off the energy market in New South Wales. As no advice was given to the crossbench when this suggestion lobbed up, I can understand why it has been an effective tool and the Minister is looking pretty happy with himself. The reality is we could abolish this regulation today and bring in a different regulation that puts the Independent Pricing and Regulatory Tribunal [IPART] in that role. I make a commitment to push for the reregulation of the industry. There is a debate on the energy market happening in Canberra today, led by The Greens' Adam Bandt. The debate will look at reregulation of the energy market. The chief executive of Energy Market Operator, Audrey Zibelman, has said that there is a role for responsible regulation as we transition to 100 per cent renewable energy.

The Greens love humanity. We want them to have cheap and easily accessible energy. We want people to have more energy than they could possibly use. We want them to be able to afford the energy that powers their homes, keeps them warm and makes this an incredible civilisation. We are not misanthropes, as the Hon. Dr Peter Phelps would characterise us, or Luddites, like the Hon. Dr Peter Phelps, who want to burn rocks for 10,000 years and ignore the catastrophe of climate change that is on our doorstep. That is why The Greens are fighting for our environment. We want to deliver certainty that there will be clean, green, abundant renewable energy and people will not be left behind as we make the transition to renewables. We will not throw them on the pyre of economic rationalism and make them suffer through the failure of the Government's policy.

Clearly, this motion will not get up today. I thank all members for their contributions to the debate. This is the most important debate happening in Australia today. A major concern of communities is energy supply and cost. I have the energy to keep those opposite on the right track and to make sure that we move to 100 per cent renewable energy. I will make sure that energy consumers of New South Wales know who is at fault in the current market. The Australian Competition and Consumer Commission [ACCC], hardly a bastion of socialism, said that deregulation, privatisation and the failure of the gas market are all to blame for the current situation. Ideology above economics is always doomed to fail, and I will not follow that path. I believe that we will debate this motion in the future.

**The Hon. Dr Peter Phelps:** Jeremy, which gas project do you support?

**Mr JEREMY BUCKINGHAM:** Bass Strait.

**The Hon. Dr Peter Phelps:** It's not in New South Wales, mate. I'll send you an atlas.

**The PRESIDENT:** Order! I call the Hon. Peter Phelps to order for the second time. The question is that the motion be agreed to.

**Motion negatived.**

*Committees*

## PORTFOLIO COMMITTEE NO. 4 – LEGAL AFFAIRS

### Extension of Reporting Date

**The Hon. ROBERT BORSAK:** As Chair: I inform the House that on this day Portfolio Committee No. 4 - Legal Affairs resolved to extend the reporting date for its inquiry into museums and galleries to 30 November 2017.

*Bills*

## SYDNEY PUBLIC RESERVES (PUBLIC SAFETY) BILL 2017

### Second Reading

**The Hon. SCOTT FARLOW (17:00):** On behalf of the Hon. Niall Blair: I move:

That this bill be now read a second time.

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

**Leave granted.**

I ask the House to consider the Sydney Public Reserves (Public Safety) Bill 2017.

This bill is an appropriate and measured response to the unauthorised tents and other materials currently located in Martin Place Reserve.

**Background**

Martin Place Reserve is Crown land, reserved for public recreation and is managed by the City of Sydney as the reserve trust manager.

It is a public reserve used by the public as a major thoroughfare and by organisations authorised for specific events consistent with the reserve purpose.

The current camp site on Martin Place impedes the reasonable use of the reserve by other members of the public. It operates a 24/7 open kitchen which includes barbecues, gas bottles and knives. None of these activities are authorised or appropriate under the Crown Lands Act.

The City of Sydney Council knows it is an issue. It has already used its powers under Section 125 of the Local Government Act 1993 to address the problems created by this unauthorised use of a reserve before. It could—and should—use them again, but so far has failed in its duty to act.

Instead, it wanted the New South Wales Government to use its powers under the Crown Lands Act. This would require the Minister for Lands to apply to the local court for a warrant for the removal of the occupants at Martin Place.

Issuing of warrants is an extreme course of action for dealing with this situation. The City of Sydney might think this is an appropriate way to deal with vulnerable, homeless people but we do not.

This bill ensures that moving forward, the NSW Police will be able to exercise reasonable powers to remove items and persons from Martin Place reserve where they materially interfere with the reasonable enjoyment of the rights of the public or where the use of the reserve is unlawful.

The public expects that police should have appropriate powers to support a reasonable resolution of the issues at Martin Place Reserve moving forward.

**But this is not the whole story**

The bill is only one part of a broad approach by this Government to peacefully resolve this issue.

The Department of Family and Community Services has visited the Martin Place campsite 46 times since March 23 to offer services, support and accommodation.

As a result, 73 people are now in permanent social housing.

The Government will ensure that the department will continue to attend Martin Place every day this week to offer permanent accommodation for any homeless person in Martin Place who is eligible for social housing and is willing to engage.

**What the bill does**

**Where the bill will apply**

The bill applies to the whole of Martin Place between Macquarie Street and George Street which is a public reserve.

The bill can also apply to other public reserves in the City of Sydney by proclamation.

However, the Minister is not to recommend the making of a proclamation by the Governor unless the Minister is satisfied that, as a result of relocation of persons occupying Martin Place or another occupation of a public reserve, it is in the public interest for Police to intervene.

These restrictions on the Minister ensure that there will be proper consideration that takes into account the public interest before the powers authorised by the bill are extended to any other public reserves within the City of Sydney.

**Police "move on" powers**

The Police will be given powers to direct people to "move on" immediately and require that person not return within six hours, which has been modelled on the Law Enforcement (Powers and Responsibilities) Act 2002.

However, these "move on" powers will only apply to persons occupying a public reserve if the police officer believes on reasonable grounds that the person's occupation of the reserve materially interferes with the reasonable enjoyment of the rights of the public or is unlawful.

The Police will also be able to remove tents, goods or other items but only if it is necessary of expedient for the purpose of removing or remedying any material interference with the rights of the public in relation to the reserve or any unlawful occupation of the reserve.

In accordance with the proposed section 8(4), a thing that a police officer has seized and removed from a public reserve:

- may be returned to the person from whom it was seized if it is lawful for the person to have possession of the thing, or
- may be disposed of in accordance with the directions of the Commissioner of Police, or
- may be delivered to the council of the area in which the reserve is situated.

The intention of the relevant provision is to provide police with discretion, that is, the discretion to exercise any of these options. It is not intended to mandate any action or any particular action stated in the proposed section 8(4).

**Powers not directed to homeless persons**

It is not intended that these "move on" powers will apply generally or specifically to homeless persons in the City of Sydney area.

Under this bill, the Police will only exercise powers to remove items or move people on where their occupation is unlawful or materially interferes with the reasonable enjoyment of the rights of the public in relation to Martin Place or another proclaimed public reserve within the City of Sydney.

**Other limits on "move on" powers**

These "move on" powers will not apply to industrial disputes.

And they will not apply to authorised demonstrations, protests, processions or assemblies under Part 4 of the Summary Offences Act 1988.

These are important for any citizen to have the right to participate in and reflect a strong and healthy democracy, such as that of New South Wales.

This bill is modelled on the "move on" powers in the Law Enforcement (Police Powers and Responsibilities) Act 2002, so the safeguards applicable to those provisions will apply to the new move on power.

This includes requirements for police officers to give reasons why they are exercising the "move on" power, and warnings that their requirements must be complied with.

Further, the bill provides that a Code of Practice may be developed and applied to the exercise of powers under the Act, setting out how powers are to be used.

**Offences**

There are only two offences under the bill.

It will be an offence when a person, without reasonable excuse, refuses or fails to comply with a direction to leave the reserve. The Court can apply a maximum penalty of two units, that is $220. Or a fine can be issued for $110.

The penalty for this offence is particularly low and the intention is clearly to create a compliance and enforcement mechanism that is appropriate in the circumstances.

Secondly, it will be an offence when a person, without reasonable excuse, obstructs a police officer exercising the power to seize and remove things. The Court can apply a maximum penalty of 20 penalty units, that is $2200.

**CONCLUSION**

This Government has and will continue to provide support to the vulnerable people camping out in Martin Place.

However it has a duty to the people of the City of Sydney, and New South Wales more broadly.

That is why we are introducing these specific, limited provisions to ensure the public areas of the City of Sydney are available for use and enjoyment by all members of the public.

I commend the bill to the House.

**The Hon. MICK VEITCH (17:00):** I lead for the Opposition in debate on the Sydney Public Reserves (Public Safety) Bill 2017. The bill deals specifically with the so-called "unauthorised" campsite at Martin Place, a public reserve managed under the Crown Lands Act 1989. The City of Sydney is the reserve's trust manager. The bill authorises police officers to (1) give directions to person occupying the public reserve that are reasonable in the circumstances to remove or remedy the interference or unlawful occupation and, (2) seize and remove tents, goods, and other things for that purpose. The bill would also apply to any other public reserve in the City of Sydney council area declared by the Governor by proclamation following the recommendation by the Minister that it is in the public interest because of the relocation of persons occupying Martin Place Reserve or any other occupation of a public reserve.

In my view, the bill is extremely narrow, dealing with a particular public reserve and any other public reserve within the City of Sydney where persons associated with the current occupation might move onto. As my colleague in the other place, the member for Cessnock, has made clear, the Government can already move people on under the provisions of the Crown Lands Act 1989. Section 159 of the Crown Lands Act 1989 provides for authorised persons, which includes police officers, to apply to the Local Court, which, upon being satisfied of the truth of the matters alleged, shall issue a warrant requiring the authorised person to:

1. dispossess and remove the person in unlawful occupation;
2. remove any buildings or goods from the land; and
3. take possession of the public land on behalf of the Crown.

New South Wales police also have powers under the Law Enforcement (Powers and Responsibilities) Act to move people on, and council would, no doubt, have regulatory powers available to it to deal with such situations under the Local Government Act. I understand and have been advised that authorities have been working for some time to find the homeless people currently sleeping rough in Martin Place appropriate long-term accommodation. Again, I say that this is a poor piece of legislation that is using homeless people as a political pawn in demonising those who wish to raise the inadequacy of the Government's response to homelessness.

It is legislative overreach stemming from the Government's failure to do its homework, and undertake longstanding procedures and action that provides checks and balances against ministerial excess that are already in the Crown Lands Act to remove persons from unlawful occupation of public land. This is a dangerous precedence. For instance, what happens if a similar scenario develops at Rozelle, or Newtown, or Penrith? Will the Government extend this legislation to address those scenarios? Is that an appropriate response by the Government or an appropriate way for the Government to deal with homelessness in New South Wales? Rather than trying to wedge the Opposition and draw us into the mess that has been created, the Government should be using the legislative arrangements available to them.

But the homeless people in Martin Place should not be used as a political pawn. There are genuine people in Martin Place who are sleeping rough right now, and they deserve long-term accommodation. As I said before, I do understand that for some weeks now the Government and the City of Sydney have been case managing individuals intensively to find long-term accommodation support. That is an appropriate way for the Government to operate. To introduce this type of a bill at this time raises cynicism within the community. I ask the Government to show a bit of compassion. The Government tells us all the time that it has a significant surplus. It should spend some of the $4.5 million surplus to create social housing for the homeless people in this State.

**The Hon. Shayne Mallard:** We are.

**The Hon. MICK VEITCH:** If you say you are, you need to spend more. This legislation is unnecessary. The Government already has the legislative arrangements in place, and it should spend some of the significant surplus it keeps talking about on long-term accommodation needs for the homeless people of Sydney. The Opposition will oppose this legislation.

**Mr DAVID SHOEBRIDGE (17:05):** On behalf of the Greens I indicate our clear opposition to the Sydney Public Reserves (Public Safety) Bill 2017. This is an ugly piece of legislation that is being rammed through

this Parliament, with less than 24 hours' notice to the people of New South Wales. It is being rammed through because this Government thinks that the way to deal with the homelessness crisis is to give police the power to go in and clean out people in this State who have nowhere else to live. This Government's response to the genuine crisis of homelessness is nothing short of shameful. The idea that the appropriate response from any government to a crisis in housing and to the people who have nowhere else to live, apart from the temporary shelter in Martin Place, is not to provide them with housing, but to empower the police to go in and move them on, and, if they do not move, to arrest them and to confiscate their meagre possessions.

Then, to add insult to injury, this legislation empowers the police to destroy homeless people's meagre possessions. This bill does not provide housing, security, or assistance; it empowers the police to arrest homeless people if they do not move on, and steal their possessions and destroy them. I cannot imagine a more heartless response to a pressing social issue. I get that the Government is embarrassed homeless people are living in the middle of the largest city of one of the wealthiest countries on the planet.

**The Hon. Shaoquett Moselmane:** Next to the Reserve Bank.

**Mr DAVID SHOEBRIDGE:** They are living right next to the Reserve Bank, directly opposite Parliament House. I understand that the Government is embarrassed that there are scores of homeless people with nowhere to live, living in tents, having to look after themselves and using temporary kitchens. And I get that the Government wants to solve the problem. But what I do not understand is this response. Rather than responding with empathy and compassion, and rather than providing these people with housing, the Government wants to give the police the power to break up the homeless people's possessions, the power to tear down their tents, and the power to arrest them if they do not move on, and to not provide them with long-term housing.

It is about as low as a State Government can sink. For the Government this is an embarrassing issue, but it should be an issue that engenders compassion, not embarrassment. To use with police powers to deal with the embarrassment of homelessness on that scale in the centre of a city as wealthy as Sydney is really the bottom of the bottom. Just when I thought politics could not sink to a new low, the Government did something like this. Meanwhile, the City of Sydney has been attempting to negotiate and find a solution. The Government could have given that a few more days, could have put some money on the table and provided some accommodation. When I say "provided accommodation", I do not mean temporary accommodation for three days or 28 days, in an unfurnished flat 15 kilometres from the centre of the city; I mean proper, secure, long-term accommodation.

But instead of working with the City of Sydney and finding some safe, secure long-term accommodation for people who have no home, it rushes through this ill-thought-out legislation. This legislation is as broad as the Government can make it, deliberately designed so it can be used not only in this current crisis against the homeless people living at this end of Martin Place but also to empower police to move anyone out of a public area anywhere in the city, provided the Minister for Lands and Forestry declares a part of the city open to that kind of power.

The legislation as drafted says that at the moment it applies to the top bit of Martin Place but if the genius of the Hon. Paul Toole, the Minister for Lands—the bloke who brought us the disaster of local council amalgamations—decides that somewhere other than Martin Place should also be subject to those kinds of powers anywhere in the City of Sydney, Minister Toole can issue a proclamation and—bang!—the police have these powers over any public part of Sydney. What are the powers proposed to be given right now to the police in Martin Place but that can be extended to any public part of Sydney? The powers are that if at any time a police officer "believes on reasonable grounds" that a person's occupation of the public part of this city "materially interferes with the reasonable enjoyment of the rights of the public"—bang!—the police officer can just move people along. If they do not follow the direction of the police officer, they get arrested and face a $220 fine, and any of their possessions that happen to be there at the time can be confiscated by the police and destroyed.

One might ask: Why give such broad powers? Surely one would have some constraints on it, because we would not want the police using this power to break up protests, would we? We would not want the police using this kind of power to break up a media scrum that is inconveniently sitting outside a Minister's office. Surely there would be the same kinds of restrictions on these kinds of police powers as in other parts of the law—in the Law Enforcement (Power and Responsibilities) Act. But no, the only constraint on the police is that they have to have "reasonable grounds". Whatever a police officer thinks is "reasonable grounds" tends to be determined to be so by the Local Court.

The only constraint is that the Act does not authorise a police officer to exercise a power in relation to an industrial dispute. So they cannot break up a strike but they can break up a protest. They can arrest the Knitting Nannas Against Gas, who often come into Martin Place. They can move on a media scrum if the media has been sitting inconveniently outside a Minister's office and interfering with the free access to that office. They can do that. The other pathetic protection proposed to limit the powers is that the bill does not authorise a police officer to exercise these move-on and confiscation powers in relation to a "demonstration, protest, procession or

assembly" that is authorised under part 4 of the Summary Offences Act 1988. If the police have already said people can do it, they cannot exercise this power.

But if someone is simply exercising their century-old common-law right to stand in a public place and protest without getting the permission of the police—which for the moment, even in the police State of New South Wales, they do not need—like a Knitting Nanna or anybody else who gathers outside this Parliament and in Martin Place making a political protest, at any time under these proposed laws the police can move them on unless they have permission from the police. Since when did we have laws that said we cannot protest unless the police say we can? As it turns out, since 9 August 2017, because that is what this Government is proposing and it looks as if the Government will get the support of the Conservative crossbenchers to put these kinds of authoritarian laws through this Parliament.

I had the good fortune to watch the contribution of my colleague the member for Newtown, Jenny Leong, who is in the gallery now, in the other place. I endorse each and every word that she spoke in the other Chamber. She made very clear our position on the crisis of homelessness in this State and the ability of any landlord to evict a tenant at the conclusion of a tenancy without having to give any reason. Landlords can evict people with no reason given. She spoke about the crisis in public housing and how, even if a person is on the priority list for public housing in this State, it takes seven years to get some accommodation. While the State Government has been flogging off public housing, not building any public housing and privatising every part of it that they can privatise, we see the inevitable result: this homelessness crisis in Martin Place. What is the Government's response? It is not to admit that there is a problem with housing in Sydney and New South Wales but to go in and arrest people.

Under proposed section 7 of the Sydney Public Reserves (Public Safety) Bill 2017, a police officer can move anyone on if the police officer thinks that they are interfering with the "reasonable enjoyment of the rights of the public". I ask: Does the Government think that people without a home are members of the public? I do, The Greens do and my colleague Jenny Leong does. Homeless people are members of the public too. Homeless people have a right to access our public spaces; indeed, homeless people by definition need to have access to our public spaces because they do not have a private place to live. Yet this Government excludes homeless people from the definition of "the public". The Government's underlying assumption in giving the police power to move on anybody that a police officer thinks is interfering with the "reasonable enjoyment of the rights of the public", and in saying that it wants that applied in Martin Place, is almost certainly that it does not believe people without a home are actually members of the public. They are a kind of lesser species in New South Wales that can be treated like shit. It is a disgrace.

**The Hon. Ben Franklin:** Point of order: I draw the attention of the Chair to the term used by the member and ask him to withdraw it, as it is unparliamentary language.

**The DEPUTY PRESIDENT (The Hon. Shayne Mallard):** The word has not been ruled unparliamentary, although I tend to agree with the Hon. Ben Franklin that it is not an appropriate word to use in Parliament. I know Mr David Shoebridge is passionate about this issue, but I caution him on his language.

**Mr DAVID SHOEBRIDGE:** The Law Society has provided submissions in relation to the Sydney Public Reserves (Public Safety) Bill 2017. It is hardly the most radical body; it is in fact one of the most conservative in New South Wales, and it has said very clearly that it opposes this bill. It said:

> The Law Society understands that there are over 400 rough sleepers in Sydney's CBD, and this Bill may affect all of them. The Bill will also potentially bring more homeless people into negative contact with the justice system.

We know that some of the most common targets of discretionary police powers are members of our first peoples, people with mental illness and homeless people. They are already over-targeted by the police, but this Government thinks it should give the police additional powers. The Law Society went on to say:

> We understand that Martin Place has become a flashpoint because it makes the presence of rough sleepers visible. Moving people on might solve the immediate issue of visibility, but it will not address the problems, such as sufficient crisis accommodation and long term housing options.

I endorse the views of the Law Society. The Law Society has endorsed amendments to the bill if the bill cannot be defeated in its entirety, as follows:

> The Law Society opposes the Bill in its entirety. However, if the Bill is to be passed, we submit that the following amendments should be made to the Bill:
>
> Remove or at least reduce the penalty that applies to people who may resist having their belongings taken by police;
>
> Specify that personal belongings "Must" be returned, rather than may be returned;
>
> Create a two year sunset clause on these powers; They propose including the limitations that are already found in section 200 of the Law Enforcement (Powers and Responsibilities) Act [LEPRA]. Each and every one of those amendments will be moved by The

Greens in Committee. I turn now to clause 8 of the bill. As offensive as it is to be moving homeless people on for the crime of not having a home—that is what this bill does, it criminalises being homeless in this State—the Government has decided to add an additional offensive power about the seizure and removal of things, or remedying the interference or unlawful occupation. Clause 8 says:

> A police officer may seize and remove from a public reserve to which this Act applies any tent, goods or other thing if the police officer believes on reasonable grounds that it is necessary or expedient for the purposes of removing or remedying any interference or unlawful occupation referred to in section 7 in relation to the reserve.

If at any point a police officer thinks that the tents or goods or those other things we see in Martin Place in some way interfere with or are part of an unlawful occupation of the reserve, then the police officer can seize them. We are talking about the possessions of homeless people. They do not have a home to put their valuable possessions in. Often all of their valuable possessions—family photographs, heirlooms, matters of great personal moment to them—are all in their bags with them. They are all there in Martin Place because they do not have a home. If someone does not have a home where do they keep the things that are precious to them? They keep them on their person or where they are sleeping. That is what we are talking about.

What does the Government propose if anybody in Martin Place tries to defend their possessions to stop them being taken by a police officer? The Government proposes that they should face a fine of up to $2,200; 20 penalty units. That is a $2,200 fine for a homeless person who is trying to stop their tent being taken by the police. That is utterly bloody disgraceful. Then, once the police officer has seized the tent or the possessions, the blanket, the photographs, the essential papers, whatever, what does the police officer do with them? One would think that a Liberal-Nationals Government that is meant to be founded on property rights would say if it is lawfully the possession of the homeless person and it must be returned. One would think surely if the Coalition does not respect human rights, it might at least respect property rights. But no.

Clause 8 says that once a police officer has seized and removed something from a public reserve, once the tent, sleeping swag and personal possessions have been picked up, then the police officer "may" return them to the person. If the person had a lawful right to them the police may return them, or they may be disposed of in accordance with the directions from the Commissioner of Police. They can just be burnt, destroyed, thrown in the tip, or they can be delivered to the council. Why would anyone allow the police to destroy the few remaining possessions of homeless people? What kind of diseased mind proposes a law that allows the police to not only move homeless people on from public places but also to seize their meagre possessions and then to destroy them? What kind of diseased politics would see such a provision pass through the Parliament with less than 24 hours' notice?

That is about as disgraceful as it gets. That is about as low as low could be, to empower the police to steal the last few possessions of homeless people and then destroy them. That is a snake's belly kind of provision being put forward by this Government. Homelessness is a genuine crisis. People without a home deserve compassion, not arrest. This Parliament should insist upon proper scrutiny of these kinds of laws. Homeless people should not be political playthings. Let us defer this bill. Let us give the City of Sydney and the people who are trying to survive in Martin Place a bit more time to come to a safe, consensual conclusion. Let us add some resources to services for the homeless. Let us build some public housing. Let us do something decent. Do not pass this rubbish.

**The Hon. MARK PEARSON (17:24):** The Animal Justice Party is absolutely dumbfounded by the Sydney Public Reserves (Public Safety) Bill 2017. I find it embarrassing that, in 2017, I am speaking to such a draconian, disgraceful, unconscionable piece of legislation. When the police arrest these people and pack up their very meagre belongings—as Mr Shoebridge pointed out, even the tiniest things; they could be photographs, locks of hair, a gift given to them by very important people—they are not valued in the way these homeless people value them, but they are going to be wrapped up and taken from them. It is questionable whether they will be returned. When the police arrest them and move them on, where will these people go? Where is their chance? Where is their space?

It is important to note that one of the safest places—believe it or not—for homeless people to gather is in the city where it is busy and people and police are about, and Parliament and a hospital are nearby. Whether it be Martin Place or wherever they have chosen to gather in the city, they do so because living in a dark corner in Kings Cross or Newtown or any other backstreet is far more dangerous and jeopardises their wellbeing and safety. They come into the city for this sense of safety. But because a particular member of Parliament might find it uncomfortable to look upon these people we now have to remove this distasteful vista and push them away so we can have the space back . We do not know what has happened to them.

I support the suggestions made by the Hon. Mick Veitch and Mr David Shoebridge. For God's sake, we are a civilised society. The measure of a civilisation is how we take the vulnerable, the sick, the weak, the needy under our wings whatever the situation is that has caused these people to live in such a way that they are homeless. The notion that they are being belligerent and obstructive and may be choosing to live this way is utter rubbish.

Even if some comment that this is the way they want to live, that person has a story to tell about why they have come to that decision. We cannot turn our backs on these people and treat them in this way.

The aspect of section 7 that astounds me is that the provisions of the bill apply if the police officer believes on reasonable grounds that the person's occupation of the reserve materially interferes with the reasonable enjoyment of the rights of the public. Using a broader definition of enjoyment, these people are enjoying the relatively safe space here in the city. How could they be considered to be materially interfering with other members of the public? I have seen no complaint, I have heard no claim that another person's liberty has been materially interfered with by a person who puts a very small, very uncomfortable, cold tent in a street next to another tent where people can walk freely on either side.

We need to face this problem head-on, not dodge it and not punish people for finding themselves in a terrible situation through no fault of their own. It is time that we turned our minds to understanding compassion and how it relates to civilisation. One of the best measures of human beings is whether they honestly address problems, take responsibility for them, and work proactively together to solve them. We must work with people in this dreadful situation and address homelessness. Not only have they experienced bad luck and terrible situations but this Government has also put in place many mechanisms that obstruct their free access to the liberty of a home. The Animal Justice Party absolutely opposes this legislation, which is draconian and an embarrassment to this and the other House. I condemn the bill.

**The Hon. PAUL GREEN (17:30):** I speak on behalf of the Christian Democratic Party on the Sydney Public Reserves (Public Safety) Bill 2017. This bill aims to address the unauthorised occupation of Martin Place that interferes with the reasonable public use of the area. I am thankful that we are talking about homelessness today because the Christian Democratic Party has been trying for some time to have it addressed not only in New South Wales but also across Australia. While it is an uncomfortable topic, I assure the House that I could not be happier that we are discussing it. We are not talking about only 400 people; homelessness affects more than 100,000 people, of whom 12.5 per cent are military veterans, more than 25 per cent are dealing with mental health issues, and another 25 per cent have simply had bad luck and are trying to sort out their life.

**Mr David Shoebridge:** And the Government wants to arrest them.

**The Hon. PAUL GREEN:** I will address that issue. There could not be a better time to talk about homelessness in New South Wales. This State is very prosperous, and we are fortunate to have a $4.5 billion budget surplus. The Government can write any cheque it wants to write, but it will not write one for the homeless. We must give homelessness the priority it deserves. Each of these homeless people has a story to tell, they have a life, and they have value. This debate is about trying to help them to deal with a dark chapter in their life. I do not know every homeless person's story, but I do know that each and every one of them is valuable. It is our duty to lift them up, not to put them down. I have always said, and the Christian Democratic Party believes, that everyone should have a roof over their head, a bed under their body, warmth and food.

Article 11 of the United Nations International Covenant on Economic, Social and Cultural Rights enshrines the "right of everyone to an adequate standard of living for himself and his family, including adequate food, clothing and housing, and to the continuous improvement of living conditions". Many people are at risk of homelessness. Earlier today we talked about the price of gas and electricity. Some people are forced out onto the street because they cannot afford those utilities. When I was the mayor of Shoalhaven, I was shocked when I came across a local family that had fallen on hard times because of a bad credit history. Suddenly, this father, mother and three children found themselves sleeping in a car because they did not meet the criteria to access assistance. They came to my office and I told them about how they could get help. They have a right to a roof over their heads and to compassion.

Many people are risk of homelessness because finding affordable housing is difficult. Some are unemployed, some have mental health issues, some are victims of domestic violence, and some cannot cope with housing cost burdens. The fact that vulnerable people are sleeping outside the Reserve Bank of Australia highlights this State's affordable housing crisis. What a paradox. At the very base of a monument to prosperity we have homeless people sleeping in tents on cold cement and being fed and clothed by charities.

I speak with some experience of this issue as a mayor, but also having recently travelled to Los Angeles to study homelessness and human trafficking. I cannot say it was a privilege—it was not—to visit Skid Row, where 10,000 people were sleeping in tents and were bartering because they had no cash. They were doing whatever it took to survive. The things happening there were tragic. Helping those people is a massive challenge for the people of Los Angeles. As we are, they are trying to provide those people with a roof over their head, a warm bed, food, safety and security. All of these things ensure a decent quality of life. It was one of the most discouraging things I have seen. As members may be aware, many people on skid row represent the same demographic as the homeless people in this country.

Skid row has a population of 10,000, and there are 160,000 homeless people across Los Angeles. As I said, each and every one of them has a story to tell. I was able to observe how the local government, the law enforcement authorities, nongovernment organisations and churches were dealing with them. I understand that more than 47,000 people are living in encampments across the city. Homelessness is widely regarded as the greatest obstacle to the rebuilding of downtown Los Angeles. It is a long-term crisis that calls for long-term solutions. It was an illustration of a major and costly planning mistake, particularly with regard to sanitation. Those people simply need a home and health care. Many ended up on skid row because they wanted to escape the complications of dealing with utility, telephone and health bills. It was easier for them to live on the street because of the unmanageable cost of living in a house.

I raise that only because I would hate to think that Australia would end up facing that situation. There are lessons to be learnt, and that is why the Christian Democratic Party supports the Sydney Public Reserves (Public Safety) Bill. We do not want people in living in tents on the street; we want them to have a roof over their head in a safe and secure place and with food on their table. The ultimate long-term goal is to support the homeless by providing human services that address immediate and long-term needs in the areas of homelessness, hunger, poverty, addiction, mental health, affordable housing and education.

During my study tour to the United States I met with the New York Police Department [NYPD] Crisis Outreach and Support Unit. That unit aims to treat the homeless not as criminals but rather to engage them in conversation, raise awareness of services available and encourage them to seek assistance. The primary goal of offering assistance during these outreach efforts is to get homeless individuals into shelter programs. In addition to providing shelter, safety and security, the programs offer many other services that could help meet them at their point of need. I encourage the NSW Police Force and the Department of Family and Community Services to do the same in this situation.

I am aware that Minister Goward's Family and Community Services staff have been in Martin Place regularly, providing support and accommodation options for those who are occupying Martin Place. We note that the Minister has advised after-hours secure services have been made available through the Wayside Chapel. Services such as access to hot showers, meals, laundry and accommodation can be sourced at the Wayside Chapel and are fully funded by the Government. The Government will also provide short-term accommodation options for up to 28 days, with the ultimate goal of getting people into proper housing.

I return to the content of this bill. This bill will give police powers. These powers will be enacted to remedy interference or unlawful occupation in Martin Place or any other public reserve in the City of Sydney. Valid civil rights issues have been raised as to the seizure of homeless peoples' possessions. I note that Mr David Shoebridge spoke about that. I am somewhat offended by the way he speaks about the police and their discretionary powers. He makes them sound like big ogres who are against these people. My experience with the police is that they are very compassionate, caring and sensitive. I find it offensive that Mr David Shoebridge speaks of the NSW Police Force in that way because that is not my experience with them. I am sure that the new commissioner, Mick Fuller, would also commend a compassionate and caring approach.

**Mr David Shoebridge:** That is why he said he wanted to lock them up and put them in paddy wagons.

**The PRESIDENT:** Order! Mr David Shoebridge has had his opportunity to speak.

**The Hon. PAUL GREEN:** Better and more constructive solutions are open to the Government and the Parliament. This bill effectively tried to work on that. I have been advised by the Government that items will only be seized if the person does not wish to take them with him or her. If they are seized, they will securely hold those possessions at council and make them available as soon as they are required. I ask the Government to ensure that people's possessions are not compromised and certainly not destroyed.

**Mr David Shoebridge:** Do not give them the power to do it.

**The Hon. PAUL GREEN:** I note some of the comments of Mr David Shoebridge. These items are the homes of these people, albeit it compact homes. While some of us may find that those things are not essential to our lives the ownership of those items is personal. I ask the Government not to destroy those items short of obvious environmental health risks that could be considered. I am aware of those things from my experience with the Los Angeles Police Department [LAPD]. Homelessness NSW has advised:

> Communities such as Martin Place are not a satisfactory answer to homelessness however no action should be taken to evict people until a suitable alternative is in place.

This bill is not about infringing on the civil rights of homeless people; it is about dealing with the issue at hand for which no-one has been able to provide a clear solution. It is unfortunate that the State and local governments have clashed on this issue to achieve an outcome. Basically, we cannot have people camping in the middle of a major city thoroughfare in midwinter, sleeping on cold cement, as I have said. There does not seem to be any

sensible solution to this issue other than to help house these vulnerable people elsewhere in emergency housing, temporary housing or further permanent housing.

As I said, this is the ultimate goal of the LAPD and NYPD in their respective areas and should be the goal of any government in Australia, particularly in New South Wales. We need to engage the homeless in the conversation, raise awareness of the services available and encourage them to seek assistance to gain permanent housing. We note that this is not an issue that can be resolved overnight. Homelessness is a major challenge in New South Wales. I recommend that the Government pulls out its chequebook and puts more money towards real solutions of putting a roof over these people's heads and giving them a place to call home that is safe, secure and warm. Homelessness NSW provided some quick facts in its media release, in which it states:

- Rough sleeping in Sydney has increased by 28% since 2011

That is when this Government came to office. The media release continued:

- February 2017 City of Sydney StreetCount found that there were 433 people sleeping rough and crisis accommodation services were 90% full.

That is tragic when we are trying to give people a roof over their heads. In midwinter, when members of this place walk out the front door of Parliament House, we see them there. I cannot bear the thought of them sleeping in a sleeping bag in such cold temperatures. If we cannot do something today while we are on the topic, it probably reflects on our humanity. The media release continued:

- As of June 2016 there were 60,000 people on the social housing waiting list in NSW
- Less than 1% of private rentals are affordable for people on low incomes in greater Sydney …
- Homelessness NSW surveyed over 500 people sleeping rough in December 2015. Over 60% of those surveyed had health and disability support needs.

People might be thinking this is un-Christian of us to support this bill, but I think it is un-Christian to leave these people sleeping in those conditions. We believe that if we have the power to put a roof over their heads, a pillow under their head and help them, we should move to do that.

**Dr MEHREEN FARUQI (17:47):** I make a brief contribution to debate on the Sydney Public Reserves (Public Safety) Bill 2017and thank my colleagues Jenny Leong and David Shoebridge for their work on behalf of The Greens on this bill and on this important and serious issue. This is an appalling line to cross, even for this Government. The only reason the Government is passing this bill is that these people are inconvenient—inconvenient to the politicians on their way to work and inconvenient to the bankers in Martin Place. We are not passing laws to address the rental crisis; we are not putting more money into refuges for women who are fleeing domestic violence; we are not addressing the rental crisis; and we are not passing laws to guarantee the right to safe housing. We are debating a law to punish homeless people and to take their belongings, which is shameful. This is a heartless response from a heartless Government that would rather see homeless people disappear than take meaningful action. For this Government, out of sight is out of mind. In a country as rich as Australia, with the New South Wales Government crowing about the billions of dollars of surpluses in its budget, it is despicable that we cannot look after homeless people and provide permanent housing, support and protection for some of the most vulnerable in our society. The Greens vehemently oppose this bill.

**The Hon. SCOTT FARLOW (17:48):** On behalf of the Hon. Don Harwin: In reply: I thank members for their contributions to the debate. In particular I thank the Hon. Mick Veitch, Mr David Shoebridge, the Hon. Mark Pearson, the Hon. Paul Green and Dr Mehreen Faruqi. Today the House is considering the Sydney Public Reserves (Public Safety) Bill 2017, a bill that is an appropriate and measured response to the current issues at Martin Place reserve. It is a bill that the Hon. Mick Veitch described as being "extremely narrow" and Mr David Shoebridge defined as "as broad as you can get". Let me reiterate what this bill does. It is an appropriate and measured response to the current issue we face at Martin Place. It gives police reasonable powers to remove items and persons whose occupation is unlawful or materially interfering with the reasonable enjoyment by the public of a public reserve, in this case Martin Place.

This Government has been accused of being heartless. It has been accused of being heavy handed. It has been accused of ignoring the plight of vulnerable homeless people. Nothing could be further from the truth. We think it is heartless to leave people sleeping in tents in Martin Place. The Hon. Paul Green said that people should have a roof over their head, a warm bed and food on their table. That is why Department of Family and Community Services workers visited Martin Place 47 times to offer services and support, with 73 homeless people permanently housed.

**The Hon. Mick Veitch:** Which I acknowledge.

**The Hon. SCOTT FARLOW:** I acknowledge the interjection of the Hon. Mick Veitch, who referred to that fact in his contribution. The Hon. Mick Veitch said that we are only introducing this legislation to wedge the Opposition. Nothing could be further from the truth. Opposition members have been silent on this matter until yesterday. They said absolutely nothing, except for Labor Senator Sam Dastyari. Let me assure members that the reason we are taking this action is that the City of Sydney council has failed to act. We think it is heavy handed to use the existing powers this Government has under the Crown Lands Act, as has been suggested by the City of Sydney and by those opposite, including the Hon. Mick Veitch. That would mean issuing warrants to homeless people, when we have an alternative in this legislation. I note that the City of Sydney has always had an alternative to issuing warrants.

Let me be clear: This Government is not ignoring the plight of those who are homeless. I want to assure members, particularly the Hon. Paul Green, that in this year's budget the Government is investing $1.1 billion to support people experiencing homelessness and to improve services for social housing tenants to help to break the cycle of disadvantage. This investment includes $20 million over four years to provide an additional 120 transitional accommodation dwellings and support packages for rough sleepers across New South Wales. This will assist at least an extra 255 people in this State. This Government has the biggest social housing building program of any State or Territory in the country. Our social housing strategy will deliver 23,500 new and replacement social and affordable housing dwellings over the next 10 years, and our billion-dollar Social and Affordable Housing Fund will deliver 2,200 additional social and affordable homes in the next few years. Let me assure all members that we are working to address homelessness and disadvantage with real action, not just rhetoric.

Where will the bill apply? On commencement, this bill will apply only to Martin Place reserve, and no other public reserve unless by proclamation in limited circumstances. The Hon. Mick Veitch asked about Roselle, Newtown and Penrith. I can assure him that only the City of Sydney is encompassed under this bill. This bill gives police officers the powers to give people directions, including directing people to move on immediately, and to remove things where the person's occupation of the Martin Place reserve materially interferes with the reasonable enjoyment of the rights of the public or is unlawful. Mr David Shoebridge raised the issue of property rights. We have ensured that any items that are removed are dealt with appropriately. I assure the Hon. Paul Green that police will not dispose of items as a matter of routine under this bill. The preference of police will always be to deliver seized items to the council or to return them to their owner. Police will only seize items that their owners refused to remove, where the police believe on reasonable grounds that this is necessary or expedient. I endorse the sentiments of the Hon. Paul Green concerning the NSW Police Force's approach to these matters. I assure him that I share his confidence in the way our police officers behave.

The powers under this bill are limited and not directed at homeless people. I reiterate that these powers are limited and will be exercised reasonably. It is not intended that these powers will apply generally to individuals in the City of Sydney area, and certainly not to individual homeless people. The NSW Police Force is a signatory to the Protocol for Homeless People in Public Places. This protocol provides a framework for how police and other State agencies deal sensitively with and respond appropriately to homeless people in public places. I can assure the Hon. Paul Green that this response is similar to the respectful approach taken to homeless people by the New York Police Department and the Los Angeles Police Department.

**The PRESIDENT:** Mr David Shoebridge will cease interjecting.

**The Hon. SCOTT FARLOW:** The Government respects the rights of homeless people. We respect the fact that they have the right to engage with services on their own terms, but be reassured there is always help available for homeless persons when and how they need that help. Mr David Shoebridge said that this legislation was aimed at the "top bit of Martin Place". The definition of Martin Place reserve is that "Martin Place reserve means the public reserve in Martin Place, Sydney between Macquarie Street and George Street". Mr David Shoebridge also asked about the Knitting Nannas and media scrums that may ensue in Martin Place. I direct him to part 3 (7) (1) of the Act that states action would be taken only if behaviour "materially interferes with the reasonable enjoyment of the rights of the public in relation to the reserve" or "is unlawful". I note that the behaviour he raised would not be either of these.

The two offences under this bill are proportionate and are designed simply to ensure compliance and to deter interference with respect to police powers. Under the bill it will be an offence to obstruct police officers to do their job. This is proportionate and consistent with the fines applicable under the Local Government Act for an obstruction offence. The penalty of 20 penalty units is a maximum that would apply to the worst category of conduct, not the penalty that a court would apply in every case. This Government is committed to providing support to the vulnerable people camping in Martin Place. It has shown that commitment repeatedly—I reiterate that FACS officers have been to the camp in Martin Place 47 times and 73 people have been permanently housed. This Government has shown its commitment through real actions, not rhetoric. Nobody needs to sleep in a tent in

Martin Place. There has been, there continues to be and there always will be support from this Government for those eligible and willing to engage. I commend the bill to the House.

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

**The House divided.**

Ayes .....18
Noes .....15
Majority.....3

AYES

| | | |
|---|---|---|
| Amato, Mr L | Blair, Mr N | Brown, Mr R |
| Clarke, Mr D | Cusack, Ms C | Farlow, Mr S |
| Franklin, Mr B (teller) | Green, Mr P | MacDonald, Mr S |
| Maclaren-Jones, Ms N (teller) | Mallard, Mr S | Martin, Mr T |
| Mason-Cox, Mr M | Mitchell, Ms S | Nile, Reverend F |
| Pearce, Mr G | Phelps, Dr P | Taylor, Ms B |

NOES

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

PAIRS

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|---|---|
| Colless, Mr R | Graham, Mr J |
| Harwin, Mr D | Secord, Mr W |
| Khan, Mr T | Houssos, Ms C |

**Motion agreed to.**

**In Committee**

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

**Mr DAVID SHOEBRIDGE (18:05):** I move The Greens amendment No.1 on sheet C2017-064C:

No. 1 **Penalty for obstruction of police officer**

Page 4, line 30, clause 8 (3). Omit "20 penalty units". Insert instead "2 penalty units".

Clause 8 empowers police to seize the tents and possessions of homeless people and, if the police so choose, to destroy them. The police can destroy the possessions, give them back, or give them to council if they so choose. The legislation states that if anybody, without reasonable excuse, obstructs police officers from the exercise of their power in seizing tents, meagre possessions, or bags of clothing can face a fine of up to $2,200, which is 10 times the fine that people face if they do not move on under the same proposed legislation. Under this bill the penalty for not obeying a move-on direction is two penalty units, with a maximum fine of $220. But for some reason that has not been explained, those who are just holding on to their tent when police try to take it from them and who say the police should not take it because that is all they have, face a penalty 10 times as great with a maximum fine of $2,200.

There is no sense or policy behind that. If somebody assaults a police officer that is already a serious criminal offence. If somebody injures, pushes or assaults a police officer or resists arrest he or she can face serious offences that have penalties of up to two years in jail. What the Government is proposing with this bill is that if people hold on to their tent and ask the police not to take it they can face a fine 10 times as great as someone who fails to comply with a move-on direction. Who on earth thinks that a $2,200 fine is reasonable against somebody

who is homeless? What is going on in Government members' minds for them to put this legislation to Parliament. The Greens do not believe this should be an offense at all, and we have tried to oppose this bill. But, obviously, the Government has got the numbers to get the legislation through. But for heaven's sake, the Government needs to show some compassion and not propose a $2,200 fine against a homeless person simply because they are holding onto their tent. Our proposal is to reduce it to two penalty units.

**Reverend the Hon. Fred Nile:** They should pack the tent up.

**Mr DAVID SHOEBRIDGE:** Stop interjecting with all that crap, Fred. Show some decency and give up this Christian crap.

**The Hon. SCOTT FARLOW (18:09):** The Government does not support the amendment. Under the Act it will be an offence to obstruct a police officer in the exercise of the power to seize and remove items. The maximum penalty would apply only to the worst category of conduct and is not the penalty that a court would apply in every case. This is proportionate and consistent with the penalty applicable under the Local Government Act 1993 for an obstruction offence.

**The Hon. MICK VEITCH (18:09):** This amendment provides a consistent approach to the application of penalty units in the penalty unit regime. To the Opposition it appears eminently sensible, and we will support the amendment.

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** The question is that The Greens amendment No. 1 on sheet C2017-064C be agreed to.

**The Committee divided.**

Ayes .....15
Noes .....17
Majority.....2

AYES

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

NOES

| | | |
|---|---|---|
| Ajaka, Mr J | Amato, Mr L | Blair, Mr N |
| Clarke, Mr D | Cusack, Ms C | Farlow, Mr S |
| Franklin, Mr B (teller) | Green, Mr P | MacDonald, Mr S |
| Maclaren-Jones, Ms N (teller) | Martin, Mr T | Mason-Cox, Mr M |
| Mitchell, Ms S | Nile, Reverend F | Pearce, Mr G |
| Phelps, Dr P | Taylor, Ms B | |

PAIRS

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| Graham, Mr J | Harwin, Mr D |
| Houssos, Ms C | Khan, Mr T |
| Secord, Mr W | Colless, Mr R |

**Amendment negatived.**

**Mr DAVID SHOEBRIDGE (18:17):** I move The Greens amendment No. 2 on sheet C2017-064C:

No. 2 **Return of seized things**

Page 4, clause 8 (4) and (5), lines 33–40. Omit all words on those lines. Insert instead:

(a) if it is lawful for the person to have possession of the thing—must be returned to the person from whom it was seized, or

(b) if it is not lawful for the person to have possession of the thing—may be disposed of in accordance with the directions of the Commissioner of Police.

Clause 8 says that once a police officer has seized a homeless person's possessions and removed them from any public reserve that:

(4) A thing that a police officer has seized and removed from a public reserve under this section:

(a) may be returned to the person from whom it was seized if it is lawful for the person to have possession of the thing, or

(b) may be disposed of in accordance with the directions of the Commissioner of Police, or

(c) may be delivered to the council of the area in which the reserve is situated. I listened intently to the contribution of the Hon. Paul Green, who went to some lengths to say he would be appalled if the police could destroy property and appalled if police did not return the possessions of homeless people. The Hon. Paul Green wanted some commitment from the Government that it would not happen, it could not happen. What did we get? We got some waffle from the Government to the effect that police try to give it back if they can. There is a protocol. There is a filing cabinet in the basement of the Town Hall behind a sign saying "Beware the Leopard" and if you go down into that you can find a protocol that has some kind of arrangements between the police and the City of Sydney about homelessness. It does not actually deal with their possessions or a law that was not put in place at the time the protocol was in there, but there is that protocol so do not worry about it. What sort of nonsense answer was that from the Government?

There are no protections for homeless people's possessions under this bill. If the police want to destroy it, if it is too much trouble to take it back or too much trouble to take it to the council, or they think it is dirty, then they can just throw it in the bin. Why would you allow the police to have the power to destroy the property of homeless people? What The Greens amendment, instead of giving this discretion to police that they might return the property or destroy it or give it to the council, makes it very clear. It says that in relation to anything that is seized if it is lawful for the person to have had possession of the item then it must be returned to the person from whom it was seized. Nice and simple.

If it is lawful for them to have had it in the first place, it has to be returned to them. Give them their possessions back. If it is not lawful for the person to have possession of the item, then it can be disposed of in accordance with the direction of the Commissioner of Police. We believe that is the way this law should operate. If it is going to pass through this Chamber and the police are given the power to arrest homeless people, move them on, clean them out of a public place, then take their possessions, at least have the law say, you have to give it back to them at the end of it all.

**The Hon. SCOTT FARLOW (18:21):** The Government does not support the amendment. We have ensured that any items that are removed are dealt with appropriately. The property that is seized by police under the powers proposed in this bill may be seized from the public reserve rather than from the possession of any individual person. The police need a clear mechanism to deal with property that has been seized where the identity of the owner of the property is not known or the owner cannot be located. Police will only seize items that their owners refuse to remove. The preference of police will always be to deliver seized items to the council or to return them to their owner. Councils have established systems under the Impounding Act to return property in circumstances where it is necessary to seize.

**The Hon. MICK VEITCH (18:22):** The Opposition will support The Greens amendment. There is some humanity in this exercise and it is our view it tightens up the bill.

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** Mr David Shoebridge has moved The Greens amendment No. 2 on sheet C2017-064C. The question is that the amendment be agreed to.

**The Committee divided.**

Ayes .....15
Noes .....17
Majority.....2

AYES

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

NOES

| | | |
|---|---|---|
| Ajaka, Mr J | Amato, Mr L | Blair, Mr N |
| Clarke, Mr D | Cusack, Ms C | Farlow, Mr S |
| Franklin, Mr B (teller) | Green, Mr P | MacDonald, Mr S |
| Maclaren-Jones, Ms N (teller) | Martin, Mr T | Mason-Cox, Mr M |
| Mitchell, Ms S | Nile, Reverend F | Pearce, Mr G |
| Phelps, Dr P | Taylor, Ms B | |

PAIRS

| | |
|---|---|
| Graham, Mr J | Harwin, Mr D |
| Houssos, Ms C | Khan, Mr T |
| Secord, Mr W | Colless, Mr R |

**Amendment negatived.**

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** I shall now leave the chair. The Committee will resume at 8.00 p.m.

**Mr DAVID SHOEBRIDGE (20:01):** I move The Greens amendment No. 3 on sheet C2017-064C:

No. 3 **Limits on exercise of police powers**

Page 5, clause 11, lines 9–16. Omit all words on those lines. Insert instead:

**200 Limitation on exercise of police powers under this Act**

(1) This Act does not authorise a police officer to give a direction in relation to an industrial dispute.

(2) This Act does not authorise a police officer to give a direction in relation to:

(a) an apparently genuine demonstration or protest, or

(b) a procession, or

(c) an organised assembly,

except as provided by subsection (3) or (4).

(3) A police officer is not precluded from giving a direction in relation to any such demonstration, protest, procession or assembly if the police officer believes on reasonable grounds that the direction is necessary to deal with a serious risk to the safety of the person to whom the direction is given or to any other person.

(4) A police officer is not precluded from giving a direction in relation to any such demonstration, protest, procession or assembly that is obstructing traffic if:

(a) the demonstration, protest, procession or assembly is not an authorised public assembly for the purposes of Part 4 of the *Summary Offences Act 1988* or the demonstration, protest, procession or assembly is not being held substantially in accordance with any such authorisation, and

(b) the police officer in charge at the scene has authorised the giving of directions under this Act in relation to the demonstration, protest, procession or assembly, and

(c) the direction is limited to the persons who are obstructing traffic.

This amendment seeks to put some limits on the exercise of police powers under the proposed move-on provisions. Currently, clause 11 of the bill proposes to have a limitation on the exercise of police powers under the Act that is extremely restricted. It provides that the Act does not authorise a police officer to exercise a power in relation to an industrial dispute, so they cannot break up a strike. But do not worry, I am sure that is coming; it is just not in this bill.

**The Hon. Mick Veitch:** You sound cynical.

**Mr DAVID SHOEBRIDGE:** Yes, call me cynical. I have been watching this happen over the last six years. Subclause 2 of clause 11 states that the Act does not authorise a police officer to use these move-on and seizure powers where there is an authorised public assembly for the purposes of part 4 of the Summary Offences Act or a demonstration, protest, procession, or assembly that is held substantially in accordance with such an

authorisation. This is what I call the Joh Bjelke-Petersen limitation, where if the police have given permission then it can be done, but if the police have not given permission they can come in and break up the protest or procession or demonstration. This is the Joh Bjelke-Petersen, Mike Baird, Barry O'Farrell, and Gladys Berejiklian approach to civil liberties that we seeing.

For a good couple of hundred years we have not had to get police permission to protest in public parts of our city. It is a nice little right that has floated around from the common law for about 600 years. We have not had to get permission from the police or from the Crown to protest against things or protest against the Government. It is a traditional common law right, and it is being removed with this bill. This bill states that the police can go in and break up a demonstration, a protest, or a procession anywhere that this Act applies in the City of Sydney, unless the police have given the protesters prior permission to go about their business. That really is the Joh Bjelke-Petersen world. It is an ugly precedent.

It is hard to work out why the Government is doing this, because there are some existing limitations under the Law Enforcement (Powers and Responsibilities) Act [LEPRA], which came in a few years ago and codified all the common law powers of police officers. Members may remember the debate we had on protest laws, when, as a gift to the Minerals Council at the time, the then Baird Liberal-Nationals Government brought in a whole lot of limitations on protests, and increased police powers in relation to protests. But even in that attack on protests, there were still more restrictions on the move-on powers that were granted to police at the time. The move-on powers were limited under section 200 of the Law Enforcement (Powers and Responsibilities) Act so that they could not be used in relation to an apparently genuine demonstration, protest, procession, or organised assembly, unless there was a serious risk to safety.

The Government should at least include those relatively weak protections in this bill. The Greens believe that there should be at least some regularity to our laws. If those limitations are already in the Law Enforcement (Powers and Responsibilities) Act in relation to one set of move-on powers by the police, then compliance with the law by police and others would be helped if the same restrictions applied to these move-on powers. They would provide marginally improved protections for protests, they would provide marginally improved protections for organised assemblies, and they would promote consistency between the laws.

It is for those reasons that we are moving these amendments, which were literally cut and pasted from prior limitations that this Government put in the Law Enforcement (Powers and Responsibilities) Act just last year. There is no doubt that the Government will not support them, probably because it wanted this done in 24 hours as a quick political job and is not willing to entertain any discussion on these matters, but maybe the Parliamentary Secretary will give a more erudite reason.

**The Hon. SCOTT FARLOW (20:07):** The Government does not support the amendment. The bill is a measured response to the current issues in the Martin Place Reserve. The proposed police powers and the limitations on those powers are reasonable and proportionate. They are necessary to ensure public order, while balancing the rights of the community to engage in industrial disputes and authorised public assemblies. The bill ensures that there are appropriate limits in place. A direction given by the police to remove or remedy interference or unlawful occupation must be reasonable, and the safeguards in part 15 of the Law Enforcement (Powers and Responsibilities) Act apply to the exercise of powers by police under the Act. The bill also provides that the exercise of police powers can be subject to a code of practice.

**The Hon. MICK VEITCH (20:07):** The Opposition will be supporting these amendments for a number of reasons, some of which have already been articulated by Mr David Shoebridge. The Parliamentary Secretary's rushed response to the arguments put forward by Mr David Shoebridge is concerning. The Government already has these arrangements in the Law Enforcement (Powers and Responsibilities) Act (LEPRA). This is something that the Government supports. The proposed arrangements are not new, or an expansion; they are already in place. So why the Government does not support them now, in this legislation, concerns me. In my second reading speech I said I was concerned that this legislation may be an overreach, and may be going beyond what the Government was publicly saying it was meant to achieve. This particular part of the bill really worries me.

The response of the Parliamentary Secretary did not, in any measure, deal with the arguments put forward by Mr David Shoebridge, and did not, in any way, refer to the provisions in LEPRA that these proposed changes mirror. By opposing this, the Government is saying that it opposes the provisions it put in place in LEPRA. The Government is saying it does not agree with its LEPRA provisions. I would like it to respond to that. Does the Government agree with the provisions that have been put in place in LEPRA or not? These provisions mirror provisions that are already contained in legislation that the Government has previously brought before this Parliament. If the Government opposes this, it is saying that it does not support its LEPRA arrangements. I would like to hear what the Parliamentary Secretary has to say about that. We will support this amendment.

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** The question is that The Greens amendment No. 3 on sheet C2017-064C be agreed to.

**The Committee divided.**

Ayes .....15
Noes .....18
Majority.....3

AYES

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

NOES

| | | |
|---|---|---|
| Ajaka, Mr J | Amato, Mr L | Blair, Mr N |
| Clarke, Mr D | Cusack, Ms C | Farlow, Mr S |
| Franklin, Mr B (teller) | Green, Mr P | Harwin, Mr D |
| MacDonald, Mr S | Maclaren-Jones, Ms N (teller) | Martin, Mr T |
| Mason-Cox, Mr M | Mitchell, Ms S | Nile, Reverend F |
| Pearce, Mr G | Phelps, Dr P | Taylor, Ms B |

PAIRS

| | |
|---|---|
| Houssos, Ms C | Colless, Mr R |
| Secord, Mr W | Khan, Mr T |

**Amendment negatived.**

**Mr DAVID SHOEBRIDGE (20:17):** I move The Greens amendment No. 4 on sheet C2017-064C:

No. 4 **Expiry of Act**

Page 6. Insert after line 34:

**17 Expiry of Act**

This Act is repealed 2 years after the commencement of this Act.

This amendment would insert a new, very simple provision into the Act: a new clause 17 that says, "This Act is repealed two years after the commencement of this Act." It is a sunset provision for the Act. The Government says it needs this legislation—which is still warm off the photocopiers—to deal with the urgent crisis in Martin Place. We have argued the toss on that: The Greens and I do not believe it is appropriate, but the Government says it needs this urgent power. But if it needs to rush through this legislation with so little consideration and such urgency, we should have an eye to the future in protecting our civil liberties and ensuring that we are not putting in place a tool that future disreputable governments may use to abuse citizens. We should put a little saver in the bill and say, "This will expire in two years." If two years from now the same mob or a new mob is in charge and the Government thinks it is a good idea to continue to have this power, it will have to come back to the Parliament, remove that part of the bill and seek authorisation for the Act to continue.

This kind of sunset provision used to be a pap that the Labor Government would add when introducing terrorism legislation or other legislation. It would say, "Do not fret too much; we will put a sunset provision on it and if it is still a good idea in two years or five years' time we will have the debate then. But we will not be putting in place a law forever and rushing it through urgently ", which is what this provision will do. It will be a little saving grace for civil liberties. It would be an acknowledgement from this Chamber that this legislation has not been given adequate scrutiny; it has not gone through the usual processes of consultation, either internally or externally. The Law Society prepared an extremely quick submission as it only saw this legislation yesterday.

Other organisations such as the NSW Council for Civil Liberties prepared a one-page submission on this bill and said that it was too rushed. The NSW Council for Civil Liberties thinks it is going in the wrong direction and it has asked members to oppose it. In any event it is too rushed and there has not been adequate time to consult on it. There has not been a chance for other civil liberties groups to look at it—organisations such as Shelter NSW, Homelessness NSW, the Tenants' Union of NSW or the NSW Council of Social Service [NCOSS] to provide their submissions on this proposed law change. Instead it is being rushed through with unseemly haste to deal with the timetable of Alan Jones rather than the timetable of good government. That is why The Greens moved this amendment. We are saying, "Just press pause for a bit." If this legislation is to be rushed through—clearly the Government has the numbers to rush it through—it should include a little saving grace for civil liberties groups by saying it will expire in two years' time unless this Parliament authorises it again.

**The Hon. SCOTT FARLOW (20:21):** The Government does not support The Greens amendment. I outlined in my second reading speech and I clearly stated in my reply why the Government is introducing this legislation and why it believes it is needed in the City of Sydney. The Government stands by the legislation.

**The Hon. MICK VEITCH (20:21):** I waited with bated breath for the Parliamentary Secretary's response to Mr David Shoebridge. This amendment clearly states that in two years' time the legislation will lapse. The Government says there is a crisis in Martin Place but by not supporting this amendment the Parliamentary Secretary is saying there will be a crisis forever and a day. He is saying that the Government wants this legislation in place because there will be a crisis forever and a day, which is not the case. The Parliamentary Secretary's contribution falls far short of what is required. He did not put the Government's position well and he has not responded to Mr David Shoebridge's question as to why the Government will not support the amendment.

The Parliamentary Secretary told members to look at his second reading speech and at his reply but that does not in any way meet the requirements of this Chamber. It might be acceptable in the lower House but it is not acceptable in this Chamber. By opposing this amendment the Parliamentary Secretary is saying that he wants this bill in place forever, which is a matter of concern for residents of New South Wales and for residents in the City of Sydney. The Parliamentary Secretary is saying that there will be a crisis forever and a day and that he wants this legislation in place forever. He said that this legislation covers issues other than the issues involving Martin Place. In my contribution to debate on the second reading I said that this was an overreach—something that the Parliamentary Secretary just confirmed. The Opposition will be supporting The Greens amendment.

**The Hon. CATHERINE CUSACK (20:23):** As usual the Labor Party has completely misrepresented the Parliamentary Secretary. I reject any allegation that this legislation has been rushed through this Chamber. This situation has been going on in Martin Place for months. Disabled access to the train station has been blocked for months. A war memorial has been desecrated for months. There have been 47 visits by Department of Family and Community Service officers who have offered accommodation and support. There have been endless meetings with the Lord Mayor. Police have spent weeks trying to organise and negotiate a solution. The Lord Mayor said that the issue had been resolved but when everyone woke up in the morning nothing has been resolved and stakeholder did not know what she was talking about. This is the point at which the Government introduced legislation to address a deficit that was left to us by the City of Sydney.

It is ludicrous to suggest that this legislation is being rushed through the Chamber. I reject that suggestion. The Government has patiently worked through this process and has diligently addressed every issue in order to reach this point. This legislation will be subjected to the normal legislative reviews to which every piece of legislation is subjected. Statutory law provisions will be reviewed. No-one can guarantee that this appalling behaviour by the Lord Mayor of Sydney will not be repeated. This is a reflection on her and this is what is driving this legislation. It is ludicrous for us to say that in two years' time Clover Moore will have a complete change of heart so it is prudent to leave this legislation in place. The legislation will be subject to the normal statutory reviews. This is yet another attempt by The Greens to misrepresent this issue.

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** I remind members to direct their comments through the Chair.

**The Hon. PETER PRIMROSE (20:25):** I have been listening with interest to this debate because I am concerned. We are in Committee where sensible amendments are being proposed and we are receiving no response from the Government. The Legislature is the appropriate place in which to review legislation; that is where it begins. The Government has not consulted anyone and it has not gone through the normal processes as there has not been enough time. The Parliamentary Secretary has not responded in detail to any of the matters that have been raised, including the matter with which we are dealing at the moment—we would have done better to have had a response through Twitter. The Legislature is the appropriate place in which to sort out the detail. It should be brought out in the open where everyone can see it and debate the issues. This is where we have the discussion. It is little wonder that there is concern about this legislation. Those fears could be overcome or allayed if we

received detailed, appropriate and adequate responses. However, it means that the Parliamentary Secretary has to do the work.

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** I remind members to focus on the amendment that we are discussing, which is The Greens amendment No. 4.

**Mr DAVID SHOEBRIDGE (20:27):** This amendment has been moved because the legislation has been rushed through Parliament. The Hon. Catherine Cusack said it has not been rushed through Parliament. This legislation was introduced in the lower House yesterday. The standing rules in that place—which are often grossly abused—state that legislation has to lie on the table for five days before it can be debated. The Government introduced this legislation, which was warm off the photocopier, suspended standing orders and rammed it through the other place in less than 24 hours. The bill was introduced in this Chamber and standing orders were suspended to ram it through this Chamber, giving us less than one day between the time it was introduced and the time it is rubberstamped by a majority of Government members and Christian Democrats.

The Hon. Catherine Cusack said it had not been rushed through the Parliament. Government members can describe night as day if they like but it does not change the facts; this legislation has been rushed through. To add totally unnecessary and gratuitous insult to the homeless people in Martin Place, the Hon. Catherine Cusack said that they had erected tents and temporary shelters near the war memorial, thus desecrating the memorial, which is utterly unfounded. During the dinner break I went to Martin Place and spoke to the homeless people—something I suggest that the Hon. Catherine Cusack should do. One of the people I spoke to was a 32-year Royal Australian Navy veteran who had had a nasty hip operation. He is one of the people whom the Hon. Catherine Cusack said in her disgraceful contribution was desecrating a war memorial.

What has the Government done in the past few weeks for that veteran who was living in a tent? At least he had a sleeping bag and a mattress. He was provided with housing, but it was for only 28 days and in a bare unit. He was sleeping on the floor despite the fact that he had undergone a hip operation and was in pain. Government members come into this Chamber and insult these homeless people and accuse them of desecrating a war memorial. Shame on the member for making that contribution and gratuitously insulting people who have done nothing more than be homeless. It was an unfounded insult and it should be withdrawn. The Hon. Catherine Cusack should display some good grace and withdraw her accusation. It is one thing to pass legislation, but it is another for Government members to gratuitously insult people who have done nothing more than lose their home.

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** The question is that The Greens amendment No. 4 on sheet C2017-064C be agreed to.

**The Committee divided.**

Ayes .....14
Noes .....18
Majority.....4

AYES

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

NOES

| | | |
|---|---|---|
| Ajaka, Mr J | Amato, Mr L | Blair, Mr N |
| Clarke, Mr D | Cusack, Ms C | Farlow, Mr S |
| Franklin, Mr B (teller) | Green, Mr P | Harwin, Mr D |
| MacDonald, Mr S | Maclaren-Jones, Ms N (teller) | Martin, Mr T |
| Mason-Cox, Mr M | Mitchell, Ms S | Nile, Reverend F |
| Pearce, Mr G | Phelps, Dr P | Taylor, Ms B |

PAIRS

| | |
|---|---|
| Houssos, Ms C | Colless, Mr R |
| Secord, Mr W | Khan, Mr T |

**Amendment negatived.**

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

**Motion agreed to.**

**The Hon. SCOTT FARLOW:** I move:

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

**Motion agreed to.**

**Adoption of Report**

**The Hon. SCOTT FARLOW:** On behalf of the Hon. Niall Blair: I move:

That the report be adopted.

**Motion agreed to.**

**Third Reading**

**The Hon. SCOTT FARLOW:** On behalf of the Hon. Niall Blair: I move:

That this bill be now read a third time.

**Motion agreed to.**

## TRANSPORT LEGISLATION AMENDMENT (AUTOMATED VEHICLE TRIALS AND INNOVATION) BILL 2017

**Second Reading**

**The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (20:42):** I move:

That this bill be now read a second time.

I am pleased to introduce the Transport Legislation Amendment (Automated Vehicle Trials and Innovation) Bill 2017. The purpose of the bill is to establish a legislative framework to provide for the safe testing of connected and highly automated vehicle technology in New South Wales. The bill also seeks to provide an additional function for Transport for NSW to conduct research, develop policy and test applications of innovative, automotive and digital technologies to meet future challenges and opportunities that increased automation in road vehicles has the potential to offer. Amendments are proposed to the Road Transport Act 2013 and the Transport Administration Act 1988.

Members would agree that the Government has embraced technology and innovation. The New South Wales Innovation Strategy aims to position New South Wales as an innovation leader by being more open to new ideas and approaches, and capitalising on research and development to drive social and economic value. Emerging technology and how humans respond have the potential to revolutionise how our cities, towns and the New South Wales transport system works. To shape the most customer-centric, innovative, digitally enabled transport system in the world, the Government must test, trial and adopt new world-class technologies as they emerge. International standards classify automated driving into six levels: From no automation through to level 5, full automation, where the system performs all aspects of driving. Level 2 partially automated vehicles are those where the system can steer and accelerate and decelerate but the human driver performs all other aspects of the driving. I seek leave to incorporate the rest of the second reading speech in *Hansard*.

**Leave granted.**

These vehicles are already operating legally on New South Wales roads.

Level 3 (conditional automation) are those vehicles where, the system performs all aspects of driving and the human driver intervenes when requested. At level 4 (high automation), the system performs all aspects of the driving task even if the human driver does not intervene when requested. Members, industry expects that by 2020, vehicles with level 3 automation will be available commercially in Australia.

Experts insist self-driving vehicles have the potential to significantly reduce the road toll because 90 per cent of collisions involve human error. While partially automated vehicles are currently available in the Australian market, vehicles with higher levels of automation, including driverless vehicles, are yet to be approved for use on public roads. Transport for NSW has already received expressions of interest from companies seeking approval to conduct on-road trials of automated vehicle technologies.

Although there is work being done in the university sector including in the field of robotics, there are no local manufacturers of connected and automated vehicles in New South Wales. There is evidence that the widespread introduction of these vehicles would boost the State's economic performance through the creation of new business and employment opportunities in areas such as software engineering, digital innovation, robotics and artificial intelligence, data analytics, smart infrastructure and next-generation telecommunications. The rise of connected and automated vehicles is likely to spur growth in the entire automotive industry, ranging from vehicle manufacturers to component suppliers.

The New South Wales Government launched the NSW Innovation Strategy in November 2016, in order to manage the transition from traditional jobs to new industries by focusing on education and training (from primary and tertiary levels).

The Government's approach to embedding innovation in our planning and service delivery strategies opens up huge opportunities for how we approach and implement transport that will revolutionise the way we live, work and travel. Within that mix we are above all committed to ensuring the safety of customers across the entire New South Wales transport network.

Members, if I may take you on a journey, back in time to the year 1885, to the birth of the modern motor car by Karl Benz. His "Motorwagen" was nothing more than a single cylinder, two seat, three wheeled, tubular framed marvel. Back then, they could not have imagined how far motor vehicles and the technologies in them would evolve let alone advance to the level we see today. What only seemed like science fiction a handful of years ago is now reality.

We have features available to us in cars today to allow a vehicle to self-park, operate in adaptive cruise control, and utilise automated emergency braking that warns the driver of a risk of collision and applies the brakes if needed.

The Government recognises that automation and innovation are drivers of change, change that the Government must embrace if we are to be better equipped to tackle complex economic, environmental and social challenges, stimulate economic activity and drive shared prosperity for the people of New South Wales. We need to lead across industry and the community, to assist in the delivery of integrated transport systems that ultimately make New South Wales a better place to live and do business.

By putting New South Wales at the forefront of adopting new and emerging technologies we are shaping the future of transport.

The Government's Future Transport Strategy is the new approach to planning transport and engaging the people of New South Wales as our customers. It is a 20 to 40 year strategy focusing on customer needs and the technological, economic and social changes ahead with connected and automated vehicle technologies identified as a key pillar of the strategy. The strategy builds on the New South Wales Government's integrated Long Term Transport Master Plan, launched in 2012, and meets the commitment to review the plan after five years.

Future Transport kicked off in 2016 with the first Future Transport Summit. The Minister for Transport and Infrastructure, the Hon. Andrew Constance, welcomed over 500 guests for the two day event headlined by Apple co-founder Steve Wozniak. Input from industry, thought leaders and customers who attended this and other collaboration events last year was refined into the Future Transport Technology Roadmap published in April 2017.

Members, the roadmap is another milestone in the New South Wales Government's journey that forecasts the use of innovation and emerging technologies as the key to the delivery of better transport services in New South Wales. The roadmap identifies the major technology trends that are shaping the future of transport and, through future transport scenarios, looks at how people respond to them.

Five technology strategies have been developed to meet the objective of unlocking the full value of our transport networks, and customising and personalising transport services to create a better experience for our customers. One of the strategies is to "enable connected and automated vehicle platforms".

Work to develop a national approach for the consistent management of highly and fully automated vehicles is currently being progressed by the National Transport Commission and Austroads at the direction of the Transport and Infrastructure Council.

In November 2016, Australian transport ministers agreed to a phased reform program so that conditional automated vehicles can operate safely and legally on our roads before 2020 and highly and fully automated vehicles (including driverless vehicles) from 2020.

A phased approach is being adopted to ensure that the reform agenda remains flexible to address evolving technologies and market developments.

In early 2017, Austroads published its research report that identifies and assesses key issues that need to be addressed to enable the safe operation of automated vehicles on the road network, including registration and licensing and Compulsory Third Party insurance arrangements.

The National Transport Commission has released a series of discussion papers since February 2016, including the development of national guidelines to support on road trials of automated vehicles, clarifying control of an automated vehicle and options for an automated vehicle safety assurance framework.

The National Transport Commission and Austroads published the national Guidelines for trials of automated vehicles in Australia in May 2017. As a matter of policy, New South Wales will adopt these guidelines to support the bill as an added measure to ensure that trials are conducted safely and consistently with other jurisdictions across the country.

The New South Wales Government will continue to contribute to the national development of standards and regulatory settings to create an optimal and safe environment for undertaking testing and trials of automated technologies. Ultimately it is hoped that when these technologies are ready for mass deployment in the future, nationally consistent laws will have been developed for use by the public. However, New South Wales must position itself as an innovation leader, able to test and trial emerging automotive technologies in this State while maintaining public safety.

It is crucial that automated vehicles are trialled in order to demonstrate the capability of the technology while increasing awareness and understanding, and building trust and confidence with the public—the users and beneficiaries of this mobility revolution.

The New South Wales Government has established the Smart Innovation Centre as a new research and development hub for emerging transport and road technology. The Smart Innovation Centre is New South Wales's hub for collaborative research and development of safe and efficient emerging transport technology.

The Smart Innovation Centre's mandate, to be a world-class innovation incubator, brings government together with industry, academia and investors to test and develop technology to deliver improved transport outcomes. This includes trials of driverless cars.

The bill delivers on the Government's continued commitment to ensure an efficient, safe and technologically advanced transport future by amending the Transport Administration Act 1988 to provide additional functions for Transport for NSW. This amendment affirms the agency's leadership role in research, policy development and testing the application of innovative, automotive and digital technologies.

The further amendments within this bill to the Road Transport Act 2013 provide for the removal of barriers so that the likes of car and automotive parts manufacturers, specialised robotics and IT software companies are encouraged to bring their business here to New South Wales. Whether it is a local start-up or a global company, industry is assured that emerging technology can be tested here in New South Wales to assess its safety, reliability and performance against real-world challenges.

While the majority of larger manufacturers and tech giants are based overseas, inviting them to New South Wales to test new technologies will bring increased opportunity to generate and grow local technology industries and increase jobs in areas such as software engineering, digital innovation, robotics and artificial intelligence, data analytics, smart infrastructure and next-generation telecommunications. This, in turn, will continue to improve and diversify the New South Wales economy. It is a win-win for all parties involved.

Turning now to the details of the bill, schedule 1 provides for amendments to the Road Transport Act 2013. This sees the insertion of a new part specifically for trialling automotive technologies including highly and fully automated vehicles.

The objects of this part are to enable the Minister for Roads, Maritime and Freight, to consider and approve trials, by order published in the NSW Legislation website, of highly and fully automated vehicles on New South Wales roads. Automotive technology means technology related to advances in the design or construction of motor vehicles. This includes technology related to the use of connected and highly or fully automated vehicles.

The objects of this part also ensure that adequate insurance is in place to cover any personal injury or property damage that may arise during a trial. It also provides for the modification of references in laws to the driver or person in charge of a vehicle that is highly or fully automated.

Members, the new provisions allow an applicant (the approved person) to apply to the Minister to use a trial vehicle on a road in circumstances that would not otherwise be lawful. Trial approval sets out where and when the trial vehicle may be used. The approved person must ensure the trial vehicle is not used except in accordance with a trial approval. Failure to do so is an offence and attracts a maximum penalty of $11,000. The Minister may also suspend or revoke a trial approval if any trial conditions are not met.

Flexible provisions allow the Minister to determine registration conditions for a trial vehicle including whether it is to be exempted from registration. The Minister may also direct Roads and Maritime Services to register the vehicle or to issue an unregistered vehicle permit for the use of the vehicle if needed. This arrangement reduces administrative barriers to creative development and allows for a range of trial methods and solution outcomes.

As a safeguard, and to ensure that any road user injured by an automated vehicle will not be any more disadvantaged than if they were injured by a human operated vehicle, trial approval is conditional on the trial vehicle being covered by Compulsory Third Party [CTP] insurance or that arrangements are made to indemnify the nominal defendant against a claim that may arise during the trial period as a result of the trial vehicle not being an insured motor vehicle. A public liability insurance policy of at least $20 million or such larger amount as the Minister may require in a particular case is also needed to cover damage caused by or arising out of the use of a trial vehicle. The Minister is required to suspend or revoke a trial approval if any such insurance requirements are not met.

Trial approval is also conditional on a vehicle supervisor being in the trial vehicle when used during a trial (unless the Minister determines otherwise). The vehicle supervisor must hold a current unrestricted driver's licence that is of an appropriate class having regard to the trial vehicle type and approved by the Minister. The vehicle supervisor must be able to take control of the trial vehicle at any time or to stop it in an emergency or if required to do so by an authorised officer.

As a further safeguard, the approved person is required to notify the Minister of certain incidents occurring during an approved trial including collisions involving the trial vehicle, and other accidents or incidents that have, or could have, caused significant property damage, serious injury or death. The Minister may determine how references in laws to a driver or person in charge of a vehicle are to be understood in the case of a highly or fully automated trial vehicle as part of an approved trial. This means that the Minister may specify that any such reference is taken to be a reference to any one or more of the following:-

- the vehicle supervisor,
- the approved person,
- the owner of the trial vehicle,
- no person,
- a person prescribed by regulation.

This clarifies who is responsible for the trial vehicle, including a driverless trial vehicle, which is critical for police and insurers to determine liability for offences and insurance claims if the need arises. An offence, with a maximum penalty $11,000, is created for a person who hinders or obstructs the movement of a trial vehicle or interferes with a trial vehicle or any other equipment being

used for the purposes of an approved trial. This sends a clear message that the New South Wales Government is serious about protecting the physical safety of people in and around trial vehicles. It also extends to protection against cyber security threats and breaches of privacy.

Members, in accordance with the national guidelines for trialling automated vehicles in Australia, trialling organisations will also be required to collect and provide certain information related to the event and the performance of the automated driving system to the Smart Innovation Centre or to Roads and Maritime Services to assist with record keeping, incident management and the evaluation of the trial. This information will be available on-line to inform the people of New South Wales of the progress that is being made in understanding this technology, how safe it is and how it can be used to deliver better transport outcomes for the community.

The Government understands the importance of the type of data this sort of technology is capable of capturing and that the Government is mindful of the need to manage privacy issues including commercial sensitivity and the value of intellectual property.

Authorised use of de-identified data available from a vehicle's "black box" can be invaluable for research and planning. In a future where numerous black boxes are coupled with big data capabilities, the ability to solve congestion and scheduling issues are exponentially enhanced. Proper use of such data could also help police with pinpointing the exact time, weather, road and traffic conditions in a crash.

New South Wales is committed to working with the other states and territories to maintain consistency and to ensure the administrative burden of trial applications is minimised.

Traffic travelling along Australia's east coast must travel through New South Wales. Therefore, to reduce administration effort in assessing the merits of any similar trial seeking approval to operate in New South Wales, the Minister may take into account approvals of trials for automated vehicles granted in other States or Territories in determining whether to grant a trial approval.

Members, the bill is not intended to support large-scale commercial deployment of automated vehicles such as the sale of vehicles to the general public. There is still much that we do not know in terms of how the mass deployment and commercial uptake of these vehicles will impact or influence the use of our road network.

However, the bill is sufficiently flexible to enable the Minister to permit a single vehicle or class of vehicles to operate, under trial conditions, for a trial period for any number of years on any road in the State.

For example the Minister could authorise a car manufacturer to operate a fleet of trial vehicles on any road in New South Wales for any number of years subject to the car manufacturer continuing to comply with the trial conditions of operation, including compliance with the trial guidelines, insurance arrangements, provision of data from the trial vehicles and safety management plans.

New South Wales could also conduct a heavy vehicle "platoon" trial under these arrangements. For example, automated vehicles can interact with each other and drive very closely as a platoon which could reduce the total energy consumption of road transport by 4 to 25 per cent, because vehicles which follow closely behind each other face less air resistance.

This bill will confirm to industry and to the people of New South Wales that our State is an innovation leader open to new ideas and approaches that can capitalise on research and development to drive social and economic value.

As needed, the Minister may delegate functions under the proposed part to Transport for NSW or to Roads and Maritime Services. Statutory rules may also be made for approved trials, to support future developments.

In developing the framework for the proposed amendment the South Australian law has been referenced to ensure consistency in intent and outcomes sought from trialling automated vehicle technology. However, the New South Wales framework has been refined to include additional insurance safeguards, consideration of arrangements in place to conduct trials in other jurisdictions and additional penalties to deter the use of a trial vehicle outside trial approval.

Furthermore, this bill makes clear that New South Wales is not limited to short-term trials of a limited number of vehicles. As we learn, and build confidence and as technology advances, this bill is flexible enough to allow for more advanced and widespread trials of connected and automated vehicles, for an extended period, under specified conditions.

The proposed amendment is also consistent with approaches that have been adopted overseas for trialling automated vehicles based on global industry advice and accords with the National Transport Commission's approach including the use of the Commission's guidelines for automated vehicle trials in Australia in New South Wales.

Transport for NSW has and continues to work in close consultation with the Commission and interstate counterparts in examining required legislative, regulatory and road design changes to ensure road safety is prioritised as new technology is made available.

Under this bill, industry will have enormous flexibility in the type of trials that can be run. By addressing key issues like a clear scope of operations, a safety management plan that addresses risks and appropriate insurance, industry can get on with what they do best.

With our unique range of urban, regional and rural road environments, combined with our transport infrastructure boom and the diversification of industry and jobs, New South Wales is positioning itself as the preferred test bed for automotive technologies in Australia.

This bill opens the way for our Government to advertise to local and global industry that New South Wales is the place to do business and that we are committed to ensuring that the people of New South Wales benefit from automated vehicle technologies and the opportunities they create.

Honourable members, technology is not just for the big city. Our Government recognises that much of regional New South Wales's public transport focusses on getting people to and from Sydney. We have listened when many people in regional communities have told us they want more transport options for shorter journeys like getting to work, going to school, visiting family or seeing the doctor. This includes getting to a nearby regional city.

I am pleased to see bipartisan support from the Opposition leader as well as the Shadow Minister for Innovation and Better Regulation for her recent push for driverless car trials in New South Wales. We believe that by focusing more on connecting regional cities to surrounding regional towns and centres we can improve the amenity of our regional communities and make life easier for the people living there.

Trials of automated vehicle technologies will enable new transport technologies which could provide public transport options for rural and regional communities, allowing for opportunities for greater inclusion.

By improving the convenience of commuting through automated technology, long distance travel by road from rural and regional centres becomes more attractive and safer as it no longer puts a burden on the driver, providing greater and longer use of the road network.

Technologies such as automated vehicles can support the needs of regional customers by providing greater access to cost-effective transport service options, and by better prioritising roads for freight transportation and provision of goods and services in regional areas.

Where public transport services in rural and regional areas right now may be too marginal, the efficiency of new technologies may allow for more or different public transport services.

Automated vehicle technology has the potential to improve accessibility to mobility for a range of groups that are currently unable or unwilling to drive. Greater access to mobility would improve social inclusion and access to essential services and economic opportunities.

New South Wales is already leading the world in trialling connected and automated vehicle technology with the Cooperative Intelligent Transport Initiative that has been running for several years. This trial is a regional success story worthy of mention. Here, connected technologies are being tested between freight vehicles and on buses around the Southern Highlands, Port Kembla and Wollongong. It is the biggest trial of these technologies in the world right now.

Trials in rural and regional New South Wales will also provide an opportunity to gain insight into how these vehicles will detect animals in particular the iconic kangaroo. Volvo has recently indicated that the kangaroo has been identified as a real challenge for the vehicle's detection system. As it turns out, the unusual way that a kangaroo moves completely throws off the car's detection system and it is unable to determine how far away it actually is. This underpins the need to trial technology in local conditions and environments.

Emerging connected and automated vehicle technologies also offers new opportunities for regional research bodies and collaborations with regional business. These regional collaborations are supported by the New South Wales Government. For example the $12 million Boosting Business Innovation Program has been designed to accelerate innovation by supporting collaboration between local research organisations and business. The program's delivery partners include Charles Sturt University, Southern Cross University and the University of New England.

Charles Sturt University will also develop an "innovation ecosystem"—including through the establishment of collaborative work spaces for start-ups, programs to assist small and medium enterprises to improve innovation and technical capacity, and the establishment of research partnerships with small and medium enterprises—in Central West and Southern New South Wales.

Southern Cross University will establish the Lismore "Enterprise Lab"—a cutting edge collaborative work space for students, researchers, and small and medium enterprises. Enterprise Lab will foster collaboration to tackle key challenges and opportunities and accelerate innovation.

The University of New England will establish the "Smart Region Incubator" in Armidale and Tamworth. The incubator will provide a collaborative workspace for small and medium enterprises, offer them access to the university's research data, and facilitate their connections to regional, national and international innovation networks.

Members, as you will be aware, New South Wales Parliament's Joint Standing Committee on Road Safety inquired into driverless vehicles and road safety, and published its report in September 2016. The committee made three recommendations:

- that a national regulatory framework is required for the successful introduction of the technology;
- that pending the introduction of a national framework, the conditions under which automated vehicle technology can be trialled and tested on New South Wales roads should be published by the New South Wales Government; and
- the New South Wales Government examines the range of additional issues related to automated vehicle technology which have been presented in evidence to the inquiry.

The additional issues raised by the Staysafe Committee's inquiry into driverless vehicles relate to benchmarking the safety of self-driving and human driven vehicles, automated vehicle systems failure, Cooperative Intelligent Transport Systems security, and the impact of automated vehicle technology of current risk taking behaviour.

The New South Wales Government is working on addressing these issues, particularly within the context of national regulatory frameworks, and will continue to provide input into work currently undertaken by both the National Transport Commission and Austroads to identify and address issues that may currently impede the safe and reliable introduction of automated vehicles on Australian roads.

The Staysafe report, government response to recommendations, additional issues raised by Staysafe and a formal response to each issue from the New South Wales Government, are all published on the Parliament of New South Wales website.

While a detailed review of the understanding of the full implications of automated vehicle technology for drink and drug driving laws (additional issue 4) has not yet been undertaken, this bill is proof of the Government's commitment to delivering the committee's recommendations.

This bill supports the phased approach envisaged by the committee's recommendations and findings. Over time we will see the risks associated with the driving task move from the human driver towards the automated driving system and our regulatory framework must be able to accommodate this change.

A phased approach allows for trialling automated vehicles in a real world context to identify risks that can be mitigated through the introduction of countermeasures including the design of a safety assurance framework to determine how the safety of automated vehicles should be assessed before they can operate legally on our roads.

Trials will also enable us to establish legal obligations for automated driving system entities as the driving task moves away from the human driver.

As I have already stated, while it is not intended that this bill will support the broad commercial deployment of automated vehicles, it is feasible that trial vehicles could operate as a fee for service in New South Wales. When that happens, the Minister for Transport and the Minister for Roads, Maritime and Freight will determine the appropriate mechanism to operate such a trial to ensure public and passenger safety is maintained.

Work has already commenced at the national level on identifying the necessary arrangements to support the broader deployment of automated vehicles.

Phasing our approach through the use of trials to ensure that automated vehicle technology can be safely deployed on our roads is prudent and consistent with approaches in use in other jurisdictions here and overseas. For example, in the US, several individual states have progressively legislated for the operation of automated vehicles to varying degrees. In September 2016, the US National Highway Transport Safety Administration published its "Federal Automated Vehicles Policy", giving industry and US agencies broader guidance on safety regulation for automated vehicles.

The transition to automated vehicles is likely to be the largest shift in transport history since the transition from horse and cart. The promise of unprecedented mobility and affordability, the creation of new jobs and industries, economic productivity boost; and the reduction of congestion, emissions, injuries and deaths is real, but yet to be realised.

With much to do before this can become a reality, this bill will ensure that the people of New South Wales are included on this journey and are ready to embrace this technology and all the benefits and opportunities that may unfold as it matures.

I commend the bill to the House.

**Debate adjourned.**

## ENVIRONMENTAL PLANNING AND ASSESSMENT AND ELECTORAL LEGISLATION AMENDMENT (PLANNING PANELS AND ENFORCEMENT) BILL 2017

### First Reading

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

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

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

**Motion agreed to.**

### Second Reading

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (20:45):** I move:

That this bill be now read a second time.

I am pleased to introduce, on behalf of the Minister, the Environmental Planning and Assessment and Electoral Legislation Amendment (Planning Panels and Enforcement) Bill 2017. Corruption in the exercise of planning functions by local councils will always be a potential risk. Who can forget Wollongong and the Table of Knowledge or, more recently, the corruption issues that have been raised in relation to the former Auburn and Canterbury councils? These risks can arise, for example, when an individual councillor has an interest in the land the subject of the development, is the developer themselves or has a connection to the developer; or the council is both the applicant and the owner of the land the subject of the proposed development. In these cases, a legitimate concern arises. Because of the actual or perceived conflict of interest, can the councillor or council objectively consider the proposed development and will they take into account the concerns of other stakeholders?

The risk of conflict of interest is highlighted by the regular investigations ICAC has undertaken into corruption in the planning system. To date there have been at least 20 investigations in this area, which includes ICAC's Operation Atlas investigation into Wollongong council. Seventy-five per cent of these investigations involved councils in the Greater Sydney region, with most of these relating to potentially inappropriate relationships between applicants and decision-makers. To reduce this risk of corruption, one option that has been consistently recommended is the use of independent panels. Under this model, development applications, or DAs,

are determined by a panel of independent persons with appropriate expertise. The panel decides whether to approve the DA based on a technical assessment of its merits in light of the planning controls.

When a panel is truly independent and expertly qualified, it greatly reduces the risk that the decision-maker will have a conflict of interest. This approach also helps to depoliticise planning decisions and improves the thoroughness and quality of decision-making. Wollongong council, as part of its response to Operation Atlas, established an independent hearing and assessment panel "to provide transparency and probity in the development application assessment process, and also provide an independent forum for stakeholders (applicants and objectors) to present and discuss issues relating to controversial development proposals".

A range of other councils has chosen to do the same. Currently, at least 15 councils in New South Wales have Independent Hearing and Assessment Panels, or IHAPs as they are currently known. Many of these were established by administrators of newly merged councils. The Department of Planning and Environment has had strong feedback from stakeholders that these panels are working well and are valued by their communities. Stakeholders report that panel decisions are seen as both rigorous and credible. However, there is a pressing need to strengthen the use of panels and to build additional safeguards into the model to ensure their independence. Some administrators have raised strong concerns that existing IHAPs will be abolished by newly elected councils after September and, therefore, the corruption risk will return. They are aware of some candidates who have promised to sack some existing IHAPs.

For those reasons, the Government is introducing this bill to require all councils in the Greater Sydney region and Wollongong to have a local independent planning panel. To ensure the model is best equipped to prevent corruption, the model must include safeguards such as: a mechanism to verify panel members are appropriately qualified and do not have conflicts of interest in that local government area; a strong code of conduct, which is important for good governance and helps to ensure that decisions taken by the panel are honest, fair, transparent and in the best interests of the community; clear criteria for the referral of matters to the panel to ensure that the panel is considering all significant or controversial development in the council's area; and a limit on the length of time a member can serve on the same panel to prevent the formation of inappropriate relationships between applicants and decision-makers.

The bill introduces consistent provisions for establishing and operating a panel. Key features of the proposed local planning panels are that each panel will have four members. Three of these, including the chair, must be experts in one or more of the following areas: planning, architecture, heritage, the environment, urban design, economics, traffic and transport, law, engineering, tourism, and government and public administration. The chair must have expertise in law or government and public administration. The three expert members will be drawn from a pool that will be established by the Department of Planning and Environment and approved by the Minister. The chair of each panel will be chosen by the Minister for Planning, and the council will choose the two other expert members from this pool.

The creation of the pool will help to ensure that the chair and expert members are qualified and, importantly, independent. The fourth member will be a community representative chosen by council from the ward or area in which a proposed development would occur. Councillors will not be able to be a panel member in their own local government area, as this would undermine the basic objective of having DAs determined by independent experts. Members will be appointed for three years and may sit on the same panel for a maximum of two terms only. Statutory rules will govern the operation of these panels, including a thorough code of conduct. I seek leave to have the balance of the second reading speech incorporated in *Hansard*.

**Leave granted.**

The bill will allow the Minister to make rules about which DAs must go to a local planning panel for determination. The DAs determined by the panel will include any DA above $5 million; any DA where the applicant or landowner is the council, a councillor, a member of council staff or a State or Federal member of Parliament; and any DA that receives 10 or more objections. The types of DA associated with a high risk of corruption, which also will be determined, will be residential flat buildings assessed under State environmental planning policy [SEPP] 65, the demolition of heritage items, places of public entertainment and sex industry premises, designated development as set out in the Environmental Planning Assessment Regulation 2000, and modern applications that fit this criteria.

These criteria will ensure that the vast majority of DAs continue to be determined quickly and efficiently by expert council staff. The panel's time should be focused on determining DAs of high value, corruption risk, sensitivity or importance. The panels will also provide advice on planning proposals such as proposed rezonings. In these cases, the final decision to proceed will remain with the council, but the panel will provide expert advice on the merit of the proposal.

Initially, the requirement to have an IHAP will apply only across Greater Sydney and in Wollongong where a panel has already been established. This ensures there will be consistency across the areas covered by the Greater Sydney Commission, further improving the strategic focus on development for the future. For now, councils outside of Sydney and Wollongong will continue to be free to establish a local planning panel if they wish, and any two councils or more will be able to share a panel if this is more efficient. It is unlikely that a mandatory model will be suitable for smaller regional councils because they generally do not have the volume and complexity of development to warrant this approach.

With the introduction of mandatory IHAPs, it is appropriate that more development be determined at the local level. The bill does this by raising the basic threshold for regional planning panels. Currently, development with a capital investment value of more than $20 million is determined by regional planning panels. The bill increases this to $30 million for councils in the Greater Sydney region and for Wollongong. DAs below this threshold will be determined by either the local planning panel or council staff on delegation. This will ensure that more local development is determined at the local level. The bill will move the thresholds for regional planning panels to the State Planning Policy (State and Regional Development) 2011 so that they sit alongside the thresholds for State significant development.

The bill also makes a number of savings and transitional arrangements to facilitate the new panels. This includes ensuring that existing panels, whether established under the Environmental Planning and Assessment Act or the Local Government Act 1993, are preserved until their composition is brought into alignment with the new requirements. This will ensure that existing IHAPs remain in place until the new requirements commence. It is expected that this will occur in March 2018.

The benefits of IHAPs extend not only to reducing corruption risks; they are also fundamental to providing strategic, streamlined and balanced decision-making. Panels can achieve greater certainty for all parties by providing rigorous and credible determinations on the merits of an application, reducing the likelihood of reviews and appeals. Panels also elevate the role of the council: they allow the council to focus on the strategic task of setting the overall vision, policies and controls for development in the local area. It is for these reasons that we are introducing this vital, game-changing reform to the planning system.

This is the first element of a broader package of improvements to the Act that the Government is considering. Proposed improvements to the Environmental Planning and Assessment Act were publicly exhibited at the beginning of the year and have generally been well received. Stakeholders have expressed support for our efforts to modernise and to streamline the planning system. The submissions and the information sessions held during the public exhibition provided invaluable feedback from the community and industry about not only the workability of the proposals but also how to best implement these changes. My department has been working hard analysing these submissions to determine what changes are needed to the package and ensuring that any concerns or matters raised are appropriately reviewed and addressed.

Separate to IHAPs, the bill also proposes to amend the Parliamentary Electorates and Elections Act 1912 and the Local Government Act 1993 to ensure that the NSW Electoral Commission has sufficient powers to enforce local government electoral laws. In 2016 the Local Government (General) Regulation 2005 was amended to require that candidates for local government elections declare in their candidate information sheets whether they are a property developer or a close associate of a corporation that is a property developer. The proposed amendments in this bill give the Electoral Commission the ability to exercise its investigative powers under the Election Funding, Expenditure and Disclosures Act 1981 for the purposes of ensuring compliance with the provisions of the Local Government Act relating to local government elections. These include powers to inspect and take copies of banking records, and to require the production of information and documents under the Election Funding, Expenditure and Disclosures Act 1981.

These additional powers will enhance the ability of the Electoral Commission to investigate alleged offences in connection with local government elections, including any allegation that a candidate has provided a false declaration regarding his or her status as a property developer. The proposed amendments also make clear that the Electoral Commission can enforce compliance by instituting proceedings for offences under the Local Government Act relating to local government elections.

Lastly, the Bill amends section 693 of the Local Government Act to extend the limitation period for offences relating to local government elections under that Act. Currently, a 12 month limitation period applies to electoral offences under the Local Government Act. The bill proposes to extend this period to three years from the time the offence is alleged to have been committed. This will allow an additional two years for potential contraventions to be detected and for the NSW Electoral Commission to investigate allegations before any prosecution becomes "time barred". As with panels, it is vitally important that these changes are made before September's local government elections. For these reasons, I commend the bill to the House.

**The Hon. PETER PRIMROSE (20:53):** I thank the Leader of the Government for his courtesy. I lead for the Opposition on the Environmental Planning and Assessment and Electoral Legislation Amendment (Planning Panels and Enforcement) Bill 2017. I stress that all members on this side of the Chamber, and, indeed, I am sure all members in this place, oppose corruption in all its forms. We should take as a given in this debate that no member of this House, regardless of their vote in relation to any matter concerning this bill, is in favour of or wishes to perpetuate corruption in any shape or form. How we actually best achieve stamping out corruption in planning and the role of local councils is at the core of this debate.

For instance, the Opposition has made it very clear that it believes that a good and substantive way to stop corruption would be to ban property developers from taking up any position if elected to local councils. We have no problems with people being property developers; they are important members of the community because they work for the good of the community. We all live in housing estates and frequent shopping centres, and we know that property developers put together the capital to establish these estates and centres. However, the dilemma is that if property developers are put in a position where they are making decisions on planning matters involving property, the conflicts of interest that arise are great.

This must be stopped in the same way that conflict of interest was stamped out by this Parliament by property developers making donations to political parties at the time of State and council elections. This Parliament said that the conflicts of interest were so great that we should stop property developers from making electoral donations, and yet we allow property developers to make decisions on local councils. There is an obvious conflict of interest there. The position of the Opposition is that the best and most substantive way of stopping corruption from eroding a good planning process is by not allowing property developers to take up positions if elected to local councils.

Another way to stop this conflict of interest was unanimously agreed to more than a year ago by this Parliament's Joint Standing Committee on Electoral Matters. I am a member of that all-party but Government-dominated committee, so I know that this recommendation was agreed to by then Premier Mike Baird. When asked in the Legislative Assembly by the Leader of the Opposition whether the same spending caps would be introduced for local council elections as for State elections, the Premier gave a one word answer: "Yes". That was before the 2016 council elections, but nothing happened. The assumption then was that the drafting of legislation was difficult and that the spending caps would be in place for the 2017 round of council elections. Those elections will be held on 9 September and nominations closed at noon today, but there are still no spending caps in place in New South Wales for local council elections.

This Government now says it believes that we must stop corruption by passing this bill tonight. If those opposite want to stop corruption, they should ban property developers from taking positions in local councils and keeping the undertaking of the former Premier by introducing the same spending caps as have been introduced for State elections. Why is that important? Yes, we have donation caps at the council level, but there is no restriction on how much candidates can donate to their own campaign. That means that a wealthy developer, a millionaire, might wish to buy a place on a council. Unlike restrictions for a State election, there is nothing stopping that developer from spending as much of their own money as they wish to get on the council. That is why it is important and why this Parliament said it was important at the State level. That is why this Government has let the side down badly by not introducing the spending caps for the 2016 and now the 2017 council elections.

Again, that indicates that there is a schism and problem in this Government being seen as being serious about stopping corruption in the planning process at the local council level. However, I generally believe that this bill comes with goodwill from the Minister. I have no problems with that. But we believe that there are serious internal flaws within the legislation, in addition to the matters that I have already raised, which the Government has failed to move on to reduce corruption in local councils. Unless sensible amendments to this legislation are approved, and, of course, subject to debate in this House, the Opposition will have to consider seriously voting against the bill. We do not want to do that, because even a half-hearted and somewhat flawed approach to try to reduce corruption is better than nothing. If we can fix it up by way of amendments, we believe that we can, as a parliament, salvage the best parts of this legislation, and that is what we are hoping to achieve through this debate.

We appreciate that this is important legislation, but I stress that it has flaws, which we will try to remedy tonight through the parliamentary process. I hope that the Government will recognise that we do this in good conscience. What is unforgivable in this process is the length of time that we have had to consider this legislation. Yes, discussions about independent hearing and assessment panels [IHAPs] have been happening for many months, but this is different from a general discussion about introducing IHAPs in some form. There are many forms of IHAPs. In the 15 or so councils that voluntarily use the panels, they operate in many different ways. But we have had less than one day to examine this bill, and no time at all to adequately consult with the stakeholders who have concerns about it.

That is what the legislative process is supposed to be about. It is not supposed to follow the line of, "Hey everyone, here is a great proposal. Do you think it may have some merit? This is an idea. Let's put it out on Google and see if we can find out." We are concerned that this legislation will become law, and words matter. This legislation will eventually end up in a court, where the courts, bureaucrats and others will seek to interpret it and argue over it. That is why we must get it right. The Government introduced the bill yesterday, rammed it through the Legislative Assembly, and forwarded it straight over here the day after standing orders were suspended in the other place. To then expect that we would have consulted with the community adequately and would have had a rational discussion not only is arrogant but is tantamount to being negligent as a government.

We have done our best to make sure that we give serious and due consideration to this legislation. But it will be flawed legislation despite everyone's best efforts purely because we have not done what good legislators always do, which is talk to stakeholders, not just about the concept but about the proposed words. People will start pointing out the flaws and errors once they get the opportunity to consider this important bill adequately. One day to examine a bill and to have it rammed through two Houses of Parliament is not good parliamentary practice. The Government is telling us to trust it, but this is the same Government that has already brought us through another range of so-called "reforms" to local government and its practices. Of course, I refer to the forced council mergers. If you want to talk about a process that was heralded as being wonderful and as being the cure for all the problems of local government, we had the original Fit For the Future process. No-one could explain the mysterious, almost mystical concepts such as scale and capacity tests and all the other wondrous things.

**Mr David Shoebridge:** They were happy days.

**The Hon. PETER PRIMROSE:** They were happy days. There was scale and capacity; it was going to work and it would be fun. At least we had a process and some consultation. People were being asked to contribute

to the Fit For the Future inquiry, even though it was a flawed process. Of course, we know what happened then. In December 2015, the then Premier Mike Baird said, "I know we have just spent millions of dollars and months, if not years, on the Fit for the Future process, but we are going to abandon all of that because I had KPMG do a $400,000 report. We are now going to forcibly merge a whole range of councils, but we will not show you the report we are basing this on and we will not show the report to the delegates we are appointing."

**Mr David Shoebridge:** An unknown unknown.

**The Hon. PETER PRIMROSE:** Unknown unknowns. The rest is history: the chaos, the dog's breakfast, the angst, and the millions of dollars lost in legal and other fights. Communities were wrecked and torn apart.

**Mr David Shoebridge:** Remember those TV ads?

**The Hon. PETER PRIMROSE:** The wonderful TV ads, yes. Of course, it all ended in tears in cases such as Ku-ring-gai, when the court found that the process was so flawed that it never should have been introduced in the first place.

**Mr David Shoebridge:** Ground it to a halt.

**The Hon. PETER PRIMROSE:** And that the process was to be ground to a halt. The court overturned the whole thing. The humiliated Premier and Deputy Premier caved only last week and said they would not proceed with the 14 councils because of legal action. But they are still saying it is a wonderful idea and are still refusing to give any reassurance that they will not kick it all off again at some future point. I highlight that history because the total failure of the process was the result of inadequate consultation with the community, interest groups and councils. This bill is a microcosm of the local government amalgamations process. I do not suggest that this bill is as important as the local government amalgamation legislation. But it may be more important, given that it deals with the operations of local government and planning and other instruments in this State. However, the same process and arrogance is evident. The Government is saying, "We know best. We don't have to consult. Trust us, it will all be right in the end."

It will not be all right in the end. The legislation is flawed; but it can be made right, and it certainly can be made better. Ramming this legislation through both Houses in one day is not an appropriate way to deal with legislation. Unfortunately, today we have seen a couple of similar incidences with other legislation. It is not a good way of doing things. The Minister said he will appoint independent panel members. I can only hope that these independent panel members are more independent than the delegates who were appointed to assess the forced council merger proposals.

Members may recall that these were supposedly, again, people whom the Government appointed on the basis that they would provide fair and independent assessment. History and the courts have shown that these people were not independent, were not fair and did not do their job properly. That was the bottom line: they did not do their job properly. We have no undertaking and no way of assessing or guaranteeing that the people to be appointed as independent panel members by the Minister in this legislation will be any more independent than the gaggle of delegates who were appointed who, strangely enough, in every instance said, "What the Government has proposed is wonderful. We don't need to see any of the evidence. Let's just go ahead and do it."

Government-appointed administrators had been exercising dictatorial powers over forcibly merged councils since May last year. Coincidentally, a number of them—despite having been sole dictators and often having access to between $10 million and $15 million—are now running for their own councils and have nominated today, but that is a matter we will take up on another occasion. Developers and real estate agents as well as administrators have nominated for local councils. Nominations closed today. Our position is that these people should not be allowed to take up positions if they are elected to councils. As I have said previously, spending caps should be applied so that millionaire developers cannot spend their way onto councils.

There is one part of the bill that I think is a very good initiative, because I have raised it before. The Government, instead of stopping developers taking up their positions, simply said last year, "We're going to require people to put down on the nomination forms whether or not they are a developer." But, thanks to a *Sydney Morning Herald* exposé, we discovered that no-one bothered to check, either before or subsequent to elections, whether or not people had been accurate or truthful on their nomination forms.

**Mr David Shoebridge:** No-one's job, apparently.

**The Hon. PETER PRIMROSE:** No-one's job: no-one had been appointed to do it. Then we found out that there are no powers to do anything about it anyway. I took an interest in this and put a Government Information (Public Access) Act [GIPA] application in and sought to find out from the Government how it defined "property developer". I wanted to see some of the policy discussions. I got back about 20 pages, all of which were blacked

out. As a member of Parliament, I had no right to know what debates were going on about the meaning of the term "property developer". It is very interesting that we are again talking about what "property developers" are in relation to this bill, but the Government does not seem clear about its own definition of "property developer".

Having said that, I commend the Government for finally taking some action and proposing in this bill—from memory, in schedule 4—to put in a retrospective power which will allow the Electoral Commission to review whether people who have nominated correctly stated whether or not they were developers, and then to have power under the same Act to take action against those who made false declarations. I think that is a positive move. My personal view is that they should not be there at all. But if they have made an error, it will be up to the Electoral Commission and presumably ultimately the courts to decide whether or not it was an error made in good faith, because the Government has not explained what it means by the term "property developer", or whether it was deliberate. That is a matter for the police and others, but I commend the Government for at least taking some action to overcome that problem.

Another issue I will mention briefly is the proposed rotation of panels. There should be no prospect of an applicant knowing who will decide their application. If it is possible that it becomes known who is on a panel, it is at least possible—as those of us who take an interest in reading Independent Commission Against Corruption reports over the years know—that those people could be persuaded by largesse, duchessing and who knows what to support applications or to act in a particular way in relation to those applications for individuals. As has been suggested, it is possible that if those individuals on panels become known they will probably never need to buy lunch again in some places.

In this bill, there are fixed panels that cannot rotate for three to six years in a particular geographical area. They should rotate, and we will be moving an amendment to that effect; otherwise, we believe that this is conducive to corruption. By having developers on councils it is at least feasible that those developers will be actively involved as councillors in nominating and appointing representatives to various panels. I am interested in the Government's view on why that is an acceptable provision. Why would it not be more reasonable to not have developers at all? The Government wishes to have developers on councils—that is clearly its policy—but if people are self-acknowledged developers on their nomination form, given that these panels are supposedly in place to reduce the role of developers in making decisions, why allow developer councillors to be involved in appointing members of the panel? I genuinely believe that is something the Government should consider as a measure to reduce an atmosphere so that it is not seen as being conducive to corruption.

Council meetings are held in public. Some councils in New South Wales still do not live stream. I think in the year 2017 they should all be live streaming, but they all conduct their activities in full public view, with written reasons being presented publicly. They should all be recorded—and they all are, to the best of my knowledge—but they also should be broadcast live. The proposed local panels should not simply be panels that disappear into a closed room to have their deliberations. If we are talking about being open, nothing is better for reducing an environment that is conducive to corruption than the disinfectant of light.

Having the public gaze on decision-making is a wonderful way of reducing corruption. I seek the Government's confirmation that it expects that these panels will be broadcast, that they will give written reasons and that members of the public will be not only allowed to view those deliberations but also be allowed to address those panels. In a very short time I have put together a voluminous amount of material in relation to this bill, but I am interested in hearing the contributions and views of the Government. I will have a great deal more to say when we move to the Committee stage.

**Mr DAVID SHOEBRIDGE (21:19):** The Greens will oppose the Environmental Planning and Assessment and Electoral Legislation Amendment (Planning Panels and Enforcement) Bill 2017. One could not read about it. On the ruins of the Rum Hospital, within a stone's throw of the place where the New South Wales regiment mutinied against Governor Bligh—had him hide under the table because they were doing a dodgy land deal in south-west Sydney—and in the same Chamber that the likes of Eddie Obeid, Ian Macdonald and Tony Kelly and that rogues gallery of corrupt former members and Ministers appeared, the Government has brought in a bill to take planning powers off local councillors and centralise the power in just one State politician, the Minister for Planning, and says it is an anti-corruption measure. As though State members of Parliament [MPs] are immune to corruption!

This is from the same party whose leader of the Liberal Party in Victoria and a State MP have been sitting down and having dinner with organised crime at the Lobster Cave. Now, in 2017, the leader of the Liberal Party in Victoria is meeting with the head of the mafia in Victoria in the Lobster Cave. The same party comes to this Chamber and this Parliament with its appalling history of corruption—just think of the likes of Askin or Rex "Buckets" Jackson, all those corrupt grubs who had their time in this Parliament—and says it has this great anti-corruption measure: they will take the powers off local councils and centralise them in the Minister for Planning.

It is as though part 3A never existed. It is as though they did not realise there has been report after report after report from the Independent Commission Against Corruption [ICAC] about how the planning powers have been abused time after time by government Ministers in this place. There was the report on Frank Sartor and part 3A where ICAC was tearing its hair out and saying, "How could you possibly have a law that centralises all these powers in the Minister for Planning without any oversight?" It is corruption ready, they said. There was the report about the Planning and Assessment Commission and how all the so-called independent members of the commission are chosen by the Minister for Planning, are able to be removed by the Minister and have no genuine independence and are corruption ready. The ICAC said not to do that. It said that if people are to be appointed they should be appointed through the Parliament and the Minister for Planning should not be in charge of these appointments because it is a corruption-ready situation.

What does this Government do? It ignores all of that and decides to put the Minister for Planning in charge of appointing everybody to planning panels. Corruption by politicians at a local level is not removed by centralising the power in the Minister for Planning at a State level. That is a lesson of history that this Government really should have learned by now, but it has not. Instead, we get this bill. There is the pretence that this bill came out of the New South Wales Liberal-Nationals Coalition Cabinet. There is a polite myth going around that the legislative agenda on planning is actually set by the Liberal-Nationals MPs in their party room and in their Coalition Cabinet. We all know that is not where policy is set when it comes to development and planning laws in this State.

Policy and legislation is determined by the NSW Property Council of Australia and then it is written into law by the Liberal-Nationals who follow along like a little tame puppy, hanging on to those Federal donations they get from the property industry. They are holding on and waiting for the post-political appointments to boards, the post-political consulting jobs, running along like a little tame, well-fed puppy behind the Property Council which actually determines what the law will be in New South Wales. If proof is wanted of that, the Property Council, bless them, has done it again. Every MP has received a letter from the Property Council—as though we would care what the Property Council says—telling us that the Property Council is cheering this legislation on. It has been on their wish list now for about four years.

Now we get the correspondence from the Property Council, the shadow cabinet of New South Wales, saying, "The Property Council of Australia welcomes the introduction of legislation to produce independent hearing and assessment panels in Sydney and Wollongong and we urge you as a member of Parliament to support the passage of the Environmental Planning and Assessment and Electoral Legislation Amendment (Planning Panels and Enforcement) Bill 2017." As a Greens MP, I know I am on solid ground when I am opposing changes to the planning law being put forward by the big developers in Sydney. I can tell members that what the Property Council wants is almost always bad news for ordinary mums and dads and residents in this State. It wants to remove democratic oversight and power and to centralise power in just one politician so that it does not have to go out and corrupt many councillors, it can just go and get in the ear of one politician and get what it wants. That is what this bill does.

What does the bill actually do? It requires local planning panels to be established in the whole of the Greater Sydney region and also in the City of Wollongong. It says that where that planning panel exists it becomes the consent authority instead of the councillors on the council. It takes over all the power of the democratically elected councillors. The Government is calling them "independent local planning panels" and there will be four independent members. How independent are they? The chair of the planning panel is selected by and imposed on the local council by the Minister for Planning—whoever the Minister for Planning wants. It could be someone who has expertise in economics—read "property developer". It could be somebody who has expertise in local planning issues—read "real estate agent". It could be whoever the Minister for Planning wants.

We have seen the kind of noddies that the Minister for Local Government has imposed on councils as unelected administrators: former Liberal Party hacks, former Nationals hacks, being appointed as unelected administrators. The same bunch of noddies are going to be appointed by the Minister for Planning to chair the planning panels: Noddie A, Noddie B, Noddie C, Noddie D. They will be the reliable ones who will do what the property industry wants. They are the so-called "independent chairs" we will get from the Minister for Planning—more of the same. This Parliament is like a dog returning to its vomit when it comes to planning laws; it just keeps going back and looking at the same ugly mess that previous governments have made.

There are the so-called "independent chairs". On these four-member panels—just in case there was any concern that there might be some kind of genuine operation of these panels—the Government has said that their imposed chair, the Minister's select chair, will also get a casting vote. If it is two all, the chair gets to decide what will happen. The chair is chosen by the Minister for Planning. But there will be two other so-called "independent members" that the Government says the council can choose. Doesn't that sound nice? The council can choose

those two other independent members. But who does the council get to choose from? Wouldn't you know it? The council gets to choose from a pool of people who have been chosen by the Minister for Planning.

The other two so-called "independent members" are also chosen by the Minister for Planning, another bunch of pro-property noddies m the Minister for planning puts in. Three of the four members are noddies chosen by the Minister for Planning, reliable pro-development property industry types that the Minister will choose to have an absolute majority in these four-member planning panels. The last poor sod who gets pulled out and put on the planning panels, the irrelevant, embarrassing position of community representative—who cannot be elected by the way, cannot be a councillor—is actually chosen by the council. They can choose a bunch of community representatives and then the pretend independent chair chooses the community representative they want to become the fourth member of the planning panel.

There is this poor little member of the community who gets dragged in as a one vote in four—laughed at by the experts, probably treated with contempt by them—and they are meant to be the community representation on planning panels. We could not write this stuff. This is the Government's proposal to deal with planning anticorruption in Sydney: three noddies chosen by a politician from the property industry who will determine whether to approve development applications lodged by the property industry. What corruption measures do the people of Sydney and New South Wales want this Government to implement? What is the one local government reform they have repeatedly said they want? Have they said they want three members of the property industry to make a decision about their neighbour's development applications? No, they have never said that.

However, they have said they want the law changed to prohibit property developers and real estate agents being elected to councils. The legislation could easily be changed to provide that property developers cannot be elected. The election of real estate agents should also be prohibited because they have such an obvious conflict of interest. What are we getting instead from this Government? We are getting this undemocratic, corruption-ready nonsense. It is disgraceful. Meanwhile, no-one is policing the existing provisions of the Local Government Act. I have checked the most recent council nominations. The laughable so-called anticorruption provisions in the Act require candidates to state whether they are property developers. I double-checked and found that Doug Eaton, the former mayor and notorious property developer from Wyong, has nominated. He is on record as saying that it is great to have a property developer as mayor because they know about business.

Doug Eaton said, "I know about business, and I know how to get a sand mine approved in Wyong." He is running for council and he says that he is not a property developer. For heaven's sake, if he is not a property developer, then this is not the Legislative Council and the New South Wales Parliament does not have a history of corruption. These absolutely nonsense statements are being made. This Government needs to do the right thing with local councils. It should not take democratic control of planning decisions away from councils; it should get rid of the property developers and grubs on councils. It should also stop preselecting them to run for councils in places like Fairfield and Liverpool, where a real bunch of grubs are being preselected by the major parties. We know they will betray the public interest and decency. They will be making pro-developer decisions left, right and centre.

Government members keep preselecting them and then they have the temerity to come into this place and to say they are dealing with corruption at the local government level. It is embarrassing. The Greens know that we cannot take the politics out of controversial planning decisions. Big developments that will fundamentally change the character of a local area have a political aspect. However, local residents have the right to have those kinds of political decisions made by political representatives. Of course, they should be made in accordance with the planning legislation. I think all members would be mortified by some of the planning decisions made by the former Kogarah, Hurstville and Botany Bay councils. We were disgusted by them. They were obviously pro-development and were often blind to the planning legislation and ignored the advice of council staff. What ugly stuff.

We have a collective obligation to prevent that kind of corruption in the local government sector. However, we should not remove all power from all councillors across Sydney because there are some bad apples. Rather, we should change the law to prevent those kinds of people from being candidates at local government elections. We should not remove planning powers from councils like Ku-ring-gai Council, Woollahra Municipal Council or the Inner West Council because there has been corruption at the former Auburn Council. That would cruel the entire local government sector because of a couple of bad apples. The Greens do support one aspect of this bill, that is, the amendments to the Parliamentary Electorates and Elections Act 1912 to allow the Electoral Commission to commence proceedings for offences under the Local Government Act and to undertake investigative functions. The need for this change has been exposed in investigations undertaken by the *Sydney Morning Herald*.

The Greens have repeatedly pointed out the obvious flaws in the existing oversight arrangements. The Local Government Act provides that candidates must submit a statutory declaration asserting that they are not

a property developer. Despite that, a number of obvious property developers have nominated for election to councils. These are people whose businesses routinely submit development applications. It is proven, as sure as night follows day, that they are property developers according to the definition in the Act. Despite that, they have falsely asserted that they are not, and nothing has happened because no-one has had the power to do anything about it. The amendments in this bill will give that power to the Electoral Commission retrospectively. That is a tiny aspect of the bill that The Greens support. However, there is not enough good in it for us to support the second reading.

We do not believe that development industry-controlled planning panels are the answer to local government corruption problems. We also do not believe we should have panels comprising architects, environmental consultants, heritage consultants and urban planners, who all live and breathe economically on the next contract they get from a developer. The Greens do not believe that having those people running the planning panels will be a good thing for residents or for achieving balanced planning decisions. We also do not believe that having the property industry approve their own development applications is a good thing. For those reasons, The Greens will vote against the second reading of this bill.

The Greens also have a series of amendments designed to strip the planning panel provisions. If the amendments are agreed to, all that will be left of this bill will be the changes to the Parliamentary Electorates and Election Act 1912. We have had the benefit of reviewing a series of amendments circulated by the Labor Opposition and we support roughly half of them. However, we will not support the amendments extending the planning panels beyond Sydney and Wollongong to the rest of New South Wales. We also do not support the proposal requiring all development applications that attract 10 or more objections to be bounced to the new planning panels. With those observations, The Greens will not support this bill.

**The Hon. PAUL GREEN (21:37):** I speak on behalf of the Christian Democratic Party on the Environmental Planning and Assessment and Electoral Legislation Amendment (Planning Panels and Enforcement) Bill 2017. The planning panels proposed in the bill are being introduced following Independent Commission Against Corruption [ICAC] investigations into at least 20 planning decisions that potentially did not meet planning rules. The Government believes that the introduction of the planning panels will reduce the risk of corruption because decisions will be made by experts who are independent of councils. The panels will be able to make better decisions and will adhere to councils' rules without being influenced. Planning panels will be established at Greater Sydney councils and Wollongong City Council, which seems ironic. I have asked why, and have been told that it is simply because the council has requested that it be part of the process.

Local planning panels will have four members. My colleagues have stated their views about the fact that the chair would be nominated by the Minister and there would be two other members from the pool with expertise in the matters. The fourth person would be a community member from another pool who has applied to be considered. There have always been questions in local government as to whether councillors should be able to be property developers or real estate agents. I am not particularly fazed about those sorts of people being councillors because they come with immense experience. But I do have a problem, as I imagine all members do, with people taking part in corruption or subverting proper procedures to gain an advantage. The panel mix around the table must also have the experience required for planning matters. There might be experience from the various parties: The Greens, the Liberal-Nationals or Labor. I do not think we have had a Christian Democratic Party representative in that title in a council but they have certainly been there as Independents.

**The Hon. Don Harwin:** And a very good councillor you were.

**The Hon. PAUL GREEN:** Thank you.

**Reverend the Hon. Fred Nile:** It will happen at the next election.

**The Hon. PAUL GREEN:** We are hoping that in the next election we might get someone up. The point is that councillors come with an array of experiences.

**Mr David Shoebridge:** Are you running for council again?

**The Hon. PAUL GREEN:** No. Maybe after 2019 I might have to go back to it. We will see what the people of New South Wales think then.

**The Hon. Dr Peter Phelps:** Philip Ruddock is.

**The Hon. PAUL GREEN:** There is an example of someone with great experience which he can bring to his community. A lot of people say, "What are you going to do when you retire?" Some say they will give a third of their experience to a non-government organisation [NGO], a third to working to keep the motor running because they have invested so much of their life in earning an income in that role, and a third going on holidays. I think that makes a good retirement mix in serving the community. There are a lot of people with an immense

amount of experience. With the complexity of law, planning and better planning issues, it is not possible to legislate for corruption. We try to build these frameworks to keep out corruption, but the problem is it is not possible to stop someone who intends to receive a benefit to which he or she is not entitled. That is the complication. Many councillors are in it for the right reasons: the grassroots community. I think that is why many current members enjoyed being councillors.

**The Hon. Adam Searle:** I certainly did, for 13 years.

**The Hon. PAUL GREEN:** You were the previous mayor for the Blue Mountains?

**The Hon. Adam Searle:** I was mayor for two terms.

**The Hon. PAUL GREEN:** And he did not lose any of the Three Sisters; they are still there. I acknowledge the Hon. Adam Searle's great season in local government. The point is that we need all sorts of people in those roles. Of course we want the right people, people of good character to be in those roles. I have no doubt that those people exist across the real estate and development industries. I think the Hon. Peter Primrose said that most of us are probably living in houses that were built by developers, so not all developers should be tagged as corrupt. Members will be on panels for three years and can sit on the same panel for a maximum of six years. Members will be able to sit on more than one panel. Mayors and councillors will not be allowed to sit on the panel in their local government area. The role of council will be focused on setting the rules for new developments in their area.

Local communities need to have a contract. This environmental planning legislation is a contract with the people of New South Wales as to what is and is not allowed, and what can or cannot be built. When people start moving the goalposts there is room for corruption. People move the goalposts for personal or financial gain and obviously that is the sort of thing we want to stamp out. It is anticipated that approximately 95 per cent of applications for building will still be decided by council planners. The local media tend to blow any controversy out of all proportion so it looks as though councils are in disarray but, rather like this Chamber, a lot of legislation receives bipartisan support. The controversial stuff is what everyone hears about and it creates an impression of dysfunction and disruption. But 95 per cent of councils—not all councils; there are some very dysfunctional councils from what I have heard—perform their role well. Only a small percentage need a higher level of critique, whether at a State level or through planning panels.

**Mr David Shoebridge:** It is not always the same division.

**The Hon. PAUL GREEN:** That is right. Local planning panels will decide development applications between $5 million and $30 million. Local planning panels will also assess development applications for which the applicant or the owner is a councillor or a member of a councillor's family, a member of council staff, or a State or Federal member. If a development application receives 10 or more objections from different households they will be accompanied by a proposed voluntary planning agreement. The panels will also be involved where a development application seeks to depart more than 10 per cent from the development standard, and developments with a higher risk of corruption, including residential flat buildings assessed under State environmental planning policy [SEPP] No. 65, the demolition of heritage items, licensed places of public entertainment and sex industry premises, designated development as set out in the Environmental Planning and Assessment Regulation 2000.

These changes have been introduced as an anti-corruption measure and an opportunity to increase transparency. It is noted that panels will meet once a month. The estimated cost per year for a panel is approximately $100,000. The Government is proposing that local councils will cover this cost. There is a great concern in the community about cost shifting. I am of the view that if the planning panel has the assessment, it should be covered by the development application costs. Whoever is looking after the development application should be entitled to some of that remuneration for their services as part of the process. The New South Wales Government needs to ensure that these costs do not escalate. I strongly urge the Government to investigate what it can do to support councils with this new expense.

I also thank the Government for requiring all members to sit on a panel to supply pecuniary interest forms and a register of interest. I believe this will go a long way towards providing community confidence and transparency. It legitimises members of the panel. I would expect nothing less of a panel that is charged with assessing developments over $5 million. I note that the Hon. Adam Searle and the Hon. Peter Primrose have amendments to this bill. We found some of them encouraging and we thought that many of those amendments had real merit. We have presented the strength of their amendments to the Minister and, as far as we know, we have some support on amendments Nos 2 and 6 and 4 and 10 particularly, which were related to ICAC and who could sit on panels. We are quietly confident that if the Government is able to agree with the Opposition this

legislation will go through. If the Government is able to endorse those principles, we will be supporting this legislation. We commend the bill to the House.

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (21:48):** In reply: I thank members for their contributions during debate on the Environmental Planning and Assessment and Electoral Legislation Amendment (Planning Panels and Enforcement) Bill 2017. When the Government introduced this bill yesterday, it drew the attention of members to the fact that this is primarily an anti-corruption measure. I wish to assure the House that in addition to the robust protections we are building into the design of these panels, they are also, appropriately, subject to the jurisdiction of the Independent Commission Against Corruption [ICAC] in the same way as a council, the Department of Planning and Environment, any other public authority and every Minister of this Government is subject to its jurisdiction. In addition, the bill gives the Minister for Planning the power to remove a member of a panel from office if the ICAC recommends his or her removal because of corrupt conduct.

The role of the Minister for Planning in relation to independent hearing and assessment panels will be to facilitate the establishment of the panels and ensure their operations are independent and fair. The Minister for Planning will choose the chair of each panel, while the council will choose the other three members—two experts and one community representative. The Department of Planning and Environment has extensive experience in recruiting independent experts to panels. The process for the pool of experts will be similar to the robust and transparent process used for joint regional planning panels and Sydney planning panels. It will include a statewide expression of interest for applicants, based on the expertise requirements, that is, the four general standards set out by the Public Service Commission—merit, fairness, diversity, integrity—and specified role capabilities.

Councils will be invited to nominate suitable experts for consideration as part of this process. The Department of Planning and Environment will form a selection panel to assess short-listed applicants against the expertise criteria, the appointment standards and the role description capabilities. The selection panel is likely to include senior executives from the Department of Planning and Environment and independent persons of high professional standing. A recommendation report will be provided to the Minister that will include the selection panel's assessment of each short-listed candidate and the panel's recommendations. This process is expected to take approximately 12 weeks. Local Government NSW will be consulted as part of the process.

The recruitment process will seek the best from the planning profession and related professions. This will ensure the appointment of chairs and members with high standing and integrity who are able to balance all the competing issues that Sydney and Wollongong face and provide fair and merit-based technical decisions on local development. The recruitment process will be designed to ensure that all the expert members have extensive experience in their field, a sound understanding of accountability and risk management, a clear understanding of the New South Wales planning system, an ability to communicate effectively, and a professional and ethical approach to the exercise of duties.

Chairs will also be required to demonstrate leadership qualities; extensive knowledge of risk management, management control frameworks, and governance and business operations; and a capacity to form independent judgements and a willingness to constructively challenge. Panel members will have to comply with a thorough code of conduct and statutory procedures governing panels' operations. The code will ensure that panel members understand the standards of conduct expected of them, are able to fulfil their statutory duty to act honestly and exercise a reasonable degree of care and diligence, act in a way that enhances public confidence in the integrity of the panel, appropriately report and manage any perceived or actual conflict of interests, appropriately disclose non-pecuniary interests, and be aware of their obligations in the bill to disclose financial interests. To ensure panels meet their obligations, the department will undertake a robust monitoring of their operations both in the recruitment and maintenance of the pool of experts and also the ongoing operations and decisions of the panels. The benefits of panels can simply not be understated. This is once-in-a-generation reform. I commend the bill to the House.

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

**The House divided.**

Ayes .....29
Noes .....6
Majority.....23

AYES

| | | |
|---|---|---|
| Amato, Mr L | Blair, Mr N | Clarke, Mr D |
| Cusack, Ms C | Donnelly, Mr G | Farlow, Mr S |
| Franklin, Mr B (teller) | Graham, Mr J | Green, Mr P |

AYES

| | | |
|---|---|---|
| Harwin, Mr D | MacDonald, Mr S | Maclaren-Jones, Ms N (teller) |
| Mallard, Mr S | Martin, Mr T | Mason-Cox, Mr M |
| Mitchell, Ms S | Mookhey, Mr D | Moselmane, Mr S |
| Nile, Reverend F | Pearce, Mr G | Pearson, Mr M |
| Phelps, Dr P | Primrose, Mr P | Searle, Mr A |
| Sharpe, Ms P | Taylor, Ms B | Veitch, Mr M |
| Voltz, Ms L | Wong, Mr E | |

NOES

| | | |
|---|---|---|
| Borsak, Mr R (teller) | Brown, Mr R | Buckingham, Mr J |
| Faruqi, Dr M | Shoebridge, Mr D (teller) | Walker, Ms D |

**Motion agreed to.**

**The DEPUTY PRESIDENT (The Hon. Shayne Mallard):** According to sessional orders, proceedings are interrupted to permit the Minister to move the adjournment motion if desired.

**The House continued to sit.**

**In Committee**

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** There being no objection, the Committee will deal with the bill as a whole, with the exception of schedule 2. We have before us an unusual set of amendments. It is not suitable to use the traditional numerical approach to which members are accustomed. The Greens amendments omit large sections of the bill, which will significantly affect Opposition amendments. It is proposed to deal with the amendments based on the approach of the Australian Senate. I have taken advice on that from the Clerks and I have consulted the movers of the amendments and the Government, all of whom support this approach. The Greens amendments will be dealt with in globo but discussed and voted on seriatim. Subject to the outcome of those amendments, the Opposition amendments will be dealt with. I thank all members for their cooperation in this orderly approach to these amendments.

**Mr DAVID SHOEBRIDGE (22:03):** By leave: I move The Greens amendments Nos 1 to 7 on sheet C2017-065 in globo:

No. 1 **Removal of provisions relating to local planning panels**

Page 2, clause 2 (2), line 8. Omit "Schedule 1 [4] and [11] and Schedule 3". Insert instead "Schedules 1 and 2".

No. 2 **Removal of provisions relating to local planning panels**

Page 3, Schedule 1, lines 3–11. Omit all words on those lines.

No. 3 **Removal of provisions relating to local planning panels**

Pages 3–6, Schedule 1, line 24 on page 3 to line 42 on page 6. Omit all words on those lines.

No. 4 **Removal of provisions relating to local planning panels**

Pages 7–11, Schedule 1, line 4 on page 7 to line 18 on page 11. Omit all words on those lines.

No. 5 **Removal of provisions relating to local planning panels**

Page 11, Schedule 1, lines 29 to 40. Omit all words on those lines.

No. 6 **Removal of provisions relating to local planning panels**

Page 12, Schedule 1, lines 1 to 14. Omit all words on those lines.

No. 7 **Removal of provisions relating to local planning panels**

Page 1, long title. Omit "local and".

I addressed the substance of these amendments in my contribution to debate on the second reading. These amendments together would strip from the bill all the provisions relating to planning powers and leave only that part of the bill that The Greens believe is supportable, that is, changes that will increase the powers of the New South Wales Electoral Commission and allow it to retrospectively police the provisions of the Local Government Act, providing that property developers are honest about being property developers on their nomination form. The

Greens do not believe that this undemocratic property industry-controlled set of planning panels is at all a step forward for New South Wales.

However, we see some modest merit in increasing the powers of the New South Wales Electoral Commissioner and the Electoral Commission. They can then retrospectively hold to account some of those crooks who falsely said that they were not property developers in their nomination forms in the 2016 election. As I said, they can have a close look at whether or not Doug Eaton is a property developer in light of the form that he has just filled in and lodged in which he says he is not a property developer. That Doug Eaton is not a property developer will be news to the residents of Wyong. That is the part of the bill that we can support. These amendments taken together sever those provisions of the bill that allow for local planning panels. We commend the amendments to the Committee.

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (22:06):** The Government opposes The Greens amendments in their entirety. If The Greens had their way, the vibrant communities we are creating through our record investment in infrastructure would be lost. These proposed amendments are seeking to gut the bill of the entirety of these historic reforms. This bill aims to stop the stain of corruption that has overshadowed local development for too long. The Greens ignore the fact that the Independent Commission Against Corruption [ICAC] recognised that panels with the right design features can be an improvement on the current framework for determining local development, given the high risk of corruption in this area. They ignore that councils have also recognised the benefits that panels can bring. For nearly 20 years councils have been using independent hearing and assessment panels [IHAPs] with great success. This is about looking at these benefits in the longer term and ensuring better planning outcomes for the citizens of New South Wales.

**The Hon. ADAM SEARLE (22:07):** The Opposition does not support The Greens amendments. We share the same objectives as The Greens of ridding the property industries' hold over local councils. We are also concerned about the proposed local planning panels. In cases where councils suffer maladministration or where there is an undue influence by property developers, we are worried that that malign influence will be concentrated in the creation of these local planning panels. That is why we proposed a suite of far-reaching and powerful amendments to address those concerns. I will not elaborate on them now. I will simply say that The Greens amendments, if carried, would prevent us from proposing significant improvements to strengthen the integrity of the proposed system and of local government in New South Wales. It is for those reasons—not because we do not share the same objectives but because we have different ways to arrive at that destination—that we will not support The Greens amendments.

**Mr DAVID SHOEBRIDGE (22:08):** The phrase "jumping the shark" is a fair description of the Minister's proposition that we will lose vibrant communities if The Greens amendments to not allow planning panels are agreed to. Is Leichhardt going to disappear because it does not get a planning panel? Will Bondi Junction cease to exist because it does not have a planning panel? I have heard some nonsense in my time but the idea that replacing the Sally Betts-controlled planning panel with a ministerial planning panel the likes of Bondi Junction will somehow be an improvement on the world is kind of laughable.

The Minister alleged that this is all "ICAC approved", but the Independent Commission Against Corruption previously made observations on ministerial appointments to the Planning Assessment Commission. The Minister can read the ICAC report in 2010 which I think was called "Taking the devil out of development". The ICAC said in relation to ministerial appointments to the Planning Assessment Commission that it was "corruption ready". The ICAC said that if the Planning Assessment Commission was to be given any integrity, the ability of the Minister to hire and fire its members needed to be seriously constrained and the subject of parliamentary oversight and tenure of commission members needed to be protected from the whims of the planning Minister. That is what the ICAC said about appointments to the Planning Assessment Commission, but none of those protections is being put in place for the planning panels.

When the Minister stands here and tries to lecture The Greens on anti-corruption measures, falsely asserting that the ICAC supports these reforms and having the Planning Minister as the ultimate authority to choose who is on planning panels, the Minister is not being truthful with the Parliament. The ICAC does not support this model, it does not support the Minister having the power to impose whoever the Minister wants on chairs of planning panels, and it has not given the stamp of authority to these amendments. These planning panels will put the property industry in charge of making planning decisions in New South Wales. The Opposition will move amendments to try to stop property developers being put on the planning panels. It will be fascinating to see whether the Coalition supports even those modest anti-corruption measures. I suspect it will not.

I suspect the Coalition will say, "Oh, no, property developers have a legitimate role in deciding development applications". We will wait and see the verbal gymnastics from the Minister when he tries to explain why it is a good idea to have property developers on the planning panels. That will be in the following debate.

The idea that it is an anti-corruption measure to have a bunch of people whose careers and livelihoods depend on getting money from property developers imposed on local communities, paid for by local councils and making decisions on planning matters is just plain laughable, and the argument from the Minister that this is supported by the ICAC is just plain false.

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** We are dealing with The Greens amendments Nos. 1 to 7 on sheet C2017-065 in globo. We will vote on them in seriatim as requested. The question is that The Greens amendment No. 1 on sheet C2017-065 be agreed to.

**Amendment negatived.**

**Mr DAVID SHOEBRIDGE (22:12):** On a point of procedure, The Greens are happy for our amendments to be put in job lots to the extent that they do not imperil Labor's amendments.

**The Hon. ADAM SEARLE (22:12):** I am also happy for them to be moved as a job lot so we can deal with them in one go.

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** I have received advice that we can vote on these amendments in globo. The question is that The Greens amendments Nos 2 to 7 on sheet C2017-065 be agreed to.

**Amendments negatived.**

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** We are now dealing with the omission of schedule 2 entitled "Removal of provisions relating to local planning panels." The question is that schedule 2 as read stand a schedule of the bill.

**Schedule as read agreed to.**

**The Hon. ADAM SEARLE (22:14):** I move Opposition amendment No. 1 on sheet C2017-063D:

No. 1 **Constitution of local planning panels required for all councils in State**

Page 4, Schedule 1 [5], proposed section 23J (1) and (2), lines 18 to 23. Omit all words on those lines. Insert instead:

(1) A council must constitute a single local planning panel for the whole of the area of the council.

This amendment would have the effect of regularising the scheme proposed by this bill, which proposes that local planning panels should exist in Greater Sydney and Wollongong, but not in Newcastle or Port Stephens which has had a controversial council, and not on the Far North Coast where the Tweed Shire Council was sacked at least once and its general manager removed from office on another occasion. There are many other examples that illustrate the issues that are said to give rise to the need for this legislation, and it should apply in the bush as much as in Greater Sydney. I do not understand why the Government wants to let The Nationals and its territory off the hook. If this bill introduces a great set of measures that combat corruption in local government decision-making of major development proposals, then those measures should apply across the State. That is why we move Opposition amendment No. 1.

I invite members to join us. We are not picking and choosing. We are creating a planning system for the whole State and the whole State should be subject to one regime. The argument may be that voluntary planning panels exist in some places, but the planning panels proposed in this bill are different to the ones that are existing voluntarily in some council areas. The most obvious difference is that this bill does not provide for decisions made by those planning panels to be changed; it is the consent authority. When councils voluntarily have Independent Hearing and Assessment Panels [IHAPs], ultimately they can overturn the decisions of the IHAP and make their own. That is perhaps unwise. Nevertheless, they have that reserve capacity, but under this legislation they will not. That is why we think there should be a uniform system for the whole State.

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (22:16):** The Government opposes Opposition amendment No. 1. Requiring all councils in New South Wales to have Independent Hearing and Assessment Panels would be grossly inefficient, particularly in smaller regional areas that do not have the volume or complexity of development to warrant the use of a panel. Forty-seven per cent of councils in New South Wales did not have one development application valued between $5 million and $20 million in 2014-15, which is the latest available data year. In addition, smaller regional councils would find it much more difficult to access experts who do not have a local conflict of interest or they would face the cost of flying in experts from elsewhere in the State. I am mindful of some of the arguments made by the Leader of the Opposition. Nevertheless, the Government does not believe it is appropriate to support its amendment.

**Mr DAVID SHOEBRIDGE (22:18):** The Greens do not support Opposition amendment No. 1, although we fully understand the rationale behind it. The argument is that what is good for councils in Sydney and Wollongong should be applied uniformly across New South Wales. When the Government says some councils have only one or two development applications [DAs] and a bunch of regional councils do not have any, we have to ask: Why is it not being applied to the Central Coast Council, the Newcastle City Council, Port Stephens Council, and all those coastal councils such Kiama Municipal Council where there are not only one or two developments being put forward but a whole raft of developments?

Why are they choosing to apply it politically only to Sydney and Wollongong? We have not heard an explanation from the Government about why it is trying to get a differential application for Sydney and Wollongong. Maybe it is because there was a discussion in the Coalition party room where The Nationals said, "Do not do this. We want elected representatives deciding planning decisions", but all the Liberal members of Parliament rolled over and had their bellies tickled by the Minister for Planning. Maybe that is what actually happened. I suspect that is what happened. We do not know because the Minister has not given us an explanation about why Wollongong is in—other than that they apparently asked to be in. Why will the State Government legislate to include Wollongong but not Newcastle? Why is the Sutherland shire in but not the Central Coast? This has not been explained. Why is Hawkesbury in but not Maitland? None of this has been explained.

The answer is that it is just another political hatchet job on those councils in Sydney that this Government has a real anger against. This Government loathes local councillors, treats them with contempt and despises the whole idea of local councillors. The Government comes to this place and says all local councillors are corrupt and that is why it has to take all the planning powers off them because it cannot control them. Yes, there are some rotten apples in local councils, but by and large local councillors in this State are good people, serving the community interest, elected by their local residents and responsible to their residents. Most residents would rather have a democratically elected councillor deciding their development application [DA] than some property type imposed upon them by the Minister for Planning.

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** The Hon. Adam Searle has moved Opposition amendment No. 1 on sheet C2017-063D. The question is that the amendment be agreed to.

**Amendment negatived**.

**The Hon. ADAM SEARLE (22:21):** By leave: I move Opposition amendments Nos 2 and 6 on sheet C2017-063D in globo:

No. 2 **Persons ineligible to be member of local planning panel**

Page 5, Schedule 1 [5], proposed section 23K. Insert after line 2:

(3) A person is not eligible to be a member of a local planning panel constituted by a council if the person is:

(a) a councillor of that or any other council, or

(b) a property developer within the meaning of section 96GB of the *Election Funding, Expenditure and Disclosures Act 1981*, or

**Note.** Section 96GB (1) of the *Election Funding, Expenditure and Disclosures Act 1981* provides that ***property developer*** includes a person who is a close associate of a property developer.

(c) a real estate agent within the meaning of the *Property, Stock and Business Agents Act 2002*.

No. 6 **Persons ineligible to be member of local planning panel**

Page 8, Schedule 1 [12], proposed Schedule 4B, clause 7 (1). Insert after line 33:

(h) becomes:

(i) a councillor of any council, or

(ii) a property developer within the meaning of section 96GB of the *Election Funding, Expenditure and Disclosures Act 1981*, or

**Note.** Section 96GB (1) of the *Election Funding, Expenditure and Disclosures Act 1981* provides that ***property developer*** includes a person who is a close associate of a property developer.

(iii) a real estate agent within the meaning of the *Property, Stock and Business Agents Act 2002*, or

The purpose of these amendments is to prevent persons who are property developers or real estate agents from being appointed to and participating in the deliberations of local planning panels. Labor has long campaigned to

rid local government of developers and real estate agents. We do not think they should take part in local government. They should not be elected to councils and they should not exercise the influence over decision-making in that sphere that they have in New South Wales. We will continue to fight on that terrain to clean up local government in this State.

If there are to be new local planning panels and if the stated aim of taking this step is to improve the quality of the decision-making and to reduce risks and opportunities for corruption, we should tackle this issue head on and make sure that in this new scheme there is no place for property developers or real estate agents in a decision-making role. People who fulfil those functions have important roles to play in our communities and in the economic development of localities. That is their role, to propose developments and to undertake those proposals and the risks associated with them, and to provide economic opportunities for those communities. It should not be their role to play a part in the decision-making on those matters or to carry influence on the decision-making process.

If this new scheme is to be enacted we say clearly there is no place for property developers and real estate agents in a decision-making role. These amendments also prevent councillors from sitting on these local planning panels. The legislation already says that a councillor for one council area cannot participate in the panel for their area, but there is nothing preventing councillors from sitting on local planning panels of neighbouring councils. One might say, "Who cares?" In local government, particularly where party loyalties have been weakened or not required, we have seen people working together across party and factional boundaries and not in the public interest. There has been vote trading, back scratching and the like. We do not think that is appropriate. It should be ruthlessly stamped out.

If we are to create a new scheme of approvals there must be no place for collusion and vote trading. For that reason we do not think councillors should be able to sit on local planning panels for not only their own areas but also other areas. I understand that councillors who have been in office for a while have developed lots of expertise and many useful skills. On one view you could say that it might be useful to deploy their skills in this process. It may, but it is not necessary. If it were necessary we would leave these decisions to councils. If we are taking the matter out of the hands of council even a councillor from another area is not needed as part of the decision-making body.

As I said, there is an ongoing corruption risk of a councillor from council A being put on the panel for council B and vice versa so everyone can help each other and their friends behind closed doors. That must not be allowed to happen. We have crafted and moved these amendments to try to rid council decision-making of corruption, particularly over major property development proposals. The amendments are intended to clean up this sphere and say that as we embark on this new scheme there is no place for that kind of corruption risk. I urge all members to join with the Opposition to take a firm stand against developers playing this role so we can close down corruption risks as much as we can.

**Mr DAVID SHOEBRIDGE (22:26):** The Greens support Opposition amendments Nos 2 and 6. It is clear that property developers should be excluded from planning panels. I cannot imagine an argument that says it is a good idea for a property developer to sit on a planning panel and make decisions about development applications by other property developers. Maybe the Government will have a novel reason. I wait to hear it. The Greens have a minor concern about the prohibition on councillors. But in the context of where we are in this debate with legislation that says a councillor cannot be on a planning panel for their area, there is genuine merit in the Opposition's argument that a councillor from a neighbouring council should not sit on their panel either because there might be a quid pro quo between adjoining councils.

That is not just a theoretical concern; many of us know it is already happing across borders in some council areas. It is the kind of corruption that is almost impossible to prove, prosecute and root out. The best way of doing that is to prevent it from happening in the first place so that councillor A cannot sit on council B's planning panel and councillor B cannot sit on council A's panel doing contra deals across council boundaries. For those reasons, The Greens support the Opposition's amendments Nos 2 and 6.

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (22:28):** Opposition amendment No. 2 deals with the constitution of local planning panels and adds an amendment. It also deals with the schedule providing for the removal from office of members. In addition, it adds words that will prevent councillors, property developers and real estate agents from being appointed to local planning panels. Opposition amendment No. 6 provides that there will be an automatic vacation of the office of a panel member who becomes a councillor or who starts a business as a property developer or a real estate agent. The Government does not oppose either amendment.

**The Hon. PAUL GREEN (22:29):** The Christian Democratic Party supports the Opposition's amendments and recommends them to members. It was great to take part in the negotiations to get the Minister on side. They are good amendments and the Government is wise in accepting them.

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** The Hon. Adam Searle has moved Opposition amendments Nos 2 and 6 on sheet C2017-63D. The question is that the amendments be agreed to.

**Amendments agreed to.**

**The Hon. ADAM SEARLE (22:30):** I move Opposition amendment No. 3 on sheet C2017-063D:

No. 3 **Local planning panel functions**

Page 5, Schedule 1 [5], proposed section 23L (1)–(3), lines 22 to 35. Omit all words on those lines. Insert instead:

(1) A local planning panel constituted by a council has the functions of the council as a consent authority under Part 4 in respect of the area for which the panel is constituted as provided by section 23I.

(2) Subsection (1) does not exclude a delegate of the council or a regional panel exercising functions as a consent authority under this Act.

This amendment deals with the fact that the local planning panels as proposed in the bill have a scope of functions much wider than the consent authority functions under part 4. The bill also provides that they will be able to exercise a wide range of administrative and financial functions dealing with section 94 plans, infrastructure arrangements and other matters that go to the heart of council finances and operations. That is far too broad. It would be appropriate to restrict the scope of local planning panels as proposed in Opposition amendment No. 3. I urge members to support the amendment.

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (22:31):** The Government opposes Opposition amendment No. 3. The passage of this amendment would mean that Independent Hearing and Assessment Panels [IHAPs] would be limited to only one function, that is, determining development applications. While the Government agrees that this will be a crucial role for IHAPs, it should not necessarily be their only role. Councils must be able to call on IHAPs to provide advice on whether to proceed with proposed zonings and other changes to the local environment plan.

The final decision about whether to proceed with a rezoning proposal will remain with the council, but the panel will provide independent expert advice on whether the rezoning has merit. In fact, ICAC advised that planning proposals should be a critical IHAP focus because rezoning proposals present a serious risk of corruption. The amendment would also remove the Minister's ability to make a direction as to which types of planning proposals must be referred to IHAPs. This direction power is necessary to ensure that the panels' time is not taken up with considering minor corrections and changes to local environment plans.

**Mr DAVID SHOEBRIDGE (22:32):** The Greens support the Opposition's amendment. We believe that expanding the role of these planning panels beyond the determination of development applications is further encroaching upon the powers that should be granted to democratically elected councillors. We believe in a democratic planning system, not one determined by a bunch of functionaries chosen by the Minister for Planning.

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** The Hon. Adam Searle has moved Opposition amendment No. 3 on sheet C2017-63D. The question is that the amendment be agreed to.

**Amendment negatived.**

**The Hon. ADAM SEARLE (22:34):** By leave: I move Opposition amendments Nos 4 and 10 on sheet C2017-063D in globo:

No. 4 **Panel members are "public officials" for purposes of ICAC Act**

Page 6, Schedule 1 [6], proposed section 23LA. Insert after line 21:

(8) For the avoidance of doubt, a member of a local planning panel is a public official for the purposes of the *Independent Commission Against Corruption Act 1988.*

No. 10 **ICAC reports**

Page 19. Insert after line 3:

**Schedule 6** **Amendment of Independent Commission Against Corruption Act 1988 No 35**

**Section 74C Reports relating to local government and planning authorities**

Insert "or of a local planning panel" after "joint regional planning panel" in section 74C (3C).

Both of these amendments, which touch on the Independent Commission Against Corruption [ICAC], are about improving the accountability of local planning panels and making sure that the measures we have in place to identify and prevent corruption apply to the series of bodies being created. There has been some debate about whether the definition of "public official" is sufficiently broad to encompass those persons who act as and on local planning panels. But as the status of those persons is not as elected councillors and they are not employees of the department or agency, we were sufficiently concerned that they might be in a grey zone. We would not want a situation at some future point in time, when there is an important investigation to allow allegations of corruption, where some ministrant drags ICAC back through the court system and for us to find there is another technical flaw in the ICAC legislation.

We have all lived through that movie before and none of us wants to revisit it—no sequels. Labor has proposed amendment No. 4 to put the matter far beyond doubt. In the bill as drafted, the only sanction against local planning panels was that members could be removed by the Minister if they were the subject of an adverse report under section 74C of the ICAC legislation. However, section 74C as presently constructed does not include local planning panels. It included joint regional planning panels and other bodies, but not this new body. Opposition amendment No. 10 cures that omission in the drafting. Together, these amendments will make sure that this State's anti-corruption body will have full supervision of local planning panels, which I am sure was the Government's intention. I am sure it is also the intention of all in this Chamber and the expectation of the community. Let us not let them down.

**Mr DAVID SHOEBRIDGE (22:36):** The Greens support Opposition amendments Nos 4 and 10. It may be that a member of a planning panel is a public official as defined in section 3 of the ICAC Act, which has a long and tortuous definition. Some of it has an internal reference to whether they are funded from a fund maintained by a public authority—I think one of those public authorities is a local government authority under the Act. It may be that the members of a planning panel are covered by that somewhat complicated, circuitous definition in section 3 of the ICAC Act, but equally it may not be. As the Leader of the Opposition said, do we really want to wait to have that tested in the Supreme Court? Do we really want to see months and months of ICAC's work, and eventually hundreds of thousands of dollars of public money, lost in the investigation and then wasted on pointless litigation when we can clear it up in an unambiguous fashion through this amendment? That is why The Greens support the amendments.

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (22:37):** The Government has no in-principle objection to either of the amendments.

**The Hon. PAUL GREEN (22:37):** On behalf of the Christian Democratic Party, I acknowledge that it was great to assist Labor in getting these very important amendments to the Minister. It was with real wisdom that the Minister took up the amendments, and we commend them to the Committee.

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** The Hon. Adam Searle has moved Opposition amendments Nos 4 and 10 on sheet C2017-063D. The question is that the amendments be agreed to.

**Amendments agreed to.**

**The Hon. ADAM SEARLE (22:38):** I move Opposition amendment No. 5 on sheet C2017-063D:

No. 5 **Costs of panels**

Page 6, Schedule 1 [6], lines 23 and 24. Omit all words on those lines. Insert instead:

Omit section 23O (3).

Insert instead:

(3) The Secretary is to pay, out of money legally available, the remuneration, costs and expenses of any local planning panel. When joint regional planning panels were created by the previous Labor Government to sit over the top of councils in respect of certain matters, one of the controversies was who would foot the bill. Not only did councils have to find meeting rooms but also they had to provide them with secretarial and other support staff. The planning staff of councils did the assessments but councils were also stuck with the bill for paying the sessional fees of the meetings. I understand that the same is likely to happen with local planning panels, that is, the onus will be on councils, because they are currently the consent authority, even though matters have been taken out of their hands into these new local planning panels. These new panels will have to be paid for by someone. They are going to be composed of experts, who do not come cheap, as well as other persons whose time will have to be paid for, to say nothing of all the logistical

and other supports that need to be provided. And of course the question is: Who pays?

My understanding is that it is expected that local councils will have to pay either out of their own resources or possibly from the fees paid by proponents for development. That might be fine with multimillion dollar proposals, because one of the triggers for local planning panels to have jurisdiction is that the proposal is worth in excess of $5 million. Of course the fees for that are not inconsiderable and may well cover the costs of local planning panels. But that is not the only trigger. There are multiple triggers, including where proposals are being made by spouses or relatives of State or Federal members of Parliament or councillors, past and present, or relatives of council staff. All of these are triggers that will lead matters to go to local planning panels and out of the hands of councils.

Another trigger will be that a proposal has more than 10 objectors. That means pretty much most carports, every childcare centre and every second storey on any house. There are many cases in which it is quite likely that matters that are not really in our mind as fitting within the new jurisdiction of local planning panels will actually result in these matters going to the local planning panel. And of course the development fees from them will not be in the multimillions of dollars. They will be in very small denominations indeed and will not cover the costs. We on this side do not want to see local councils ruined by this proposed new scheme and we think the Department of Planning and Environment is the appropriate place to find the resources. We are happy for the Government to give us assurances that resources will be provided otherwise but if not, we invite members to join with us and pass Opposition amendment No. 5.

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (22:41):** The Government opposes Opposition amendment No. 5. It is appropriate that councils meet the cost of panel operations. The panel will be part of the routine assessment and determination of local development. Fifteen councils in New South Wales are currently meeting the costs of their existing independent hearing and assessment panels [IHAPs]. The department works closely with those councils. I am advised that, to the best of its knowledge, none has raised any issues with the department about a cost burden. Some stakeholders have advised the department that using an IHAP has reduced the number of challenges to planning decisions. This has in fact saved councils money in legal bills. Councils will have the option of sharing a panel with neighbouring councils if they find this cheaper and more efficient. The department will meet the costs of establishing, recruiting and maintaining the pool of experts.

**Mr DAVID SHOEBRIDGE (22:42):** For years The Greens have been concerned about cost shifting onto local councils. Each year, Local Government NSW produces a detailed report on the extent to which cost shifting is happening where functions and requirements are imposed upon local councils without any matching funding from the State Government to meet those additional costs. The annual average additional cost being imposed on local government by the State Government is in the order of $300 million to $400 million. Meanwhile, local councils are rate capped and told that they cannot increase their rates over and above basic consumer price index [CPI] increases or whatever they can negotiate out of the Independent Pricing and Regulatory Tribunal [IPART]. If the State Government is putting yet another cost and burden on local councils, the State Government should pay for it. That is why we support the Opposition amendment.

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** The question is that Opposition amendment No. 5 on sheet C2017-063D be agreed to.

**Amendment negatived.**

**The Hon. ADAM SEARLE (22:44):** I move Opposition amendment No. 7 on sheet C2017-063D:

No. 7 **Panel meetings**

Page 9, Schedule 1 [12], proposed Schedule 4B, clause 13, lines 23 to 27. Omit all words on those lines. Insert instead:

**13 Meetings**

(1) A panel must give notice to the public of the times and places of its meetings.

(2) A panel must conduct its meetings in public.

(3) panel must make electronic recordings (whether audio and video or audio only) and the council must make those recordings publicly available on its website.

(4) A panel must give written reasons for its decision and the council must make those written reasons publicly available on its website.

This amendment deals with openness and transparency. Where IHAPs currently operate on a voluntary basis, feedback I have received from local councillors and local communities is that there is much greater acceptance and integrity of outcomes when the planning panel operates openly in public view, when it is open to public meetings and when the public knows where and when it will meet and what it will be doing. Given that the scheme

of the planning panels conceived of in this bill is to replace councils as a consent authority for many important matters—a much wider scope of matters than we would have preferred—we think this is appropriate.

One of the concerns we have been hearing from communities and councils and other stakeholders in respect to the bill, as originally conceived by the Government, was the fear that these new panels would operate in secret—out of the public view, with people not knowing what was going on inside them—and there was a lot of fear and mistrust that this would lead to collusion, cosy deals and outcomes that are not in the public interest. So we propose amendment No. 7 to ensure that such fears or concerns are unfounded and that, just as a council does, these new planning panels operate in the full glare of sunlight, with their deliberations open, seen and recorded. That is very important.

Just as a council has to be seen and recorded so people can see what they are doing while they are doing it, so too these panels should have the same standards of openness and accountability—perhaps even higher—because this is an innovation in development approvals and in other decision-making areas. It would be a bad thing and not in the public interest if these panels were to be left with even the possibility of operating in secret or in the shadows. We urge all members to join with us in adopting these measures designed to improve openness and transparency in the new scheme.

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (22:46):** Having reviewed this amendment, the Government has absolutely no objection at all to it being passed.

**Mr DAVID SHOEBRIDGE (22:46):** The Greens support this amendment. If we are going to have planning panels, they have to operate with some openness and, to that extent, the Opposition amendments make sense.

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** The question is that Opposition amendment No. 7 on sheet C2017-063D be agreed to.

**Amendment agreed to.**

**The Hon. ADAM SEARLE (22:47):** By leave: I move Opposition amendments Nos 8 and 9 on sheet C2017-063D in globo:

No. 8 **Pecuniary interests**

Page 10, Schedule 1 [12], proposed Schedule 4B, clause 15 (6), line 47. Omit ", unless the Minister or the panel otherwise determines".

No. 9 **Pecuniary interests**

Page 11, Schedule 1 [12], proposed Schedule 4B, clause 15 (7), lines 4 to 9. Omit all words on those lines.

These amendments deal with the pecuniary interests of local planning panel members. In the bill as it currently stands, where a panel member has a pecuniary interest or a conflict of interest, they are supposed to identify it and disclose it. The bill currently enables the balance of the panel to, as it were, excuse them and to allow them to continue in the deliberation and decision-making process, or for the Minister to excuse them and allow them to continue in the decision-making role. It is not entirely dissimilar to provisions in the Local Government Act relating to councillors. However, councillors are elected.

They come from local communities, they are embedded in local communities, they live cheek by jowl in the same villages and streets as the people they serve, their children go to the same schools, and they shop in the same shops. They are subject to a range of formal and informal accountabilities by being part and parcel of those communities. This will not apply to most, if not all, of the local planning panel members. Therefore, we say if the Government is going to go down this road of taking these roles and functions away from local councils by creating new bodies to make development decisions as well as other important decisions, let us go the extra step and make sure that where these interests arise, they are not excused and those persons who are affected by those interests do not participate in the panel process. This will give the public confidence in the outcomes of deliberations of these new bodies.

**Mr DAVID SHOEBRIDGE (22:49):** The Greens support the Labor Opposition's amendments Nos 8 and 9. Where a member of a planning panel—who is not elected but is chosen by the Minister or is plucked out of obscurity by the council—has disclosed a pecuniary interest in any matter, then The Greens believe that that member of the panel must not take part in any deliberation or decision of the planning panel. As the legislation currently stands, a panel member might just step out of the planning panel while the other three members of the planning panel gather together and say, "Actually, we like Bob so we will let him continue on." We find the idea strange that such a provision would be in a bill designed to end corruption. If somebody on a planning panel has a pecuniary interest, they should leave the chamber where deliberations are taking place and not be within sight

of the chamber or take part in any matter in which they have a pecuniary interest. They should not be able to be excused and continue to sit at the whim of the Minister or at the whim of a majority of the remaining panel members.

**The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (22:51):** I am pleased to advise the House that we have looked carefully at these amendments and have found absolutely no reason to oppose them.

**The Hon. PAUL GREEN (22:51):** As I noted in my contribution to the second reading debate, I think these amendments form a strategic part of the transparency of the development application process. I believe the development application process must be transparent so that members of the public are aware of the interests of all those involved in it. I commend the Government for accepting these amendments. The Christian Democratic Party supports these amendments.

**The Hon. MATTHEW MASON-COX (22:51):** I particularly congratulate the Minister and his office for acceding to some of these amendments. I think these amendments improve the bill and I commend members for their cooperation in the passage of this legislation.

**The TEMPORARY CHAIR (The Hon. Shayne Mallard):** The question is that Opposition amendments Nos 8 and 9 be agreed to.

**Amendments agreed to.**

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

**Motion agreed to.**

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

That the Chair do now leave the chair and report the bill with amendments.

**Motion agreed to.**

**Adoption of Report**

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

That the report be now adopted.

**Motion agreed to.**

**Third Reading**

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

That this bill be now read a third time.

**Motion agreed to.**

*Adjournment Debate*

**ADJOURNMENT**

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

That this House do now adjourn.

**LOCAL GOVERNMENT AMALGAMATIONS**

**The Hon. PETER PRIMROSE (22:54):** When Premier Berejiklian recently announced that the Government was not proceeding at this time with the forced mergers of 14 councils in Sydney, she stated repeatedly that she still supported the forced mergers but had been forced to back off only because of the successful legal actions brought by the councils. She blamed the flawed implementation of the forced merger process, not the policy itself. It has been a total dog's breakfast, but one should not think that the mess has gone away because at no point has Premier Berejiklian stated that the Government has abandoned its policy of forced mergers. The threat is still very real.

Right from the very beginning, the Baird Government made it clear that the forced mergers it announced in December 2015 were simply phase one. There was going to be a phase two involving forcibly merging local councils that to date had not been threatened and whose residents assume they are safe from such an intervention. We can only speculate that one of the reasons that the Government is still fighting so hard to keep its $400,000 KPMG report on forced mergers a secret is because it contains lists of councils to be merged in phase

two. Otherwise, given the scathing criticism of the Government by the New South Wales Court of Appeal in the Ku-ring-gai case for keeping this document a secret, there seems no other logical reason for the Premier's refusal to make it public. That is one reason why I am pursuing this matter at the moment in the NSW Civil and Administrative Tribunal.

However, it is very clear that the New South Wales Liberals and Nationals are doing their absolute best to purge as many as they can of those councillors who opposed their forced mergers from their council positions at the forthcoming council elections. I can only say to local residents that if their Liberal or Nationals council candidates—or as we have seen in Ryde supposedly Independent candidates—were not prepared to condemn forced council mergers before the election, they should not expect them to do so when Premier Berejiklian and Deputy Premier Barilaro come after their councils as part of phase two. If elected, those councillors will just be wolves in sheep's clothing. Take it from a Liberal Party member who was quoted in Monday's *Sydney Morning Herald* as saying:

> The Liberal Party knows it is on the nose and is setting up phoney independents to fool voters into getting [mergers] through.

Add to this now the absurd and possibly illegal situation where administrators have nominated to stand for election for the very councils they have been paid to administer. Those administrators were appointed by the Liberal-Nationals Government in May 2016 to act as local dictators, receiving hefty salaries paid for by the council and having sole access to all of councils' resources. They also have had additional government funding of between $10 million and $15 million to use as they wished at their sole discretion. I have no concerns with this except if it can now clearly be viewed as public funds having been used as a campaign tool. Such a circumstance could be held to be conducive to corruption. Now after nearly 18 months of government-sponsored largesse, we are now supposed to believe that a level playing field exists between these administrators and other candidates contesting the council elections. A blatant example is administrator Tim Overall. He has had an 18-months head start to the campaign, having been appointed as administrator.

This position becomes even more absurd, especially as the administrator, Mr Overall, set up a website as a way to communicate what is happening in Queanbeyan-Palerang. This website was publicly online from early June 2017 and details issues that Mr Overall, as the administrator, was involved with at the time. This same website has now become a hub for Mr Overall's campaign for council, including providing a mechanism for electors to contact him. Given this website provides information about what he is doing as administrator of the Queanbeyan-Palerang Regional Council, at the very least this clearly shows poor judgement in there being no clear delineation between his role as administrator and as someone now seeking election. It will be up to the Electoral Commission initially to decide, but some are holding that this seems to be a clear breach of section 275 (2) of the Local Government Act. The Minister and the Premier should take appropriate action.

## PIG DOGGING

**The Hon. MARK PEARSON (22:59):** Pig dogging, a sport of bloodlust, is a barbaric practice in which specially bred dogs are forced to hunt wild pigs. Pig dogging, or dogging as it is generally known, represents a growing pastime based on the cruellest and most brutal form of hunting in Australia. In fact, it is the only form of legal hunting in Australia that sets one animal against another, resulting in immense suffering and distress to both the dog and the pig. In addition to its barbarity, it also has a range of associated social, biosecurity, human safety, and ecological issues.

For the purpose of explanation, many in the House may not be aware of the true reality of pig dogging. In simple terms, pig dogging involves the tracking, bailing, pinning, and mauling of wild pigs by specially blooded pig dogs. Suffering and death is the name of the game and both dog and pig are the victims. Spare a thought for the immeasurable suffering of the pigs. In their struggle to escape, terrified pigs are savaged and may even be mauled to death if not found quickly by the human hunter. The standard method of death is by sticking, which is when a hunter stabs into the stomach or chest to puncture the pig's heart before leaving it to bleed out.

The bloodthirsty hunts cover large areas and it is difficult for hunters to maintain contact with their dogs. Pigs are often mauled for long periods and often die a slow lingering death before the humans reach the victim. This is in clear breach of current animal cruelty laws and regulations. It has even been seen that in many cases hunters actually encourage their dogs to maul the pigs. The practice was documented on a special ABC *7.30* report in 2012 and is something that even pig doggers themselves admit is commonplace. Members may be aware of my travels across regional and rural areas of New South Wales. These trips are vital in listening to the members of the public who feel they are not being listened to or are too scared to speak up about this rampant animal cruelty in their communities.

A common concern expressed to me is about the issue of injured and abandoned pig dogs. Dogs that are mauled and mutilated by the defensive acts of terrified pigs are often abandoned or left to suffer due to hunters not wanting to pay the veterinarian bill. Some dogs are merely dumped at pounds because they do not show the

killer instinct. The even unluckier ones who do not get dumped or re-homed are brutally killed or used as bait for blooding other dogs. Hunters who use pig dogging claim that they are attempting to control pig populations, despite the fact that hunting is not a successful method of animal control. In addition, there have been many reports of hunters releasing pigs into national parks to increase the geographic spread of pigs for hunting. They also purposely do not take small pigs or sows, thus ensuring sport for future seasons. The fact is that this is about killing animals for sport, not for population control.

A 2009 critique by the Invasive Species Council of Australia debunked the claim that hunters are conservationists. In reality, hunters have created a sport based on suffering, cruelty, and death. It has also spawned an industry in dog breeding and trading as well as commercial accessories such as GPS trackers, protective collars, jackets, and breastplates. Pig dogging is the worst form of hunting and goes largely unchecked and unregulated. It often involves people who may have criminal records and therefore cannot obtain a gun licence to hunt. It involves a pack-hunting mentality. I have had many reports to my office of alcohol and drug weekend sprees by pig doggers looking for a cheap thrill at the expense of innocent animals. Furthermore, children are often present on pig dogging hunts, and the lasting effects on them from witnessing this violence firsthand are extremely worrying. What I and many people find most disturbing is that in 2017 pig dogging remains legal in New South Wales. I put to this House that by its very brutal nature it is impossible to participate in this form of hunting without compromising the provisions of the Prevention of Cruelty to Animals Act 1979.

## NATIONAL ELECTRICITY MARKET SECURITY

**The Hon. SHAYNE MALLARD (23:04):** Last night I was pleased to moderate an event held at Parliament House that was hosted and organised by the Conservatives for Conservation. The event involved the Finkel review and focused on renewables in the economy. Conservatives for Conservation [C4C] is a not-for-profit organisation that promotes discussion, and devises and showcases ideas surrounding one of the greatest and important challenges faced globally today, that of the environment. I was very pleased to see the creation of the C4C organisation in recent months. I congratulate Conservatives for Conservation, its chair Kristina Photios and deputy chair Patrice Pandeleos on their hard work in organising this successful event. I acknowledge in attendance last night Conservatives for Conservation ambassadors the former Federal Minister Phillip Ruddock and former Environment Minister and member of this Chamber Robyn Parker.

Conservation has historically been a conservative calling. The conservation of our environment, natural resources, water, land, soil, animals and flora was historically the domain of right of centre politicians and governments. The national parks movements were born of conservative governments. The event last night was held in the theatrette. It had a fantastic panel representing a range of views regarding the future of Australia's energy policy. The panel included Martin Hablutzel, the head of strategy for Siemens which is one of the world's largest providers of energy-efficient and resource-efficient technologies; Tim Nelson, the Chief Economist at Australian Gas Light [AGL] Energy; Amanda McKenzie, the Chief Executive Officer of the Climate Council, which is a well-known, not-for-profit organisation in that space; and Simon Currie, the Global Head of Energy at Norton Rose Fulbright.

It was a very diverse panel that generated a stimulating debate about the Finkel report. I also acknowledge the audience of about 90 people that engaged in a question and answer session with the panel and which greatly contributed to the quality of the discussion last night. The release of the Finkel review in June this year prompted fierce debate regarding which direction Australia should go in terms of its energy policy for the future. In his open letter to the Prime Minister and the Premiers, Professor Alan Finkel asks:

> Imagine a world without electricity. Nearly two centuries of enterprise, health and entertainment would be wiped out.

One of the key pillars of Australia's economic prosperity over the past century or so has been our access to abundant and cheap electricity. This has been achieved largely on the back of cheap coal mined and supplied to Government coal-powered generators in the past. However, Australia's electricity sector is in transition today. It is at a critical turning point. Uncertainty around emissions reduction policies continues to drive up prices. Finkel aims to remove this uncertainty with an orderly transition to improve reliability. The Finkel review focuses on four key outcomes for the national electricity market: increased security, future reliability, rewarding consumers, and lower emissions.

The report also makes recommendations regarding a clean energy target, a notice of closures for generators and a register of expected generator closures to assist with long-term investor planning for our energy future. Stabilising energy supply and prices has become an urgent political imperative attracting the attention of the Prime Minister, Premiers, energy Ministers and of course Oppositions across the nation. Although the Federal Government has committed to 49 of the 50 recommendations of the Finkel review, it remains divided over the clean emissions target [CET]. The CET has been described as a "magic pudding", "a tax on coal" and "green theology" by certain conservatives. What we need is certainty around current and future emissions reductions

policies. Today, despite much debate surrounding the need for a new coal-fired power plant to take pressure off electricity prices, the senior energy executives have signalled to the Prime Minister that:

> …they are not interested in prolonging the life of coal plants.

And they are:

> …interested in running businesses that were intent on reducing their climate risk.

Those quotes are from an article in today's *Guardian*. The Government remains committed to a reliable and secure energy policy. Minister Don Harwin stated that it is time to end what can be referred to as a culture war and let economics and engineering guide the future of energy. We just want clean, reliable and affordable energy. Once again, I congratulate Conservatives for Conservation on hosting their event on the Finkel review last night and thank the fantastic panellists for their participation.

## MURRAY-DARLING BASIN PLAN INQUIRY

**The Hon. DANIEL MOOKHEY (23:09):** Anyone who saw the *Four Corners* program's exposé of systemic, organised water theft from the Murray-Darling would empathise with the feeling of betrayal felt across all of Far West New South Wales. The program revealed that senior leadership of the Department of Primary Industries—Water secretly plotted walking away from the Murray-Darling Basin Plan with hand-picked irrigators; DPI Water leaders offered irrigator lobbyists access to highly confidential internal DPI documents to use in a joint campaign against the Murray-Darling Basin Plan; DPI leaders allegedly ignored widespread meter tampering amongst irrigators after being told about it by the DPI's own investigators; and the DPI disbanded the special investigations unit that was set up to investigate water crimes despite a series of scathing reports about water theft in the Barwon-Darling.

For every resident of Broken Hill city and the Lower Darling communities who remembers having to drink yellow water during the drought, for every farmer and every honest irrigator who remembers having to plead with the banks to refinance their loans during the embargo, and for every community throughout the Murray-Darling Basin that recalls the fraught, gut-wrenching, painstaking negotiations that led to the creation of the Murray-Darling Basin Plan, watching the *Four Corners* program must have been a slap in the face. They were told repeatedly to trust DPI's "rigorous" water enforcement and that they could trust DPI's "impartiality". They then heard that DPI Water's most senior leader offered highly sensitive documents to hand-picked irrigators for them to use to undermine the plan they were compelled by law to follow. They are entitled to their anger, and they are entitled to answers.

Since the program went to air nearly three weeks ago, the Premier and the relevant Ministers have had multiple opportunities to honour the Far West's clamour for truthful information. They could have answered basic questions, such as whether or not the Minister was aware that his predecessor allegedly told irrigators to ignore the legally enforceable embargo then in place on the Darling, when the Minister became aware that irrigators were tampering with water gauges, whether the Minister knew about Gavin Hanlon's secret meetings with irrigators, and whether the Minister considers it appropriate to supply confidential government documents to lobbyists working for irrigators. The media has been asking these questions and so has the Opposition. In this Parliament, more than 15 questions without notice have been asked on behalf of Far West New South Wales. In reply, all we have heard is that a departmental review is underway and that Parliament should stay quiescent until it concludes its work.

This is why Far West communities are cynical about this flop of an inquiry. A departmental review is conducted in secret—no public hearings, no opportunity for cross-examination. A departmental review cannot order the production of documents, nor does it criminalise the destruction of documents. No irrigator can have their records subpoenaed by the departmental inquiry established by the Minister. A departmental inquiry has no power to order witnesses to turn up and provide evidence under oath. No irrigator—certainly not any of the irrigators who participated in the secret teleconferences with Mr Hanlon—can be compelled to provide evidence about what was said under oath. If the Government wanted a limited inquiry with limited powers that would provide a sop to its critics but would roam no further, it could not have picked a more toothless tiger than this departmental inquiry.

The only body with enough powers to get the truth is a special commission of inquiry, with an independent chair with the power to compel witnesses and order the production of documents from the department, the Minister, his officials and, most importantly, the northern irrigators, especially those known to have engaged in water theft. This type of body has been used by the Government to get to the bottom of the greyhound scandals. If it was good enough to handle that mission, it is good enough to get answers for the Far West community of New South Wales. I have no expectation that the Government will heed this call, so I finish with some obvious truths. The Murray-Darling Basin Plan is far from perfect, but it remains a better system for managing the river

conflicts involving three States and the Commonwealth that have plagued Australia since colonisation. The plan ultimately relies on trust: communities trusting each other to respect the spirit of the bargain. The conduct revealed on *Four Corners* is a cancer that undermines that trust, and it must be dealt with immediately.

## PUBLIC SAFETY LAWS

**Mr DAVID SHOEBRIDGE (23:14):** I know I am not alone in this place in feeling a sense of deja vu about this Government rushing through this week's Orwellian public safety bill. We have seen previous public safety bills in this place. In 2016 the same name applied to a tranche of bikie laws that stripped back the right to assemble and gave police seriously expanded powers that have not done much to address bikie gangs or improve public safety in the State. Time after time we have seen legislation that supposedly needed to be rushed through this place without any adequate scrutiny. On 21 June this year, the Premier pushed a bill through both Houses that authorised police to shoot and kill anyone at a declared terrorist incident, whether that person was an active threat or a hostage or a bystander. That legislation passed in this Chamber while it was still warm from the photocopier.

It is interesting to note how often those laws that suddenly need to be put in place and rushed through without the usual scrutiny of Parliament are, first, always about extending police powers and, secondly, guaranteeing a front-page story in the *Daily Telegraph* or a lead story for a shock jock on Sydney radio. Those bills also have unintended consequences. The Government rushed through tattoo industry legislation in 2012, putting the industry under police regulation, and it has spent the past five years amending it almost a dozen times to make it work. That is why when we get rid of this Premier and this Government—and we will—we will desperately need a liberty restoration bill to restore all the essential liberties that this Government has spent the past six years chipping away. The liberty restoration bill will be a long bill because there is so much ground to make up.

In 2012, the Liberal-Nationals consorting laws criminalised association in this State rather than criminalising criminal activity. In 2013, the Government gave police new powers to undertake additional searches without warrants. In 2013, they also savaged the right to silence, which is a century-old protection that this Government trashed in an afternoon. In 2013, we became the first jurisdiction in the country to allow the definite extension of detention of offenders, even after they have completed their full sentence as determined by a judge. In 2014, the Liberal-Nationals extended the scope for the error-ridden police drug dog searches by allowing searches across the entire public transport system. That extension has been an unmitigated disaster, with false positive rates in the order of 80 per cent in that part of the police drug dog scheme.

In 2014, the Government also changed the bail laws to require people to show cause, otherwise they would be locked up awaiting trial. It essentially removed the presumption of innocence, which is a key part of the criminal justice system, and our prison population skyrocketed to the point that almost $4 billion is being earmarked to build new prisons. In 2016, the hugely unpopular decisions like WestConnex, new coalmines and coal seam gas projects coincided with more unprecedented attacks on the right to protest. These latest public safety laws are a serious attack on homeless people. Let's face it, they will just be moved from one public space to another. These laws will also represent a serious threat to the right to protest. They mean that any protest in Martin Place or any part of the City of Sydney that the Minister chooses must be authorised by police, otherwise the police can shut it down, move people on and confiscate their property.

Prior to this bill, we did not need police approval to protest in the city. Freedom of assembly should mean just that. Limitations to only police-approved protests belong in Singapore and other suppressive states, not in New South Wales. The Knitting Nannas pop up in Martin Place every week or so spreading their peaceful and cheerful message about protecting our land, but those Knitting Nannas could be arrested and moved on under the powers that have been passed by this Parliament. Time after time this Government has eroded our civil liberties, and each time The Greens have opposed those attacks. The liberty restoration bill will be one hell of a piece of legislation, but it is essential if we are to ensure that this State has a future as a modern and liberal democracy.

## COUNTRY WOMEN'S ASSOCIATION

**The Hon. BRONNIE TAYLOR (23:19):** Since becoming a member of this place, I have been privileged to deal closely with a number of organisations that are at the heart of many regional and rural communities. When I married and moved to the country I became part of a community, which I had not really experienced before. There is something unique about how country communities operate—probably bred out of the isolation and the challenges. Strong and passionate people get involved in organisations and pour their time and energy into making things better for everybody. Footy clubs, netball clubs, fire brigades, progress associations, Rotary and Lions clubs, church committees, parents and citizens associations—all of these groups make living in the country what it is.

One of the organisations that I have become more involved with is the Country Women's Association [CWA]. It obviously has its challenges. It has been dealing with the realities of an ageing membership and the restrictions of its public identity—in some ways limited to the ladies with tea and scones. We also know that the CWA is on the pulse of country communities. As my husband, Duncan, told me, if you want to get something done, get the CWA onto it. Regional New South Wales is run by formidable women, and the CWA has a very large collection of them.

On 22 May this year, I was honoured to speak at the opening ceremony of the CWA 2017 Conference. Arriving at the Mingara Recreation Club at Tumbi Umbi, I was blown away by the excitement in the air and the busloads of women pouring in—800 women from branches across New South Wales. From the first minute, one could tell how much that organisation meant to every one of them. They had days of conferencing, with plenty of debate on their motions as well as recognition of skills and attention for their extensive fundraising and charity work. With President Annette Turner and Chief Executive Officer [CEO] Danica Leys, they seem to be moving into a whole new gear.

I certainly have my disagreements with the CWA, but I appreciate it is having the conversations in its communities and is then willing to have the sensible and frank conversations with us. Its social committees have a range of priorities, such as equity of access to services in rural, remote and regional areas, including education, palliative care and telecommunications; regional development and jobs; gender equity, including maintenance of access to women's health services; and awareness campaigning on the causes and effects of domestic violence. These are all issues close to my heart.

Communications in particular is an issue that is a constant across regional, rural and remote New South Wales. The range of issues is immense and the responsibility does not lie with anyone in particular. To be frank, it can be a little overwhelming. I am proud of what we have achieved in this space already whilst acknowledging that there is an enormous amount still to be done. The New South Wales Government has partnered with the Federal Government to deliver the Mobile Black Spot Program. There is still more to come but the progress in that space is fantastic. Between the Hon. John Barilaro and the Hon. Fiona Nash you could not ask for more passionate, country-minded representatives to be driving the program. In partnership with the Federal Government, we will deliver 174 towers to improve coverage.

We are also rolling out the Connecting Country Schools Program and a $46 million upgrade to wireless connectivity for country schools. On Monday I was at Cooma North Public, where we announced that it was a part of the next stage of the program. It was terrific to be there and to feel how excited the school community was about this opportunity. We can lose sight of the fact that these fancy-sounding programs actually deliver real, tangible benefits on the ground. For these kids, it means being able to connect to their online programs reliably and quickly. People in the city might take it for granted, but imagine the poor teachers trying to plan classes when they are not sure whether it will take two minutes or 20 minutes to connect to the internet—if it is working at all.

I am proud that we are delivering these practical solutions for our communities and, in the process, are making a real contribution to the education of our kids. It is all thanks to the Hon. Adrian Piccoli—The Nationals former education Minister, who recognised that country kids deserve the same opportunities as city kids and who put the policies and funding in place to ensure they receive them. Those schools have been getting on with the job while they have struggled with their connectivity. But like all country people, they just get on with things—in situations that people in Sydney would not believe could happen in Australia. Recently I convened a regional communications forum with community representatives, including the CWA, government and industry. [*Time expired.*]

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

**Motion agreed to**.

**The House adjourned at 23:24 until Thursday 10 August 2017 at 10:00.**