New South Wales

Legislative Council

PARLIAMENTARY DEBATES
(HANSARD)

Fifty-Sixth Parliament
First Session

Tuesday, 14 November 2017

Authorised by the Parliament of New South Wales

TABLE OF CONTENTS

TABLE OF CONTENTS—*continuing*

TABLE OF CONTENTS—*continuing*

LEGISLATIVE COUNCIL

Tuesday, 14 November 2017

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

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

Bills

HEALTH PRACTITIONER REGULATION AMENDMENT BILL 2017

ABORIGINAL LANGUAGES BILL 2017

FAIR TRADING AMENDMENT (TICKET SCALPING AND GIFT CARDS) BILL 2017

CRIMES (SENTENCING PROCEDURE) AMENDMENT (SENTENCING OPTIONS) BILL 2017

CRIMES (HIGH RISK OFFENDERS) AMENDMENT BILL 2017

JUSTICE LEGISLATION AMENDMENT (COMMITTALS AND GUILTY PLEAS) BILL 2017

FISHERIES MANAGEMENT AMENDMENT (ABORIGINAL FISHING) BILL 2017

PAROLE LEGISLATION AMENDMENT BILL 2017

Assent

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

Governor

ADMINISTRATION OF THE GOVERNMENT

The PRESIDENT: I report receipt of the following message from the Hon. Justice Margaret Beazley, AO, Administrator of the State:

GOVERNMENT HOUSE
SYDNEY

Margaret Beazley
ADMINISTRATOR

The Honourable Justice Margaret Beazley, AO, Administrator of the State of New South Wales, has the honour to inform the Legislative Council that, consequent on the Governor of New South Wales, His Excellency General The Honourable David Hurley, AC, DSC (Ret'd), having assumed the administration of the Government of the Commonwealth, she has assumed the administration of the Government of the State.

Tuesday, 24 October 2017

ADMINISTRATION OF THE GOVERNMENT

The PRESIDENT: I report receipt of the following message from the Hon. Thomas Frederick Bathurst, AC, Lieutenant-Governor:

GOVERNMENT HOUSE
SYDNEY

T Bathurst
LIEUTENANT-GOVERNOR

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

Wednesday, 25 October 2017

ADMINISTRATION OF THE GOVERNMENT

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

GOVERNMENT HOUSE
SYDNEY

David Hurley
GOVERNOR

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

Friday, 27 October 2017

ADMINISTRATION OF THE GOVERNMENT

The PRESIDENT: I report receipt of the following message from the Hon. Thomas Frederick Bathurst, AC, Lieutenant-Governor:

GOVERNMENT HOUSE
SYDNEY

T Bathurst
LIEUTENANT-GOVERNOR

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

Friday, 3 November 2017

ADMINISTRATION OF THE GOVERNMENT

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

GOVERNMENT HOUSE
SYDNEY

David Hurley
GOVERNOR

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

Saturday, 4 November 2017

Documents

ADVOCATE FOR CHILDREN AND YOUNG PEOPLE

Reports

The PRESIDENT: According to the Advocate for Children and Young People Act 2014, I table the annual report of the Advocate for Children and Young People for the year ended 30 June 2017, received out of session and authorised to be made public on 20 October 2017.

The Hon. DON HARWIN: I move:

That the report be printed.

Motion agreed to.

OFFICE OF THE CHILDREN'S GUARDIAN

Reports

The PRESIDENT: According to the Children and Young Persons (Care and Protection) Act 1998, I table the annual report of the Children's Guardian for the year ended 30 June 2017, received out of session and authorised to be made public on 20 October 2017.

The Hon. DON HARWIN: I move:

That the report be printed.

Motion agreed to.

NSW OMBUDSMAN

Reports

The PRESIDENT: According to the Ombudsman Act 1974, I table the annual report of the Acting Ombudsman for the year ended 30 June 2017, received out of session and authorised to be made public on 20 October 2017.

The Hon. DON HARWIN: I move:

That the report be printed.

Motion agreed to.

NSW CHILD DEATH REVIEW TEAM

Reports

The PRESIDENT: According to the Community Services (Complaints, Reviews and Monitoring) Act 1993, I table the annual report of the NSW Child Death Review Team for 2017, received out of session and authorised to be made public on 20 October 2017.

The Hon. DON HARWIN: I move:

That the report be printed.

Motion agreed to.

INFORMATION AND PRIVACY COMMISSION

Reports

The PRESIDENT: According to the Government Information (Information Commissioner) Act 2009, the Privacy and Personal Information Protection Act 1998 and the Annual Reports (Departments) Act 1985, I table the annual report of the Information and Privacy Commission for the year ended 30 June 2017, received out of session and authorised to be made public on 20 October 2017.

The Hon. DON HARWIN: I move:

That the report be printed.

Motion agreed to.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Reports

The PRESIDENT: In accordance with the Independent Commission Against Corruption Act 1988, I table the annual report of the Independent Commission Against Corruption for the year ended 30 June2017, received out of session and authorised to be made public on 20 October 2017.

The Hon. DON HARWIN: I move:

That the report be printed.

Motion agreed to.

LAW ENFORCEMENT CONDUCT COMMISSION

Reports

The PRESIDENT: According to the Law Enforcement Conduct Commission Act 2016, I table the annual report of the Law Enforcement Conduct Commission for the year ended 30 June 2017, received out of session and authorised to be made public on 20 October 2017.

The Hon. DON HARWIN: I move:

That the report be printed.

Motion agreed to.

DOMESTIC VIOLENCE DEATH REVIEW TEAM

Reports

The PRESIDENT: According to the Coroners Act 2009, I table a report of the Domestic Violence Death Review Team for the period July 2015 to June 2017, received out of session and authorised to be made public on 3 November 2017.

The Hon. DON HARWIN: I move:

That the document be printed.

Motion agreed to.

Commemorations

CENTENARY OF FIRST WORLD WAR

The PRESIDENT (14:34): On 31 October 1917, 100 years ago, Forces of the British Empire were contesting the Ottoman city of Beersheba, the eastern-most fortification in a defensive line stretching 43 kilometres to the Turkish bastion of Gaza on the Mediterranean coast. Over the course of the day, British infantry divisions, in cooperation with the mounted Anzac Forces, seized the outermost defensive positions of Beersheba but were unsuccessful in fully overcoming the Ottoman defences. As the evening approached, water supplies for the Allied troops and horses became critically low. This meant the capture of Beersheba and its water supplies was imperative. At dusk on 31 October the Australian Mounted Division's 4th and 12th Light Horse Regiments under the leadership of Brigadier General William Grant charged the Ottoman defences.

Famously, General Grant gave the order personally to the 12th Light Horse Regiment, "Men, you're fighting for water. There's no water between this side of Beersheba and Sani. Use your bayonets as swords. I wish you the best of luck." The Light Horse moved to their positions on high ground overlooking the east of Beersheba and at once swept down over the gentle open slope towards the city. The shock and speed of the mounted charge shattered the Ottoman defences at contact. Thirty-one light horsemen were killed in the charge with a further 36 wounded. At least 70 horses perished. Lest we forget.

Motions

DEMENTIA PREVENTION PROGRAMS

The Hon. ERNEST WONG (14:37): I seek leave to amend Private Members Business Item No. 1700 outside the Order of Precedence by omitting "by investing in" in paragraph (l) and inserting instead "with".

Leave granted.

Accordingly, I move:

(1) That this House notes that:

(a) there are more than 413,106 Australians living with dementia, 184,868 or 45 per cent of whom are males and 228,238 or 55 per cent of whom are females as indicated in the last census, and that by 2025, the number of people with dementia is expected to increase to 536,164;

(b) dementia including Alzheimer's disease remained the second leading cause of death in 2016, with 13,126 deaths, accounting for 8.3 per cent of all deaths in that year, which was up from 5.3 per cent of all deaths in 2007;

(c) dementia has recently become the biggest killer of Australian women;

(d) in New South Wales in 2017, there are an estimated 138,700 people with dementia, which is estimated to increase to 175,000 by 2025 and to 326,000 by 2056;

(e) there is still no cure for dementia;

(f) Australians living with dementia struggle to find appropriate support and services;

(g) Alzheimer's Australia CEO Maree McCabe has stated that "without a significant medical breakthrough, the number of Australians living with dementia is expected to rise to 1.1 million by 2056";

(h) there are currently around 244 people joining the national population of people with dementia each day, and this will increase to 318 people per day by 2025 and to over 650 people per day by 2056 which are staggering and unacceptable figures;

(i) the lifestyle risks and protective factors for dementia offer very real opportunities for prevention programs that reduce the number of Australians developing dementia each year;

(j) reducing the annual age-sex specific incidence rates for dementia in people aged 65 years and above by 5 per cent would lead to a 7 per cent reduction in the number of people with dementia in the population by 2025 and a 24 per cent reduction by 2056;

(k) reducing the annual age-sex specific incidence rates would result in nearly 36,400 fewer people with dementia in 2025 and almost 261,000 fewer people by 2056 compared with the current projections of the prevalence of dementia over the next 40 years, which could save more than $120 billion by 2056; and

(l) the Government needs to take immediate action with preventative and educational programs to minimise the increase in the rate of this disease.

Motion agreed to.

AUSTRALIAN WAR ANIMAL MEMORIAL IN FRANCE

The Hon. MARK PEARSON (14:38): I move:

(1) That this House commends the establishment in July 2017 of the Australian War Animal Memorial in Windmill Garden, Pozières, France.

(2) That this House notes that:

(a) the Australian War Animal Memorial site at Pozières is on the Australian Remembrance Trail which includes the graves of Australian soldiers buried at the Australian National Memorial at Villers-Bretonneux, Le Hamel, the Corps Memorial and the Digger Memorial at Bullecourt and Fromelles as well as the Somme and other battlefields in northern France;

(b) the Hon. Mark Pearson, MLC, will visit these memorial sites in November 2017 to pay tribute to and honour all those who have fallen, both human and non-human;

(c) during World War One, Pozières was a place of untold losses in animal life; and

(d) an estimated nine million animals were killed or wounded in the Great War, although this figure does not include accurate records from the Asian theatre of war or the fledgling Soviet Union, as noted by Nigel Allsopp, President of the Australian War Animal Memorial Organisation in his book, *Animals At War*.

(3) That this House recognises:

(a) that dogs played crucial roles in World War One and were as dependable as soldiers, undertaking diverse tasks such as sniffing out enemies, carrying supplies, finding the wounded, delivering messages and first aid supplies, as well as providing companionship and boosting the troops' morale;

(b) that pigeons were also used in great numbers as a method of communication as they were silent, difficult to intercept and not significantly affected by gas or noise and could be trained to home in on mobile lofts;

(c) that draught horses were used to pull artillery, wagons and ambulances and to carry supplies and munitions;

(d) that during the coldest European winter in 30 years horses were not issued with rugs, and a quartermaster sergeant was punished for taking a truckload of tarpaulins from an army depot to cut into horse rugs; and

(e) some 130,000 Australian horses were sent to World War One with not one returning and there was not one program implemented to return even one horse.

Motion agreed to.

NEWCASTLE CHINA WEEK

Mr SCOT MacDONALD (14:38): I move:

(1) That this House notes that:

(a) on Sunday 15 October 2017 Newcastle China Week was launched in Newcastle;

(b) Newcastle China Week is an initiative to facilitate greater understanding between Newcastle and China through a series of interactive academic, cultural and social events;

(c) the launch was hosted by SBS TV's Trystan Go, officially opened by the Deputy Lord Mayor of Newcastle, Declan Clausen, in the presence of Mr Scot MacDonald, MLC, Parliamentary Secretary for the Central Coast and the Hunter;

(d) China is one of the most valuable contributors to the strength of Australia's economy and is a significant trading partner;

(e) as a result of China's and Australia's relationship and strong economic ties, there is a need to maintain an understanding of China's strategic and economic initiatives;

(f) Newcastle China Week seeks to inspire and delight with a program of events that cross countries, continents and cultures, and provides opportunities for meaningful connections with a range of audience groups, including the Chinese community, business owners, professionals and leaders, cultural enthusiasts, tourists, students and local families; and

(g) Newcastle China Week sponsors included:

(i) the Confucius Institute at the University of Newcastle;

(ii) the University of Newcastle;

(iii) Newcastle Airport;

(iv) the City of Newcastle Council;

(v) the Kent Bar and Grill;

(vi) Hamilton Newcastle;

(vii) the Bennet Hotel;

(viii) Port of Newcastle;

(ix) the Good Guys;

(x) Port Waratah Coal Services;

(xi) HYP;

(xii) the Northern Star Hotel; and

(xiii) Sawtooth Studios.

(2) That this House congratulates the organisers of Newcastle China Week and acknowledges the efforts of the event organisers to facilitate greater understanding between Newcastle and China through a series of interactive academic, cultural and social events.

Motion agreed to.

Committees

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Extension of Reporting Date

The Hon. Dr PETER PHELPS: I move:

(1) That the reporting date of the inquiry into "Preference counting in local government elections in NSW" by the Joint Standing Committee on Electoral Matters be extended to 30 November 2017.

(2) That a message be sent to the Legislative Assembly conveying the terms of this resolution and the terms of reference for the joint committee's inquiry referred by the Legislative Council on 9 August 2017.

Motion agreed to.

Documents

TABLING OF PAPERS

The Hon. SCOTT FARLOW: According to Standing Order 59, I table a list of all papers tabled in the previous month and not ordered to be printed.

Committees

LEGISLATION REVIEW COMMITTEE

Report: Legislation Review Digest No. 46/56

The Hon. GREG PEARCE: I table a report of the Legislation Review Committee entitled "Legislation Review Digest 46/56", dated 14 November 2017. I move:

That the report be printed.

Motion agreed to.

STANDING COMMITTEE ON STATE DEVELOPMENT

Discussion Papers

The Hon. GREG PEARCE (14:41:0): I table the following discussion papers of the Standing Committee on State Development:

(1) Discussion paper entitled "Defence industry in New South Wales", dated November 2017, authorised to be published by the committee on 13 November 2017.

(2) Discussion paper entitled "Regional development and a global Sydney", dated November 2017, authorised to be published by the committee on 13 November 2017.

I move:

That the House take note of the discussion papers.

It has been a great privilege to have chaired the Standing Committee on State Development for the past couple of years. With the support of my good friend the Hon. Paul Green we have undertaken great bipartisan work on the defence industry in New South Wales and on a global Sydney and its impacts on regional New South Wales. The Federal Government has commenced a $195 billion spend on defence. New South Wales is a key part of that. Many opportunities will arise, and job opportunities in particular. I congratulate the Government on the establishment of Defence NSW, particularly Minister Roberts and Minister Blair who have embraced the opportunities that defence provides. I compliment them on the Strong, Smart and Connected strategy in which they have outlined a series of options for the defence industry.

Defence is embedded in New South Wales through its jobs and its bases in regional areas and in Sydney, including Sydney Harbour. The British Navy established in Sydney, and Sydney has had a long history of involvement with the Navy ever since. We want Sydney to continue as a naval base for a long time. I thank the

deputy chair, the Hon. Mick Veitch, and committee member the Hon. John Graham. During the course of the inquiry it became plain that we are clarifying our thinking around defence. New South Wales is not so much interested in the batching of steel or the building of ships. We are about technology, smart jobs, regional jobs and the sustenance, maintenance and long-term opportunities that come from defence. We are also interested in the important research from our universities and other institutions.

The committee realised quickly that New South Wales has a fantastic opportunity to provide a base for up to half a dozen new submarines, which will bring an incredible number of jobs. I know the Minister has been listening to this discussion. The submarine base will complement the amazing things happening at Williamtown base, as we play our part in the world chain that is involved with the F35 aircraft, as well as at Western Sydney airport, which is a key part of Sydney's future development. In the inquiry it became apparent also that New South Wales has a great opportunity to participate in the developing space industry. These issues are mentioned in the discussion paper. They will provide great opportunities for Sydney as well as for regional New South Wales.

Turning to the second discussion paper, the global Sydney economy has been estimated at $378 billion per annum, which is an incredible amount of money. Global Sydney is an enabler and point of access for regional New South Wales, an area that must be applauded. There are many and varied opportunities for the regions. We want global Sydney to be leveraged for the rest of New South Wales. During the early part of the inquiry it was established that the Government is looking at new ways of funding activities in regional areas and has committed one-third of funds raised from its various asset recycling programs. As part of that process the department—and Minister Blair has been pivotal—is looking at programs and ways to prioritise funds to enable regional centres and areas to do the things they want in the order they want, rather than according to the Treasury. Importantly, the public sector comparator, which has produced some poor results for regional New South Wales, should be re-examined.

The committee will seek further submissions before the closing date on 12 February next year. It will then produce its final reports on both of these inquiries. As I said, it has been a great pleasure to have participated in them. The committee work of this House is underrated. It is a key function that members of this House perform. It is one thing for a Minister to drive policy and action, but the committees do incredible work. They expose issues and problems and push governments and others to come up with solutions. I commend all members for the work they do with our committees. I urge new members to become involved. I thank our tremendous and fabulous committee staff. We had the pleasure of Rebecca Main leading on our committee. Her work is outstanding, as we all know. Jenelle Moore and Stephanie Galbraith did fantastic work as authors on our papers. I thank our friends in Hansard and all of those who make our work possible. I thank in particular my senior adviser Kate Macdougall. I know she has made sacrifices to be able to work with me. I am not an easy boss. I thank Kate and her partner, Dave, as well as her two sons, Hamish and Harry, who attend school in Orange and have had to be separated from Kate to enable her to do the job. I thank her very much.

Debate adjourned.

Documents

AUDITOR-GENERAL

Reports

The CLERK: According to the Public Finance and Audit Act 1983, I announce receipt of the following reports of the Auditor-General:

(1) Financial Audit report entitled "Report on State Finances", dated October 2017, received out of session and authorised to be printed on 24 October 2017.

(2) Performance Audit report entitled "Report on Sharing School and Community Facilities", dated November 2017, received out of session and authorised to be printed on 1 November 2017.

(3) Performance Audit report entitled "Government Advertising: 2015-16 and 2016-17", dated November 2017, received out of session and authorised to be printed on 2 November 2017.

INSPECTOR OF CUSTODIAL SERVICES

Reports

The CLERK: According to the Inspector of Custodial Services Act 2012, I table the annual report of the Inspector of Custodial Services for the year ended 30 June 2017, received out of session and authorised to be made public on 27 October 2017.

Committees

PORTFOLIO COMMITTEE NO. 2 – HEALTH AND COMMUNITY SERVICES

Report: Road Tolling in New South Wales

The CLERK: According to standing order, I announce receipt of report number 47 of Portfolio Committee No. 2 - Health and Community Services entitled, "Road Tolling in New South Wales", dated October 2017, together with transcripts of evidence, tabled documents, submissions, correspondence, and answers to questions taken on notice, received out of session and authorised to be printed on 20 October 2017.

The Hon. GREG DONNELLY: I move:

That the House take note of the report.

Debate adjourned.

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

Report: 2017 Review of the Annual Reports of Oversighted Bodies

Report: Review of the Public Interest Disclosures Act 1994

The CLERK: According to standing order, I announce receipt of the following reports of the Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission:

(1) Report No. 2/56 entitled "2017 Review of the Annual Reports of Oversighted Bodies", dated October 2017, received out of session and authorised to be printed on 23 October 2017.

(2) Report No. 3/56 entitled "Review of the Public Interest Disclosures Act 1994", dated October 2017, received out of session and authorised to be printed on 23 October 2017.

The Hon. TAYLOR MARTIN: I move:

That the House take note of the reports.

Debate adjourned. [*During the giving of notices of motions*]

Notices

PRESENTATION

The PRESIDENT: Order! I remind members that a member is entitled to be heard in silence while giving notice of a motion. I remind members who are giving notices of motions that they should address their comments through the Chair and they should not add words to the motions of which they are giving notice.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. DON HARWIN: I move:

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

Motion agreed to.

Bills

ELECTRICITY SUPPLY AMENDMENT (EMERGENCY MANAGEMENT) BILL 2017

Second Reading Debate

The Hon. ADAM SEARLE (15:25): I lead for the Opposition on the Electricity Supply Amendment (Emergency Management) Bill 2017. The Opposition does not oppose the legislation but has a query which I will refer to shortly. The legislation streamlines emergency management powers in the event of an electricity supply emergency in the State, in part to take account of the privatisation of the electricity distribution system embarked upon by the Government and the Parliament, but also in part in relation to advice from the Chief Scientist and Engineer and the Government's Energy Security Taskforce and in part by the need from time to time to modernise the language in important legislation.

In particular, the bill amends part 6 of the Energy and Utilities Administration Act 1987 to remove electricity from that emergency framework without disturbing its operation in relation to gas or fuel emergencies. Instead, the bill creates a new emergency framework specifically for electricity to be located in the electricity supply legislation. Under the scheme provided for by the bill, the Premier will be able to declare an electricity

supply emergency by an order in writing if satisfied that the supply of electricity to all or any part of the State is significantly disrupted or that there is a real risk that electricity supply may be significantly disrupted. At present this power lies only with the Governor pursuant to section 24 of the Energy and Utilities Administration Act and, of course, the Governor exercises the power only upon the advice of the elected government of the day.

The bill replaces the current process of the Governor making emergency regulations with ministerial electricity supply emergency directions. At the moment under section 25 of the Energy and Utilities Administration Act the Governor has regulatory powers to make regulations controlling, directing, restricting or prohibiting the sale, supply, use or consumption of forms of energy subject to the proclamation. That duplicates the powers in section 27, which provide for ministerial directions presently in existence. This bill, as it were, combines those two streams of authority. Interestingly, while the Governor's regulations were, I believe, disallowable instruments able to be superintended by the Parliament or by each House, the ministerial electricity supply emergency directions both in the existing legislation and in the bill before the House will not be subject to any disallowance or parliamentary oversight. That may be a matter that requires further thought in due course, if necessary.

While any declaration is in force, the Minister will be able to give directions that are reasonably necessary to respond to the emergency, including restricting electricity use and shutting down plant and equipment. The Minister's powers are expressed in the bill in more streamlined, clearly directed and limited terms than as stated in the current legislation. Encapsulated in the current bill are examples of the circumstances in which the Minister would make such directions. A new provision in the legislation allows the Minister to require that information be provided in connection with an electricity emergency whether or not there is a declared emergency, including for the purposes of whether the supply of electricity has been or is likely to be disrupted and for preparing and planning responses to any future electricity supply emergency. Members will recall the Springvale mine incident.

Mr Jeremy Buckingham: How could we forget?

The Hon. ADAM SEARLE: I acknowledge that interjection. It involved the issue of the supply of coal to Mount Piper power station. There was controversy as to the amount of coal the power station had at its disposal. This was a matter of controversy in the Land and Environment Court proceedings where evidence was to be given about that matter. The passage of legislation rendered those proceedings moot and I expect that evidence will not be given in that forum. During last week's first hearing of the Select Committee on Electricity Supply, Demand and Prices in New South Wales, established by this House, evidence from the Australian Energy Market Operator raised issues about whether the national regulator had total and proper visibility of what was happening on the ground relating to fuel supply and other important matters relating to energy security. I assume that this part of the bill is directed to those considerations. The Opposition has no objection to that.

The legislation will empower authorised officers appointed by the Minister to enter premises and carry out investigations to determine whether a direction by the Minister has been complied with. This is perfectly reasonable and appropriate in the circumstances. As I indicated, electricity supply emergency directions can be given only while an order of the Premier is in force. The information-gathering powers will apply irrespective of a declaration being in place. A direction that applies to the general public or a section of the community is required to be published in the *Government Gazette*. A direction that applies to a person can be given verbally if circumstances require it but it must be confirmed in writing as soon as practicable. A copy of the notice must then be published in the *Government Gazette*.

Examples of information that may be required include the location and availability of coal, gas, liquid fuel stocks and water storage reserves. An information notice does not depend on a Premier's declaration being in place. This is to assist the energy Minister, whoever it may be, to obtain information for electricity emergency planning purposes. The Minister made mention in the second reading speech that the Minister's power to issue directions cannot be delegated under the legislation. It is appropriate that it be exercised by the Minister, whoever it may be. The bill includes key offences for failure to comply with an electricity supply direction, failure to provide information required by the Minister and obstruction of an authorised officer. The penalty levels in the bill are set at an equivalent level to existing maximum limits in the Electricity Supply Act 1995.

One of the provisions removed from application to electricity is section 28 of the Energy and Utilities Administration Act 1987, which enables a member of the New South Wales Industrial Relations Commission to be appointed to investigate any industrial matter to do with the extraction, production, provision, supply, transportation or distribution of any form of energy or energy resources in relation to which a declaration has been made. That provision in the Energy and Utilities Administration Act will remain in force in relation to gas and fuel issues but will not apply to electricity and will not be transferred into this legislation. Opposition members believe it is prudent to retain this tool for use by the State in appropriate circumstances and will propose an amendment to this effect. It would be invoked in circumstances where the disruption to electricity supply arose from, had connection to or is in part related to an industrial dispute of some kind.

I invite members to read two of my adjournment speeches relating to difficulties being occasioned by the protracted bargaining between the Electrical Trades Union and Essential Energy over an expired enterprise agreement. There were 18 months of rolling stoppages in that industry because the parties could not agree on an appropriate new industrial instrument. On two occasions I asked that the shareholder Ministers involve themselves to sensibly bring the matter to a timely and appropriate conclusion. They did not take up that suggestion and ultimately the matter was resolved without that dispute impinging on the distribution and supply of electricity. If it had gone on longer or occurred in different circumstances it may well have done so. If there is a dispute that touches on or is driven by an industrial matter, that tool can be used by the government of the day to diffuse the situation and to put into effect any recommendations made by the inquirer, if appropriate and necessary, to secure energy supply in the future. This may or may not have been an oversight in the drafting. However, the Opposition believes it should be retained in the legislation and should not be removed without proper debate on that subject. We urge the Government and other members to embrace the sensible and balanced amendment that we will be proposing.

My final point relates to emergency management. Emergencies, by definition, are sudden and hopefully of short duration. There is no time limit in the proclamation or declaration able to be given by the Premier of the day. That is probably a mistake. I do not want the government of the day to be deprived of the tools it needs to deal with an emergency. If a declaration has to be renewed periodically, in an extreme case a time limit should be placed on the duration of such a declaration, even if it is rolled over or it is made again. Even if only a formal restraint is created because it is a Governor's proclamation on the advice of executive council and that restraint is to be removed and the decision is to be made by the administrative head of executive government, that restraint is not even there. In these circumstances, a time limit is warranted so long as a proclamation can be continued where necessary. As I indicated at the outset, the Opposition does not oppose the bill.

The Hon. ROBERT BROWN (15:37): The Shooters, Fishers and Farmers Party supports the bill primarily due to the arguments presented by the Opposition. Two points made by the Opposition resonate with us. If a regulator wants to regulate under an emergency, it is better for the regulator to have more provisions to do that job. It does not make sense to remove straightforward and substantial parts of that legislation. The issue raised by the Leader of the Opposition relating to the removal of the sunset clause—it will no longer be the Governor but the Premier who will keep those emergency powers intact—has resonated throughout history.

Leaders, be they dictators or royalty, reserve powers unto themselves and then say, "They are only emergency powers. They will be lifted once the emergency is over." In this case, the executive government will be left to determine when an emergency is over. Those are the reservations that the Shooters, Fishers and Farmers Party have. In general, this is a good bill. Hopefully it will address problems that are creeping into the energy market—I will call them the Enron problems—with the rise of oligopolies utilising market power to create emergencies. No-one should say that that will not happen as it already has occurred overseas. The Shooters, Fishers and Farmers Party will not oppose the bill.

Mr JEREMY BUCKINGHAM (15:39): On behalf of The Greens I speak in debate on the Electricity Supply Amendment (Emergency Management) Bill 2017. The Greens will not oppose this legislation which clearly falls outside the recommendations of the NSW Energy Security Taskforce headed by Professor Mary O'Kane, NSW Chief Scientist and Engineer. In May the task force released its recommendations to the Government. It recommended that the Government develop a new, simplified Act that would replace part 6 of the Energy and Utilities Administration Act 1987 to target specifically energy management in an emergency. The task force recommended that the Act give the New South Wales Government the same energy emergency management powers that currently exist but that "provide a simplified trigger for these powers to be enacted and more clearly articulate how these powers fit within the existing energy emergency management procedures".

The Greens think this is eminently sensible. We support the position of the Chief Scientist and Engineer and the NSW Energy Security Taskforce that the Government should be empowered to act quickly in emergency situations to put in place the orders of the Government and the directions of the Minister to ensure the fair and equitable supply of electricity to the people and businesses of New South Wales.

The bill does not create a new Act; rather it streamlines existing provisions. The Premier will be able to declare an electricity supply emergency if satisfied that the supply of electricity to all or any part of the State is significantly disrupted or that there is a real risk that electricity supply may be significantly disrupted. The energy Minister will be able to give directions that are reasonably necessary to respond to the emergency, including restricting electricity use and shutting down plant or equipment. The Minister also will be able to require information to be provided in connection with an electricity supply emergency, including for the purposes of determining whether the supply of electricity has been or is likely to be disrupted and for preparing and planning responses to any future electricity supply emergency.

Authorised officers appointed by the Minister will have the power to enter premises and carry out investigations to determine whether a direction by the Minister has been complied with. A key provision is that compensation is not payable by the State in connection with the enactment, making, or operation of an electricity supply emergency. Those key provisions of the bill include interesting elements. The first is the fact that we are in this situation. The briefing given by the Minister's staff stipulated that we have to enact this bill and that it is foreseeable that its provisions could be operational this summer. That is an indictment on the Government and a complete failure of energy policy. New South Wales is hanging by a thread when it comes to energy supply. If the Springvale mine were to flood it would cause massive disruption to energy supply in New South Wales. The clunking, decrepit beast that is the Liddell power station—of which only half is working effectively—

The Hon. Rick Colless: Build a new one.

The Hon. Dr Peter Phelps: Hear, hear!

Mr JEREMY BUCKINGHAM: I note the interjections of the Hon. Rick Colless and the Hon. Dr Peter Phelps. The Liddell power station is being held together by the good work of power station workers. It could fail at any moment. If that were to happen, New South Wales would be in crisis. Bushfires, which occur frequently in this State, threaten transmission lines. A combination of those factors, such as we saw on 10 February 2017, could cause disruptions to interconnectors and gas power stations. The key element of this bill that allows the Government to force power station operators to provide information is important. Many people in the community are concerned that two gas-fired power stations were turned off in the middle of a heatwave and that we may have seen, as the Hon. Robert Brown said, a gaming of the system. It is important that information from power station operators is provided and that the Minister has the power to appoint officers to enter premises and to carry out investigations to ensure the system is not being gamed. It is concerning that we are in a situation where we may require emergency powers. We should not be in a situation where we do not have a national electricity policy and we hope Liddell power station keeps working.

At the hearing of the Select Committee on Electricity Supply, Demand and Prices in New South Wales the Chief Scientist and Engineer said that due to supply concerns across a number of power stations there was a school of thought that we will have to import coal to Newcastle to supply power stations such as Eraring, the biggest power station in the State. I cannot believe it is being suggested that we import coal to Newcastle because power station operators are failing to source an adequate supply from coalminers who are profiting from exporting coal overseas. I cannot see that happening but it highlights the perverse nature of the market, which does not benefit the people of New South Wales. The Greens believe this area of the economy should never have been privatised. We believe it is an essential service that should be governed by the State and that it is in the public's interest to re-nationalise key elements of our electricity grid. These powers should be enacted so that when things go bad the State takes over and the interests of the citizens come first, rather than the profit motives of the private sector.

I note that compensation is not payable by the Government and that the Minister will not be liable. The Minister is relieved that this bill will be passed. We shut down Tomago and the aluminium smelter and the pots seized up. The Hon. Don Harwin will not be signing a cheque to pay for that. On many occasions we have said in this place, "Why does the Government not cancel a petroleum exploration licence because it is not in the interests of the State to mine in that area?" The Government always says it cannot do anything about it because it would be liable to pay compensation. This provision in the bill shows that the Government has the will, courage and motivation to do exactly that. Our most serious concern with the bill was noted by the Hon. Adam Searle and the Hon. Robert Brown—that there is no sunset clause on an emergency declaration by the Premier.

This is inconsistent with section 35 of the State Emergency and Rescue Management Act 1989 which specifies that a state of emergency will remain in place for a period not exceeding 30 days. Current electricity emergency provisions include a 30 day sunset clause. The Greens will move an amendment in Committee to ensure that it remains. The Government said it does not support the sunset clause because the Chief Scientist stressed the need for flexibility in emergency arrangements. However, it is not inconsistent with her recommendation to include a sunset clause. As the bill currently stands, there is nothing to prevent the Government from declaring an electricity supply emergency indefinitely. The Greens are concerned and we believe the sunset clause should be retained. I will be moving an amendment to that effect. I hope I have the support of Labor and crossbench members. The Greens support the bill.

The Hon. PAUL GREEN (15:50): On behalf of the Christian Democratic Party I speak briefly in debate on the Electricity Supply Amendment (Emergency Management) Bill 2017. The Christian Democratic Party believes that New South Wales deserves an electricity supply that is secure, reliable and affordable. A report from Janine Young, Energy and Water Ombudsman NSW, states:

> Affordability issues, payment difficulties, high bills, increasing debt and disconnection of supply have become the norm for New South Wales consumers experiencing financial vulnerability.

Energy security is an ongoing and major concern in New South Wales. Electricity supply could fall short of demand especially in extreme conditions. The security of the power system is tested on extremely hot summer afternoons and evenings when consumer demand is high. The Australian Energy Market Operator [AEMO] electricity emergency arrangements provide a framework for the coordination of electricity emergencies across the National Electricity Market [NEM]. These arrangements, which are based on national emergency management principles established by Emergency Management Australia, outline the roles and responsibilities of the AEMO, government and industry during energy emergencies.

The NEM and its participants respond to power system emergency situations in a way that protects, first, the safety of employees and the public; secondly, the continuity of supply to customers; and, thirdly, the security of the power system. The memorandum of understanding and the protocol were developed by the jurisdictions and AEMO to coordinate actions to be taken under individual State legislation to manage power system security emergencies. This bill aims to manage emergency electrical shortages by introducing a faster and simpler response. The Premier will be advised by the Minister for Energy and Utilities and the AEMO if a significant energy supply disruption is anticipated or identified. This will enable more effective responses during electricity supply emergencies. Dr Alan Finkel, AO, recently led an independent review into the future security of the National Electricity Market. One of the key outcomes regarding increased security states:

> A secure electricity system is one that continues to operate across the entire region despite disruptions. A more secure power system will be resilient to the integration of new technologies and resistant to the threat of natural disasters and cybersecurity attacks.

Other key outcomes include the future reliability of supply; rewarding consumers for their actions to improve the reliability and security of electricity systems and to keep costs down; and electricity sectors doing their share to reduce emissions. This bill recognises the need to ensure that electricity supply directions are implemented during an electricity supply emergency. I hope the Minister successfully facilitates the process to ensure that New South Wales has an electricity system that is secure, reliable and affordable during emergencies. About a decade ago I was on the South Coast when there was load shedding. The lack of electricity was very damaging to small businesses in that they lost products and customers. It was a tough time for them. This Government must do everything it can to ensure that New South Wales does not run out of electricity this summer. I commend the bill to the House.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:54): In reply: I thank members for their contributions to debate on the Electricity Supply Amendment (Emergency Management) Bill 2017. This bill, which will amend the Electricity Supply Act, is an important part of the Government's work to prepare for this summer and to mitigate risks to electricity systems security associated with extreme weather. One of the key recommendations of the NSW Energy Security Taskforce was to simplify and streamline the Government's response to electricity emergencies. The statutory regime to manage an electricity emergency must enable a quick and effective response. The bill achieves this for the electricity sector by modernising an older style process where the Governor makes a proclamation and then emergency regulations. The new regime requires the Premier to make an order and to give ministerial directions. This is similar to the existing regime in the State Emergency and Rescue Management Act 1989.

The bill recognises that because the Governor can act only on the advice of the Premier and the Minister for Energy and Utilities, the use of a proclamation and regulation adds unnecessary and time-consuming procedural steps when speed may be essential. Some members have asked why these emergency orders and directions are not disallowable by Parliament. These questions are about accountability for the exercise of these emergency functions. I assure members that the process for triggering electricity supply emergencies has a number of important checks and balances. First, the role of the Premier is to ensure whole-of-government oversight in declaring an electricity emergency. The Premier must exercise this power relying on compelling information that there is a significant risk of disruption. Ministerial electricity supply emergency directions can be given only while the Premier's declaration is in force. Both the Premier's order and the exercise by the Minister of the directions power can be challenged in court if they are exercised in a way that is beyond the scope of the legislated emergency powers in the bill.

Both the Premier's order and ministerial directions must be formally published in the *Government Gazette*. This is the usual mechanism to ensure that obligations imposed that require compliance are publicly available and can be referred to. Both the Premier and the Minister would communicate these emergency instruments to affected persons using all available media. Disallowance by Parliament as a mechanism for oversight of emergency directions is no longer practical. The procedure for disallowance can be protracted and the potential for actions taken in emergency situations to be invalidated after the event creates significantly

regulatory uncertainty and risk. The Government believes that the bill contains checks and balances to ensure the appropriate exercise of these emergency powers.

A further question raised by members is why the bill does not include a maximum period for an emergency declaration to remain in force. The State Emergency and Rescue Management Act 1989 imposes a statutory period not exceeding 30 days. There are important reasons why a different approach has been adopted in the context of an electricity supply emergency. Flexibility is essential to deal with different emergency scenarios. In some electricity emergencies directions may be required only for specific identified entities and there may be no need to impose direct obligations on members of the public. The State Emergency and Rescue Management Act 1989 applies to a much broader range of emergency situations, including terrorist acts, and potentially can place significant restrictions on members of the community. The restrictions imposed on persons under an electricity emergency are less intrusive from a broad civil liberties perspective.

The Premier's order declaring an emergency can specify a time limit, including a shorter one, recognising that heatwaves usually last only a few days. This approach reduces administrative burdens and, importantly, provides an opportunity for inserting in the declaration a period of less than 30 days. It is not considered helpful to impose a one-size-fits-all maximum period in the context of electricity supply emergencies. The bill supports system security outcomes in the National Electricity Market and, most importantly, strengthens the security of our electricity system for New South Wales households and businesses. I note the comments of Mr Jeremy Buckingham about the situation we are in. This bill is about prudence. The AEMO has made it clear that in normal circumstances New South Wales is well and truly ready for summer. In my view, his concerns about where New South Wales stands are misplaced in contrast with the position of other States.

Debate interrupted.

Members

REPRESENTATION OF MINISTERS ABSENT DURING QUESTIONS

The Hon. DON HARWIN: I advise the House that during the absence from the Chamber of the Hon. Sarah Mitchell, which is until the end of the 2017 sitting period, questions to her in her capacity as Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education will be answered by the Deputy Leader of the Government. I also advise the House that a Government notice relating to the Minister's absence was issued in *Government Gazette* No. 123 on 10 November 2017.

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

Questions Without Notice

POLITICAL LOBBYISTS

The Hon. ADAM SEARLE (16:00): My question without notice is directed to the Leader of the Government. Given the preselection for the New South Wales Legislative Council of Natalie Ward, who until recently was a beneficial owner in the Photios lobbying firm PremierState, what measures will his Government take to ensure that her election to this place does not increase the access of lobbyists to key decision-makers and Ministers in his Government?

The PRESIDENT: Order! I call the Hon. Catherine Cusack to order for the first time. I will not tolerate that sort of behaviour in this Chamber while I am in the chair. The Minister has the call.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:01): Frankly, I am flabbergasted that I am being lectured by members of the Opposition on these sorts of issues. The Hon. Greg Pearce has been an outstanding contributor to this Chamber. We are incredibly proud of what he achieved as a Minister. As a government, we stand on his shoulders. We are able to deliver for the people of New South Wales now because of his hard work as finance Minister during our first term. The person who is replacing him stood by his side as his deputy chief of staff during that period. She is extremely well known around this building.

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

The Hon. DON HARWIN: She is extremely well known as a person of immense integrity and extraordinary ability. We will be incredibly lucky to have her as a colleague when the Hon. Greg Pearce's position is filled at a joint sitting later in the week. Natalie Ward will provide the same extraordinary legal skill that the Hon. Greg Pearce brought to this Chamber. He was a solicitor in private practice and a partner of a major firm. For most of the past 20 years Natalie has been a litigator. She is an extremely fine lawyer and we will benefit enormously from having her legal talents in the Chamber. We expect her to make a great contribution.

As to the other aspects of the honourable member's question, this Government brought in the regulation of lobbyists. The Government has done something about lobbyists. That did not happen during the Opposition's time in office—when Hawker Britton virtually had an office inside the Premier's office at Governor Macquarie Tower. That was their record when they were in government. We are the ones who brought in the regulation of lobbyists. The system is working. If the Opposition has any specific allegations to raise about the activities of lobbyists they should take them to the regulator, which is the Electoral Commission. That option is always open. Otherwise, this sort of question, which is all about smearing someone who has never worked as a lobbyist, as I am advised, is frankly worthy of nothing.

SOLAR ENERGY

The Hon. SHAYNE MALLARD (16:04): My question is addressed to the Minister for Energy and Utilities. Will the Minister update the House on the uptake of rooftop solar in Western Sydney?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:04): I thank the Hon. Shayne Mallard for his question. I am pleased to inform the House that New South Wales homes and businesses are well and truly embracing solar. There are over 380,000 homes and businesses with rooftop solar in New South Wales, harnessing the power of the sun. The majority of these customers—more than 200,000—have fitted rooftop solar panels without a subsidised feed-in tariff, showing that rooftop solar makes financial sense for New South Wales customers. I note the honourable member's particular interest in rooftop solar in Western Sydney. He was a longstanding resident of the area when I first met him many years ago. Western Sydney is punching well and truly above its weight for solar installations.

The PRESIDENT: Order! I call the Hon. Greg Donnelly to order for the first time.

The Hon. DON HARWIN: New figures released by the Australian Photovoltaic Institute show that six of the top 10 local government areas for rooftop solar are in Sydney's western suburbs. Collectively, they have more than 66,300 installations providing almost 300 megawatts of installed capacity. That is around three times the capacity of the nation's largest solar farm at Nyngan in western New South Wales. Of these local government areas, Blacktown has by far the most solar installed, with 18,000 roofs covered. Households across Western Sydney that have installed rooftop solar are now seeing the benefits of savings on their energy bills, and they will continue to see them in the future. The average Sydney household can save up to $900 a year by installing a four kilowatt solar system on their roof—money that will stay in the pockets of New South Wales families. Solar technology is getting better and cheaper. An average four kilowatt rooftop solar system could be paid off in less than five years through energy bill savings. Sydney's west is now home to one-quarter of the small-scale solar systems in New South Wales. That means around one in every seven homes in Western Sydney has rooftop solar.

The Government will continue to support homes and businesses to install solar through its policies and programs. In 2013 the Government released the NSW Renewable Energy Action Plan to increase renewable energy at the lowest cost to consumers and with maximum benefits to the State. As I announced earlier this year, the recommended feed-in tariff range has doubled in 2017-18. We currently are completing the remaining three actions under the Renewable Energy Action Plan, which includes providing consumer information through guides, online tools and fact sheets. This year we launched the Home Solar Battery Guide as another key action under the plan to help New South Wales households decide if batteries are right for them. Battery storage gives people the power to bank their solar supply and use it when they need it, day or night. It is great to see households and businesses in Western Sydney and across New South Wales being savvy and embracing solar as a clean, secure and affordable energy supply of the future. It is good for our energy security, it is good for the environment and it is good for lowering power bills.

POLITICAL LOBBYISTS

The Hon. WALT SECORD (16:08): My question without notice is directed to the Leader of the Government. Given the preselection of Natalie Ward to the New South Wales Legislative Council, who was until recently a beneficial owner in the Photios lobbying firm PremierState, does his Government's integrity measures—

The PRESIDENT: Order! I remind the Hon. Catherine Cusack that she is on one call to order. It is disorderly for her to refer to another member as "a disgrace". If she repeats it I will continue to call her to order. The clock will be restarted and the member will begin his question again.

The Hon. WALT SECORD: Given the preselection of Natalie Ward to the New South Wales Legislative Council, who was until recently a beneficial owner in the Photios lobbying firm PremierState, do the Government's integrity measures, such as the regulation of lobbyists, include removing PremierState from the lobbyist register?

The Hon. Greg Pearce: Point of order: The former "chief of staff to Joe's girl Kristina Keneally" has just asked a question that contains argument and is out of order.

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

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:10): Let the record show that this is effectively a question about the business activities of a woman's husband. Apparently the Opposition believes that a woman is an appendage of her husband. That is effectively what we are hearing in a question like that.

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

The Hon. Niall Blair: Point of order: My point of order is that due to the level of interjections that are being levelled across the Chamber, Hansard would not be able to record what the Minister is saying.

The PRESIDENT (16:10): Order! There are clearly too many interjections. I have previously referred to and I remind honourable members of the ruling of President Primrose in 2007. By tradition, the Chair tolerates interjections that are not disruptive, particularly if they facilitate the exchange of views and arguments in debate. The same principle applies in question time, not only during debate on a bill. However, the Chair will not tolerate disruptive interjections.

The Hon. DON HARWIN: In my previous answer I made extensive reference to the reforms that this Government has made to the regulation of lobbyists. I refer the honourable member to my previous comments.

[*Business interrupted*.]

Visitors

VISITORS

The PRESIDENT: I welcome Cyprien Pearson from the University of Sydney, who has been interning in the office of the Hon. Daniel Mookhey as part of the University of Sydney Department of Media and Communications internship program. We welcome you to Parliament and I am sure your internship will be a most fascinating one.

Questions Without Notice

CLIMATE CHANGE

[*Business resumed.*]

Mr JUSTIN FIELD (16:12): My question without notice is directed to the Minister for Primary Industries. Given the mounting scientific evidence that shows the serious impact climate change will have on the marine environment and that a failure to act in the short term will result in serious long-term consequences, why has the Government downgraded the risk from climate change as a priority threat to the marine estate in the draft Marine Estate Management Strategy?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:13): It is interesting that Mr Justine Field began his question by referring to science. I have been reading some of his media comments in relation to consultation and aspects of the Government through the Marine Estate Authority and its proposed strategy. He is clearly ignoring the science in that regard, particularly in his fascination with spatial management in this space. I will return to that aspect at a later stage. As to climate change now being ranked as a lower priority threat in the final Threat And Risk Assessment [TARA], I am aware of concerns that the threat of climate change to social and economic benefits has changed from the highest priority threat in the draft TARA report to ninth priority threat in the final social, cultural and economic TARA for the marine estate.

I am advised by my department that experts from the Marine Estate Management Authority [MEMA] agencies, including the Office of Environment and Heritage [OEH] and the Department of Primary Industries [DPI], reviewed submissions relating to climate change and new evidence, including OEH's vulnerability assessment reports for the New South Wales coast. The experts determined that climate change should be presented in the final report based on a 20-year outlook rather than a 50-year outlook in order to be more consistent with the consideration of climate change in the environmental TARA findings. Regardless of their final ranking in the TARA, all priority threats are addressed in the draft strategy. For climate change in particular, management initiative No. 3 is headed, "Planning for a Changing Climate".

The member obviously has a problem with the science and with the scientists who reviewed those submissions from the first assessment and provided advice for the draft, which has been released for consideration

and consultation by the public. The determination on the placement of that threat was made by those who have looked at all of the information. It was not made by those seeking a sound grab or votes in different parts of the State or by those who may be fighting off challenges from within their own party. It was made by those who have looked at all of the information and provided sound, scientific, technical advice.

Mr JUSTIN FIELD (16:16): I ask a supplementary question. Will the Minister elucidate his answer? Given that he acknowledges the downgrading, were the scientists incorrect in the draft Threat and Risk Assessment [TARA] or incorrect in the final TARA?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:16): I made it quite clear in my answer that the scientists reviewed the submissions and other evidence and determined the ranking, which has been released for consultation. The determination is based on looking at all of the evidence, the submissions and the most up-to-date information and taking into account the difference between the 20-year and 50-year assessment.

ASSOCIATION OF SOUTHEAST ASIAN NATIONS TRADING RELATIONSHIP

The Hon. WES FANG (16:17): My question is addressed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. How is the Government investing in our trade relationships overseas?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:17): Strengthening our overseas relationships is critical to the Government's work to ensure our State remains Australia's economic powerhouse. Strengthening our overseas trade relationships is critical to the Government's work to ensure our State remains Australia's economic powerhouse. Singapore and Malaysia, founding members of the Association of South East Asian Nations [ASEAN], are two vitally important trading partners for New South Wales. I am pleased to report that my recent trade mission to these fast-growing nations helped boost links ahead of Sydney hosting the ASEAN-Australia Special Summit in 2018.

ASEAN as a group is New South Wales's second largest trading partner, with two-way trade approaching $20 billion in the last financial year. As a trading partner, Singapore has long helped New South Wales to grow. It is Australia's sixth largest source of foreign direct investment. Two-way merchandise trade between Malaysia and New South Wales is worth $4 billion a year, making it the State's ninth largest trading partner. In my role as Minister for Trade and Industry and Minister for Primary Industries, I take every opportunity to promote our State's fine agricultural produce to the rest of the world. There is growing demand in Asia for our fresh food exports. Our food producers and manufacturers are doing an outstanding job at meeting this surging demand. However, logistical challenges remain a handbrake to our producers taking full advantage of these opportunities. That is why I was pleased to speak with representatives from the Singapore Airlines group to discuss ways in which we can improve logistical links and expand fresh food opportunities for New South Wales companies.

I can also report that investors in Malaysia and Singapore showed great interest in the development of the new Western Sydney Airport at Badgery's Creek. That development will open another door to the world for New South Wales producers. The airport will be the focus of a new city, an aerotropolis, generating up to 100,000 jobs by the 2060s. The New South Wales Government has plans for an aerospace and defence precinct to be located there, which will create thousands of skilled technical jobs. It will be a hub for the rapid export of our best fresh food into the ASEAN countries.

The opportunities through ASEAN go beyond traditional export sectors such as food and infrastructure. In Malaysia, I met with the new Digital Economy Corporation, which was formed by the Malaysian Government to nurture the growth of local technical companies and to attract foreign and domestic investment. I foresee fantastic opportunities in this sector to leverage our position as the start-up capital of Australia through investments we are making in projects like the Sydney Startup Hub. The ongoing government and business connections we are making through our trade deals are helping us build on our already strong relationships with these markets. Australia has a long and close relationship with the ASEAN countries, especially Singapore and Malaysia.

The ASEAN special summit to be held in March of next year will provide an unprecedented opportunity to strengthen our friendships and trading relationships with those countries. I am confident the results of this latest trade mission will put us in prime position to maximise opportunities at that summit. This will ensure that New South Wales businesses are in the best possible position to expand their activities and to tap into the rapid economic growth being experienced across the ASEAN region. I will be talking more and more about the importance of these ASEAN countries as we head towards this once-in-a-generation opportunity to host the ASEAN summit in Sydney in 2018. I repeat, it will open the door for existing businesses to expand their

enterprises and it will provide new opportunities for many different countries throughout Asia. It is my hope that all members are looking forward to playing a role in the summit.

DOONSIDE AND ROOTY HILL RAILWAY STATIONS EASY ACCESS

The Hon. PAUL GREEN (16:22): I direct my question to the Minister for Resources, Minister for Energy and Utilities, Minister for the Arts, and Leader of the Government, representing the Minister for Transport and Infrastructure. For many years the communities of Doonside and Rooty Hill have been actively campaigning for an easy access lift to be installed at Doonside and Rooty Hill railway stations. These lifts would greatly improve access to the public transport system for residents, including mums and dads, the elderly and those with disability. At different times funding and plans for lifts have been flagged, including in the 2016-17 State budget. When will the New South Wales Government deliver this urgent and vital infrastructure? Will the Minister give the residents of Doonside and Rooty Hill a date when these easy access lifts will be available?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:23): I thank the member for his question and in his interest in this area. I am unable to give the member an immediate date. However, I can assure him that the lifts will be provided a lot sooner than they would have been under the former Labor Government. Our Government has made enormous progress in this area. Over the past six years a large number of access lifts have been installed at various railway stations. I appreciate that the residents of Doonside and Rooty Hill have noticed that substantial progress and want to know when it will be their turn. I will refer the question to the Minister for Transport and Infrastructure to obtain an answer.

POWERHOUSE MUSEUM ULTIMO

The Hon. JOHN GRAHAM (16:24): My question without notice is directed to the Minister for Resources, Minister for Energy and Utilities, Minister for the Arts. Given the report in today's *Sydney Morning Herald* on the Powerhouse Museum, when will the Government release the full costings of the move to Parramatta and the cost to retain a presence at Ultimo?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:24): In April 2017 the Government announced that the final business case for the new museum at Parramatta would expand its options and may include keeping some presence at the current Ultimo site. The Department of Planning and Environment, which is running the project, is working very closely with the management and trustees of the Museum of Applied Arts and Sciences. The extended business case process has been exploring all the options and no final decision will be made until the Government has appropriately considered this work. The business case development process, and the terms by which the Government reviews and endorses these business cases, is very clear and publicly documented. In December 2008, Treasury released guidelines associated with the preparation of business cases for capital projects. This is a longstanding process. In 2012 Treasury provided additional guidelines as to when business cases need to be prepared and submitted to Treasury.

The business case process is separated into two stages. The preliminary business case constitutes the planning framework for the business case and is used to demonstrate and justify the service rationale, consider service delivery alternatives and inform internal agency setting; and the final business case documents a defined project that contains an updated justification of the service rationale, determines value for money and demonstrates that the agency has the capability to implement the service. The business case process uses an evidence-based methodology that demonstrates to government decision-makers three key elements: the case for change; analysis of the proposal offering value for money relative to alternatives; and that the agency responsible for delivering the proposal has the capacity to procure, implement and realise the benefits. The final business case is used for the full business case gateway review.

In order to ensure value for money, the Government has an assurance framework so that major projects are delivered in a timely and cost-efficient way. That is crucial. The Infrastructure Investor Assurance Framework ensures that there is better oversight of the State's infrastructure program. The Government has strengthened its assurance processes within Infrastructure NSW. The Infrastructure Investor Assurance Framework implements a tiered risk-based approach to investor assurance projects. For each gateway review, Infrastructure NSW will provide a confirmation of clearance that a project can move to the next gate or health check. This clearance reflects that a delivery agency has completed a gateway review—

The Hon. Walt Secord: Point of order: My point of order is relevance. I have been listening intently for at least two minutes and at no time has the Minister responded to the question. When will the Government release the full costings of the move to Parramatta and the cost to retain a presence at Ultimo?

The PRESIDENT: Order! That was one part of the question. The Minister was being generally relevant to other parts of the question. The Minister has not completed his answer. There is no point of order.

The Hon. DON HARWIN: I was trying to explain the full context of this matter. However, given the limited time left to me and to avoid the member asking a supplementary question, as I told the inquiry into museums and galleries, the extended business case is expected to be completed this year. After the extended final business case is concluded, Infrastructure NSW will need to go through the gateway process I was describing. It is not as yet clear when that will be finished. I am hopeful that it will be by the end of the year but it may run into early next year. [*Time expired*.]

The Hon. JOHN GRAHAM (16:29): I ask a supplementary question. Given the Minister's answer revealed that Treasury guidelines were commenced in December 2008, will the Minister assure the House that we will have the full costing soon?

The Hon. Scott Farlow: Point of order: The supplementary question clearly does not seek an elucidation of the Minister's answer. It is a new question based on the Minister's answer and should therefore be ruled out of order.

The Hon. Shaoquett Moselmane: To the point of order: The question clearly seeks an elucidation of an aspect of statements made by the Hon. Don Harwin.

The PRESIDENT: Order! The supplementary question is in order. The Minister has the call.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:30): Once the extended final business case and gateway review by Infrastructure NSW has been successfully completed, the project will be ready for consideration by the infrastructure committee and the Expenditure Review Committee of Cabinet. Only once the project has been duly considered by both of those committees will the project proceed. As I said earlier, I am pleased to note that this Government is soon to receive the extended final business case from the Department of Planning and Environment. Once it has been considered with the scrutiny of the processes I have just outlined, the New South Wales Government will make its announcements regarding the project.

RYDE WATER PUMPING STATION

The Hon. NATASHA MACLAREN-JONES (16:30): My question is addressed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. Will the Minister update the House on the recent recognition of the Ryde Water Pumping Station?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:31): I take this opportunity to congratulate and acknowledge Sydney Water's great work and to recognise its excellent heritage conservation program. I was delighted to be part of an official event on 24 October, which was hosted by Engineers Australia and Sydney Water, to recognise Ryde Water Pumping Station as a site of national engineering and heritage significance. Many members may not be aware of the very important role this pumping station has played in securing a safe and high-quality supply of water for the people of Sydney since 1921.

The Ryde Water Pumping Station is one of the best early examples of innovation in the water industry and is part of an incredible story of planning and engineering triumphs in our great city. Before the opening of the Ryde Water Pumping Station No. 2 in 1921, water was particularly scarce north of the harbour, and this pumping station was instrumental in improving water supply to the northern suburbs of Sydney. Almost 100 years on, the Ryde Water Pumping Station continues to be an integral part of Sydney's water supply. In fact, this is the only site of its time still to be operating for the purpose it was built. It was built to last, and it has certainly done that. Serving around one million residents every day, it remains the largest water supply pumping station in Sydney.

As we look ahead and plan for our city to secure water supply for an even greater increase in population, the Ryde Water Pumping Station will continue to play an important role in the growth of Sydney. We are all very lucky indeed to be living in a city which is supplied with affordable and reliable drinking water that is among the world's best. We should recognise and pay credit to our early forward-thinking planners, designers and engineers. We should also learn from what these early planners have done and ensure that we plan for the future growth of our city and State, and that is what this Government is doing: planning and building for the future.

I once again congratulate Sydney Water on this outstanding achievement. It is an extraordinary and beautiful building. We should take very seriously the protection of our industrial heritage, and I certainly do. It was an absolute pleasure to be part of recognising the important role of the Ryde Water Pumping Station in our water infrastructure in Sydney.

UNIVERSITY OF SYDNEY STUDENT ORGANISATIONS

Reverend the Hon. FRED NILE (16:35): My question without notice is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry, representing the Minister for Education. Is the Minister aware that conservative student organisations at the University of Sydney, such as the Sydney Conservative Club, are required to pay exorbitant fees—for example, $760 for 10 security guards—when organising events on the university campus, while left-wing groups are not charged at all? Will the Minister for Education ensure that the University of Sydney allows free speech and treats all student organisations equally and fairly?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:35): I thank Reverend the Hon. Fred Nile for his question, which is directed to the Minister for Education—a Minister from the Legislative Assembly whom I will represent during question time in the absence of Minister Mitchell. As we work out how I do that in this House, I indicate that I do not have a note with me in the House in relation to the subject matter of that question.

The PRESIDENT: Order! Stop the clock. I have absolutely no chance of hearing what the Minister is saying, which means that Hansard also would have absolutely no chance. There are seven or eight conversations and interjections going on at the same time while the Minister is attempting to answer the question.

The Hon. Daniel Mookhey: Emphasis on "attempting".

The PRESIDENT: Order! I always find it fascinating when I am asking members not to interject that they interject when I am speaking. I call the Hon. Daniel Mookhey to order for the first time. The Minister has the call.

The Hon. NIALL BLAIR: As I obviously do not have a note on this matter with me in the Chamber, and I know that it is a matter of concern to Reverend the Hon. Fred Nile, I will take the question on notice and refer it to the Minister for Education and get a detailed response for him in due course.

WATERNSW INVESTIGATION

The Hon. MICK VEITCH (16:37): My question without notice is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. On 14 September, in answer to a question asked by me, the Minister said:

> I am advised DPI Water is not aware of any circumstances where representations by New South Wales Liberals and Nationals members of Parliament resulted in DPI Water changing, altering, or dropping a compliance order against an irrigator who has acted illegally.

What is the Minister's response to recent reports in the *Australian* that a NSW Office of Water investigation into an allegedly illegal dam was called off after the Minister received a letter from the Hon. Ray Williams? Did the Minister mislead the House?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:38): I thank the member for his question. First, I did not mislead the House; I was advised at the time. As the member outlines, there are reports in today's media in relation to matters of compliance and the reports say that those matters are being looked at by other organisations including the Independent Commission Against Corruption. I am not up to date as to where the investigations from those agencies are and, because the question makes reference to that, I think it is safer if I take the question on notice and come back to the member with a detailed response.

LANDCARE NSW SUPPORTER PROGRAM

The Hon. RICK COLLESS (16:39): My question is addressed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Will the Minister inform the House about Landcare NSW and the recently launched Landcare NSW Supporter Program?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:39): I thank the Parliamentary Secretary for his question. Most members will be aware of Landcare's contribution to our communities. With 60,000 landcarers and 3,000 groups in New South Wales this is a grassroots movement with a wide reach. The New South Wales Government is committed to building on the capacity and strength of Landcare NSW while also encouraging it to better utilise Landcare's positive reputation and explore additional funding sources.

I am pleased to report that Landcare NSW has recently launched its new Supporter Program, which is a plan to develop its own revenue streams. The Landcare NSW Supporter Program is an e-wallet that gives significant discounts and benefits to cardholders but also provides funding for Landcare NSW to allow it to

continue its valuable work to support grassroots landcarers. Subscribers receive discounts of between 5 per cent and 30 per cent on their purchases at more than 600 retailers and service providers nationally. Groceries, petrol, toys, clothing and retail stores, telecommunications, dining and family entertainment all attract discounts. Every time someone spends and saves, a portion of those savings is automatically donated to Landcare NSW.

I encourage all members to register for the Landcare NSW Supporter Program online and show their support for Landcare in New South Wales. I congratulate all those involved in this initiative and look forward to showing my support. I encourage all members to do the same. This is just one of the many measures Landcare NSW is introducing. The new Membership and Insurance Program launched earlier this year is already providing benefits to the groups that have joined. The team at Landcare NSW is also looking for partners in industry, corporate and philanthropic, who share their views and commitment to a sustainable future. I am encouraged by a reinvigorated Landcare movement and a representative body determined to ensure that it supports, enables and promotes the enormous contribution of its groups and volunteers.

The NSW Parliamentary Friends of Landcare provides an avenue for members of Parliament to connect with and offer support to Landcare at both the State level and locally. I encourage all members to attend the Parliamentary Friends of Landcare Trees in the House function tonight at six o'clock, an event to which they were all invited. This annual event is proving to be a highlight on the calendar. It provides an opportunity for members to meet grassroots landcarers and engage with them on issues facing agriculture, the environment and rural communities in New South Wales. Several of the part-time Landcare coordinators employed under the New South Wales Government's $15 million Landcare policy are coming to Sydney especially for the event to meet members of Parliament and to explain how Landcare in their areas is being reinvigorated as a result of the program.

This is a fantastic opportunity to hear from and speak to landcarers from around the State who will be in Sydney attending this event, and the council meeting and Landcare NSW annual general meeting the following day. I look forward to seeing many members from all sides of the Chamber there tonight to show their support for Landcare. Landcare NSW not only should be congratulated on its great work but also on looking to government-proof itself for the future. It is seeking to ensure that the success of Landcare in the future does not just rely on grants from the New South Wales Government; it is looking at other income streams to ensure that it can be as strong as possible. Landcare NSW should be commended for its work. It is modernising its membership structure and its programs. Landcare NSW is a fantastic organisation. I hope to see as many members as possible at the function tonight.

DEPARTMENT OF PRIMARY INDUSTRIES VISIT MY FARM INITIATIVE

The Hon. MARK PEARSON (16:43): My question is directed to the Minister for Primary Industries. The Minister recently spoke glowingly about the department's new "Visit My Farm" initiative, which will invite the public, including families with young children, to experience the realities of animal farming. After following the necessary biosecurity precautions, will these visits include observation of sows in farrowing crates and stalls, hens in battery cages, artificial insemination, routine mutilations without analgesia such as eyeteeth removal and tail docking of piglets, de-beaking of layer chicks, and sheds where 22,000 or more broiler chickens are packed in and are routinely suffering from hip dysplasia and pulmonary cardiovascular failure?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:44): I thank the member for his question. These visits will show the next generation where their food and fibre comes from. They will show the hardworking people who have chosen agriculture or horticulture that this is not just a job but a vocation and part of their lifestyle. They will show the vital role that our New South Wales primary producers play not just for this economy but for the social fabric of New South Wales. These visits will show all of our farming systems, which are legal and vital in supplying food and fibre not just for our domestic consumption but for consumption overseas and for other domestic markets.

We want to highlight to the next generation the great job our farmers do. We want families to learn where their food comes from and to understand more about the production systems involved in that. That is why I am proud to stand up in this House and promote programs like this. That may be not what the member wants. I know he disagrees with some of the production systems that are legal in this State. The member disagrees with some of the production systems that our regional communities rely upon. He disagrees with some of the production systems that our farmers utilise. However, that does not mean that because it is not what he wants, everyone else should follow. It is important to show family members and children who have never been exposed to some of these operations where their food and fibre comes from, to help them understand production systems so that they do not get spooked by some scare campaigns, get the wrong end of the stick or have misunderstandings about production systems.

That is why these farms are opening the gates and inviting people in. Without our farmers we could not spend the time doing what we are doing here; we would have to worry about where our next meal comes from.

We can all get on and do what we want with our lives because of our farmers. We can follow other vocations because we do not have to worry about where our next meal will come from. Instead of talking down the production systems, through this program we have chosen to educate, inform and enhance the role of our farms in the minds of those who have not been exposed to them previously. We are proud of this. We have nothing to hide and it is something that should be encouraged.

The member disagrees with some of these production systems and he listed a range of areas that he believes should be outlawed. Some aspects of those production systems give no credit to the industries that are looking at those systems themselves and in some cases, as with the sow stalls, are phasing them out themselves. Primary producers and industries in this State also understand the concerns of consumers and are responding to them. Where there are animal welfare issues they are looking at other production systems and meeting those issues head on. They do not need us to dictate to them. We should provide consumers with a choice of product, allow farmers to provide that choice and get on with the production systems. We support our farmers.

The Hon. MARK PEARSON (16:48): I ask a supplementary question. Will the Minister elucidate his answer as to how the families and young children will be educated and informed about the intensive methods of production that I outlined in my original question?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:48): I refer the member to the publicly available details in relation to the program.

WERRIS CREEK WATER SUPPLY

The Hon. DANIEL MOOKHEY (16:49): My question without notice is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. In light of the long-running campaign to build a new water treatment plant for the Werris Creek community, will the Minister inform the House when the residents will get a safe and reliable drinking water supply through their new plant?

The PRESIDENT: Order! Stop the clock. The Minister has the call.

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:49): I thank the member for his question, his ongoing interest in water infrastructure projects and for giving me the opportunity to stand up and talk about the $1 billion Safe and Secure Water program in New South Wales. I will talk members through the process. When communities and local water utilities make applications for funding through these programs they need to be assessed by those responsible for the projects to ensure the business cases and technical information provided is up to date. The funding is unlocked once they have been assessed and approved using the processes the Government has put in place. The assessments are taking place and as soon as that has occurred the community will be informed about the success of that program.

The Hon. DANIEL MOOKHEY (16:51): I ask a supplementary question. Will the Minister elucidate his answer in relation to the $1 billion water security program he spoke of? Is Werris Creek's treatment plant included in the program?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:51): I thank the member for his supplementary question. It is the $1 billion Safe and Secure Water program. I am happy to take that particular project on notice. Across the State there are many applications for infrastructure projects to be funded by the government. They are at different stages. Some carry over from previous programs, such as the Country Towns Water program. I am happy to take the question about Werris Creek on notice and come back to the member with a detailed response.

MINING INDUSTRY INNOVATION

The Hon. LOU AMATO (16:52): I address my question to the Minister for Resources. Will the Minister update the House on innovation in the mining sector in New South Wales?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:52): I thank the Hon. Lou Amato for his question. The mining sector is one of the most important industries in the State because of the jobs and investment it brings to our State. The Hon. Lou Amato has asked me about innovation. I am delighted to inform him that a New South Wales mine won the innovative mining solution award at the Australian Mining Prospect awards. Centennial Coal's Myuna colliery is an underground coalmine on the western shores of Lake Macquarie. It won an award for a new approach to the extraction of previously uneconomical resources.

The mine supports one very important customer, the Eraring Power Station. Over the past 35 years most of the accessible resources within the mining lease have been mined. The traditional method was proving to be uneconomical and the mine was facing closure. A new system of mining was required to ensure the long-term sustainability of the mine and its 200 employees. The system allows the Myuna colliery to safely extend the life of the mine through extracting the more difficult resources rather than sourcing its supply from the market. The new layout, named the herringbone method, has staggered offshoots being mined from the main tunnels rather than the traditional 90-degree crosscuts.

These offshoots cut at an angle to allow for easier deviation and improved operation of the continuous mining machine. The staggered extractions produce three-way intersections and create more stability than the traditional four-way right-angled intersections and allow for these offshoots to be unsupported. It is with this method that the herringbone system increases production by 5,000 tonnes per employee per year, which is an improvement of about 80 per cent. Further to that, it reduces the cost of supplies and allows for the installation of permanent structures such as a monorail to support equipment as the need to work multiple faces is no longer a requirement.

In designing the system Centennial Coal ensured that the coal quality met the specifications of the Eraring Power Station. Centennial had to ensure strict environmental conditions were met, including minimising any impacts on the lake bed. The switch to the Myuna herringbone system has seen a significant improvement in workforce culture. This is due to the easier mining system, less manual handling and improved mine conditions. As Minister for Resources I believe that mine operators should extract responsibly and effectively and that innovations in the mining sector should be celebrated. The herringbone method allows for greater access to previously unrecoverable resources. This means not wasting that resource. This Government appreciates the importance of coalmining for New South Wales as it continues towards a secure, reliable, affordable and clean energy future. I acknowledge the good work of Centennial Coal, which has been recognised by industry for its innovation.

MEADOWBANK AND LIDCOMBE TAFE CAMPUSES

Ms DAWN WALKER (16:56): My question without notice is directed to the Hon. Niall Blair, representing the Assistant Minister for Skills. Will the Minister inform the House whether the Government has any plans to close, sell or repurpose the Meadowbank or Lidcombe TAFE campuses?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:56): I thank the member for her question. It is no surprise the member is asking about TAFE as I know she has a particular interest in TAFE. The question is directed to Mr Adam Marshall. I will take the question on notice and refer it to the Minister for a detailed response.

MURRAY-DARLING BASIN PLAN INQUIRY

The Hon. PETER PRIMROSE (16:54): My question without notice is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Given the Matthews report comments on alleged illegal pumping at Burren Downs, has the Minister's department assembled the brief of evidence to determine whether to prosecute?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:57): I thank the member for his question in relation to the Ken Matthews report. The Government is looking at the issues contained in the Matthews report in relation to the setting up of the natural asset regulator. That is something we will debate tomorrow in this House. The question relates to previous allegations made on the *Four Corners* program. When we have looked at these issues previously I have refrained from speaking about specific cases because I do not want to prejudice any investigations in relation to those agencies. When the allegations were made in the *Four Corners* program the Government, through the secretary, made references to other agencies including the Independent Commission Against Corruption and had Mr Matthews look at these issues.

Part of the Government's response to the Matthews interim report was that the agencies were to look at any outstanding issues and, where applicable, make the appropriate decisions on those cases as soon as possible. I will not buy into individual cases. The commitment still stands that we would like to see any cases that can be closed out to be closed out as quickly as possible. I am happy to take that part of the question of the Hon. Peter Primrose that relates to a specific case on notice to inquire if there is any other information. I will not speculate or comment on individual cases through this mechanism and will allow the appropriate authorities, investigators and decision-makers to make the determination where possible.

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

Deferred Answers

ENERGY REBATES

In reply to **the Hon. WALT SECORD** (19 September 2017).

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

I am advised:

Help with energy bills is directed to where it is needed. This includes rural and regional areas. Most energy rebates are subject to a means test and a customer needs to hold an approved concession card. Areas with greater need for help have more concession cards and that includes a number of rural and regional areas including areas such as the South Coast, the North Coast and the Far West of New South Wales.

In the case of the Low Income Household Rebate [LIHR], retailers have estimated that 45 per cent of customers that receive LIHR are based in regional areas which account for approximately 35 per cent of the total population.

In the case of the Energy Accounts Payment Assistance [EAPA] program, as of 26 September 2017, $3.2 million of assistance had been given to customers in rural and regional areas. This compares to $2.5 million in the Sydney metropolitan area for the same period.

For the Family Energy Rebate, for the whole of the 2016/17 financial year, there were around 23,000 recipients in rural and regional areas. That was a total of $2 million. This compared to around 21,000 recipients in the Sydney metropolitan area.

NEWCASTLE 500

In reply to **the Hon. MARK PEARSON** (19 September 2017).

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

Supercars Australia, as the event owner, is managing the accreditation process for the Newcastle 500 event to allow owner occupiers, permanent tenants and non-resident owners ease of movement to dwellings located within the event precinct.

I am advised that Supercars Australia is asking all residents within the event precinct to gain accreditation in order to maintain a safe event and speed up access. Supercars Australia has prepared the 2017 Coates Hire Newcastle 500 Residents Accreditation Information booklet which has been made available to all residents in the event precinct. The booklet states that each household will receive two accreditations per bedroom plus two additional accreditations for their use.

Supercars Australia will work closely with all residents to note any services required such as access for carers, Meals on Wheels, and other essential service providers as part of the accreditation process. The advanced provision of this information will ensure that all services required can continue to be delivered to residents located in, the event precinct throughout the Newcastle 500 event. Access for emergency services (police, ambulance, fire brigade and emergency utility services) will also be maintained throughout the race with full access to the event precinct at all times.

Public safety at the event is paramount. Creating a policy on access and accreditation for a crowded place assists Supercars Australia, and other agencies with responsibilities over public safety, to deliver a safe event for both the event and non-event community.

MURRAY-DARLING BASIN PLAN INQUIRY

In reply to **the Hon. MICK VEITCH** (19 September 2017).

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

Departmental staff are being encouraged to discuss any concerns with their line manager and, where appropriate, to access the Employee Assistance Program [EAP] which provides support and advice for employees and their families. The EAP is free and confidential and available for work or personal issues. EAP counsellors were on site at the Albury, Newcastle and Parramatta Water offices from 13-15 September to provide support to affected staff.

The Secretary of the department has also encouraged staff to provide feedback or queries directly to him, either by email or through their line managers. He has also asked all executives to monitor and support their staff, and asked the PLC team to work with line managers on these matters.

The Acting DDG of Water has been leading an outreach program with Water Staff. Since commencing the role, the A/DDG has visited the following regional offices to talk directly with staff about their experiences and concerns:

- Wollongong
- Newcastle
- Albury
- Tamworth
- Dubbo
- Queanbeyan
- Buronga

MURRAY-DARLING BASIN PLAN INQUIRY

In reply to **the Hon. COURTNEY HOUSSOS** (19 September 2017).

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

I am advised no staff refused to be interviewed for the inquiry, and therefore no disciplinary action has been taken against any departmental officers for refusing to co-operate with the inquiry.

Witnesses in all inquiries, regardless of the basis on which the inquiry has been established, are expected to respond to questions in good faith by providing answers that are truthful and accurate. This is crucial for the accuracy of findings and recommendations made in inquiries and to ensure the fundamental purpose of an inquiry is not undermined.

The purpose of the Matthews Inquiry is to get to the bottom of recent allegations made on the ABC's *Four Corners* program. Departmental employees who provide information to the Matthews Inquiry through the arrangements put into place under the Public Interest Disclosures Act 1994 will have a defence of absolute privilege in respect of defamation proceedings.

Departmental employees who provide information to the inquiry outside those arrangements (and also members of the public who provide information to the inquiry) who give truthful and accurate information to the inquiry will likely be entitled to rely on a number of defences contained in the Defamation Act 2005 including the defences of qualified privilege and honest opinion.

It is true that a witness before the Matthews Inquiry will not have a statutory privilege against self-incrimination, as witnesses before judicial and parliamentary inquiries do. However, as the Matthews Inquiry will not have coercive powers to require answers, such a privilege is unlikely to be necessary as no witness will be compelled to answer any question, though if departmental officers chose not to co-operate with the inquiry, they may face disciplinary action.

It should be noted that this is no different to the situation faced by any regulator when gathering evidence of whether an offence has been committed.

CHERRY TREE STATE FOREST

In reply to **Ms DAWN WALKER** (19 September 2017).

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

I am advised:

1. Allegations of offences by Forestry Corporation of NSW in Cherry Tree State Forest are under investigation.

BONDI PAVILION

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

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

The New South Wales Government is committed to ensuring our State's heritage is valued, protected and enjoyed; while also delivering world's best infrastructure and amenities for local communities.

This question would be more appropriately addressed to the Minister for the Environment, Minister for Local Government, and Minister for Heritage.

SYDNEY METRO NORTHWEST

In reply to **Dr MEHREEN FARUQI** (20 September 2017).

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

I am advised:

As a pre-condition for progress payments under their contracts, Sydney Metro Northwest contractors are required to provide a legal declaration that payment of employees, subcontractors and suppliers have been carried out as per the contract deed and all applicable laws have been met.

COMMERCIAL FISHING INDUSTRY

In reply to **the Hon. MICK VEITCH** (20 September 2017).

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

I thank the shadow Minister for his question.

I can advise that on 1 December this year when the new share linkage arrangements commence, fishers in the Ocean Haul Fishery in New South Wales must hold a new minimum number of shares in order to be endorsed to participate in the fishery.

I am pleased to report that any fisher that meets the new minimum shareholding requirement on 1 December will not be limited to 100 days of fishing because of anything the Government has put in place.

There is no restriction on days for the Ocean Haul Fishery under our reforms.

SHOALHAVEN ROAD INFRASTRUCTURE

In reply to **the Hon. PAUL GREEN** (20 September 2017).

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

I am advised:

The preferred option for a new bridge over the Shoalhaven River is expected to be put on public display to inform the community in the coming months. The preferred option will include the number of lanes on the proposed new bridge and upgrades to the surrounding intersections at Illaroo, Bolong and Bridge roads and Pleasant Way. Information about the Nowra Bridge project—Princes Highway upgrade is available on the Roads and Maritime Services website.

TICK INFESTATION

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

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

The matter raised falls under the responsibilities for the Minister for Health, the Hon. Brad Hazzard.

RSPCA AND ANIMAL WELFARE LEAGUE ENFORCEMENT OFFICERS

In reply to **the Hon. MARK PEARSON** (21 September 2017).

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

I am advised no amendment to the Ombudsman Act 1974 is required. The RSPCA and the Animal Welfare League [AWL] are independent charitable organisations who already have their own reporting systems for misconduct complaints.

This question would be more appropriately addressed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry.

TAFE FUNDING

In reply to **Ms DAWN WALKER** (21 September 2017).

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

TAFE NSW is undertaking compliance works in Building A of Ultimo Campus to ensure it meets Building Code Australia and Disability Discrimination Act legislation.

The colocation of corporate functions on campuses across the State ensures that they are close to, and making decisions that support, TAFE NSW's core function of training and delivery.

LOCAL LAND SERVICES

In reply to **the Hon. PENNY SHARPE** (21 September 2017).

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

The draft Native Vegetation Regulatory [NVR] map enables landholders to view the indicative categorisation of their land, to assist them in determining whether they need to apply the Land Management Code when undertaking activities on their land.

The NVR map, and the review process for the maps, is administered by the Chief Executive of the Office of Environment and Heritage [OEH]. Local Land Services staff have been advised to make landholders aware of the NVR map, and associated review process, consistent with the process outlined on the NVR map website:

http://www.environment.nsw.gov.au/biodiversity/regulatorymap.htm

TANE CHATFIELD DEATH IN CUSTODY

In reply to **Mr DAVID SHOEBRIDGE** (10 October 2017).

The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education)—The Minister provided the following response:

I am advised as this matter will be subject to a coronial inquest, it would be inappropriate for me to comment further.

LAND CLEARING

In reply to **Dr MEHREEN FARUQI** (10 October 2017).

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

The Biodiversity Conservation Act 2016 and Local Land Services Act 2013 are not the same as Queensland's laws. The purposes of the Biodiversity Conservation Act 2016 include conserving biodiversity at bioregional and State scales, and supporting biodiversity conservation in the context of a changing climate. The Government is supporting this legislation by investing $240 million over five years (and $70 million per year on-going) in private land conservation. This investment creates significant opportunities for rural landholders to manage their vegetation for conservation purposes and play an increasing role in land-based carbon sequestration.

MARRIAGE EQUALITY SURVEY

In reply to **Reverend the Hon. FRED NILE** (10 October 2017).

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

I am advised:

The implications for New South Wales of any amendment by the Commonwealth to the Marriage Act 1961 will be carefully considered by the New South Wales Government.

DARLINGTON POINT WATER SUPPLY

In reply to **the Hon. PENNY SHARPE** (10 October 2017).

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

Murrumbidgee Council issued a boil water alert for the Darlington Point supply system (population about 1,000) in March of 2017 following a detection of E. coli in a water sample.

Determinations to declare boil water alerts are most frequently done so in consultation with the lead Government agency, NSW Health.

During boil water alerts, Local Water Utilities maintain close contact with NSW Health and the Crown Lands and Water division of the Department of Industry to establish, verify and rectify the cause of the contamination; minimising the potential risk to public health. That has been the case with the boil water alert for Darlington Point, where Murrumbidgee Council has worked with the Department of Industry's water and sewerage specialists and NSW Health to ensure that the quality of water continues to meet the Australian Drinking Water Guidelines.

Murrumbidgee Council is an eligible applicant under the New South Wales Government's Safe and Secure Water Program. Council is aware of the Safe and Secure Water Program and the eligibility of the Darlington Point water supply system.

An improvement project for Darlington Point's water supply system was one project discussed with Crown Lands and Water Division staff at a recent regional information session for the Safe and Secure Water Program held in Griffith.

Crown Lands and Water Division looks forward to receiving an Expression of Interest from Murrumbidgee Council.

PUBLIC SECTOR EMPLOYEE DIVERSITY POLICY

In reply to **Reverend the Hon. FRED NILE** (10 October 2017).

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

The establishment of the Employee Resource Groups [ERGs] align with the Premier's priority in relation to "Driving public sector diversity". It is integral to the Department of Finance, Services and Innovation's [DFSI's] organisational outcomes, demonstrating that the Department is diverse and inclusive. DFSI's diversity and equity programs recognise cultural and community needs and expectations, deliver social justice outcomes to customers and employees, reflect best practice and comply with statutory and legislative requirements.

For context, the LGBTIQ ERG is one of eight ERGs in DFSI, which include Aboriginal and Torres Strait Islander; Carers'; Culturally and Linguistically Diverse; Disability; Mature Age; Women; and Young Professionals.

Terms of Reference, endorsed by the DFSI Diversity Advisory Council, outline the purpose and functions of all the ERGs. The purpose of each ERG is to assist and inform the DFSI Diversity Advisory Council to strengthen the Department's diverse and inclusive workforce so that DFSI is better able to engage with and understand the needs and expectations of its employees and Customers. ERGs will do this by providing advice on how the DFSI Diversity Advisory Council can create and promote the development of an inclusive work culture supportive of diverse employees and helping to identify barriers that employees and customers may face when accessing DFSI services or products and possible ways to address such barriers.

Q FEVER

In reply to **the Hon. WALT SECORD** (10 October 2017).

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

NSW Health has allocated funding in 2017-18 towards an education strategy to increase Q fever awareness in rural communities.

WYANGALA VILLAGE WATER SUPPLY

In reply to **the Hon. MICK VEITCH** (11 October 2017).

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

In early September 2017, Cowra Shire Council issued a boil water alert for the Wyangala water supply system because filtration and disinfection did not meet the recommendations of the Australian Drinking Water Guidelines. Cowra Shire Council has recently resolved to declare the Wyangala water supply as non-potable. Residents have been advised that the water is unsafe to drink, and should continue to be boiled before consumption. There is no need for emergency water to be supplied in these circumstances.

The regional team in Crown Lands and Water will continue to provide regulatory oversight and technical support for the non-potable scheme. Cowra Shire Council, with assistance from the Department of Industry and NSW Health, is exploring infrastructure upgrades and treatment options to provide potable water in the future.

The Department of Industry has advised Cowra Shire Council of the $1 billion Safe and Secure Water Program, announced with the 2017 NSW Budget, which is now open for applications.

Committees

COMMITTEE ON CHILDREN AND YOUNG PEOPLE

Report: 2017 Review of the Annual Reports of the Advocate for Children and Young People and the Children's Guardian

Debate resumed from 12 September 2017.

The Hon. CATHERINE CUSACK (17:01): I am grateful for the opportunity to address the House on a recent inquiry undertaken by the Committee on Children and Young People, the "2017 Review of the Annual Reports of the Advocate for Children and Young People and the Children's Guardian". At the 2017 review hearing, the committee heard from the Advocate for Children and Young People, Mr Andrew Johnson, and the then Children's Guardian, Kerryn Boland. As always, the committee valued hearing from young people, including Ms Brenella Abdel-Rehim, 2016 Chair of the Youth Advisory Council, and Mr Declan Drake, the 2017 Chair. After considering all the evidence, the committee now makes a single important recommendation that the Minister for Family and Community Services and the Minister for the Prevention of Domestic Violence and Sexual Assault conduct a review of the incidence of violence against children.

Violence against children was a key issue in this year's review. In fact, the committee has learned that in polling that informed the current NSW Strategic Plan for Children and Young People, children said that their biggest fear was crime and violence. The advocate also gave evidence regarding the attitudes towards the impact of violence on children and young people. He observed that a large number of people, particularly children from lower socio-economic areas, feel that violence against them is seen as secondary in importance to other issues, especially when compared to violence perpetrated against adults. Sadly, my experience confirms this is true, particularly for young men who have been in fear of violence and have received a lack of support from police and other authorities.

The Advocate and 2016 Chair of the Youth Advisory Committee commented that children were particularly concerned about media representations of violence against children. The committee was therefore pleased to hear that a key focus of the Advocate in the coming year is the prevention of violence against children. The Advocate is currently developing initiatives to prevent such violence and the committee is keen to learn more of those initiatives. The committee also heard that the Advocate has been encouraging children and young people to participate more in the decision-making processes that affect their lives.

The Advocate has also been promoting life skills training and education, working to raise awareness in children and young people about their employment and renting rights, which is an increasingly important area of activity. In November last year, the committee tabled its report on the sexualisation of children and young people. This review provided an opportunity for an update on the Advocate's implementation of the inquiry recommendations. The committee was pleased that the advocate had met with the eSafety Commissioner, and was examining law reform and education about the non-consensual sharing of intimate images. Since the review hearing, the Government has released its response to the inquiry, which detailed a variety of work being undertaken by the Advocate in response to the recommendations.

The primary function of the Committee on Children and Young People is to oversight both the Advocate and the Children's Guardian. This year, the committee took the opportunity to review the annual report and the

activities of the Children's Guardian. The committee focused on the performance of the Children's Guardian in administering the Working With Children Check and also heard about the Children's Guardian's work to promote a sense of shared responsibility for children's safety. The Children's Guardian pointed to the key strengths of the new Working With Children Check system following the 2013 reforms. The committee heard that an important feature of the new system is the continuous check event. This means that if someone is charged with a relevant offence in New South Wales, the police will notify the Children's Guardian, who will then conduct a risk assessment in light of that information. Previously, individuals who received a Working With Children Check would not be rechecked until they changed employer.

The committee is happy to hear about the progress in this area and looks forward to the outcome of the five-year statutory review of the check. The committee also heard that the Children's Guardian recently had launched a campaign called "Parents Check the Check". The Children's Guardian emphasised that the Working With Children Check alone is not enough. Child safety is a shared responsibility. For example, the campaign encourages parents to ensure that home tutors have Working With Children Checks and that children are adequately supervised when they attend sporting or activity clubs. I thank Ms Kerryn Boland for her tireless work and service to the community as the Children's Guardian, which office she has held since 2005. On behalf of the committee I also welcome Ms Janet Schorer, the new Children's Guardian. The committee looks forward to working with Ms Schorer to further the invaluable work of the Children's Guardian in protecting the children of New South Wales.

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

Motion agreed to.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. NATASHA MACLAREN-JONES: On behalf of the Hon. Lou Amato: I move:

That order of the day No. 2 on the *Notice Paper* of committee reports be postponed until the next sitting day.

Motion agreed to.

The Hon. NATASHA MACLAREN-JONES: On behalf of the Reverend the Hon. Red Nile: I move:

That order of the day No. 3 on the *Notice Paper* of committee reports be postponed until the next sitting day.

PRECEDENCE OF BUSINESS

The Hon. DON HARWIN: I move:

That Government business take precedence of debate on committee reports for the remainder of the day.

Motion agreed to.

Bills

ELECTRICITY SUPPLY AMENDMENT (EMERGENCY MANAGEMENT) BILL 2017

Second Reading Debate

Debate resumed from an earlier hour.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (17:10): In reply: The Leader of the Opposition foreshadowed an amendment that would include industrial relation requirements. The proposed amendment reproduced the existing provision in the Energy and Utilities Administration Act 1987, which is 30 years old and was developed well before the current industrial relations framework, and the existing electricity market framework. Industrial matters should be managed through the industrial relations system, which can take into account the issues related to energy security. For example, earlier this year in Victoria the route taken was industrial relations, not emergency management legislation. In May the Victorian Minister for Industrial Relations made an application to the Fair Work Commission to seek a termination of the industrial action at AGL's Loy Yang Power Station, a major electricity supplier to the Victorian market. The Victorian Government media release at the time said this was to protect Victoria's electricity supply. As Victorian Minister for Industrial Relations Natalie Hutchins said:

> The protracted negotiations between AGL and its workforce commenced in 2015 and must be resolved.
>
> The Government will ask the Fair Work Commission to terminate this protected industrial action before any closure can occur.

The Victorian Minister for Energy, Lily D'Ambrosio, said:

Victorian families and businesses can be assured that this action will ensure our State's energy supply is not put at risk.

This bill strengthens the State's need to respond more expediently in the event of an electricity emergency. It meets the intent of recommendation 3 from the NSW Energy Security Taskforce. It takes a pragmatic approach to electricity emergency management and recognises the primacy of the role of the Australian Energy Market Operator as the national operator of the National Electricity Market. It is part of a broader body of work being undertaken throughout the National Electricity Market and within New South Wales to improve how electricity supply emergencies are managed and to ensure that we are ready if ever needed. I thank all members who have indicated support for the second reading of the bill and I commend this bill to the House.

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

Motion agreed to.

The Hon. DON HARWIN: I move:

That consideration of the bill in Committee of the Whole stand as an order of the day for a later hour of the sitting.

Motion agreed to.

EDUCATION AMENDMENT (SCHOOL SAFETY) BILL 2017

Second Reading Debate

Debate resumed from 18 October 2017.

The Hon. LYNDA VOLTZ (17:14): On behalf of the Opposition, I represent in this Chamber my parliamentary colleague Mr Jihad Dib in the Legislative Assembly on the Education Amendment (School Safety) Bill 2017. In summary, this bill amends the Education Act, which will allow the Minister for Education to issue students with a non-attendance from school if there is a significant risk that the student will engage in serious violent conduct, regardless of whether the student cannot or might not be held criminally responsible for the conduct, loss of life, serious physical or psychological injuries, serious damage to property, serious offences of a sexual nature or animal cruelty, or that the student supports terrorism or violent extremism; or if the Minister believes, on reasonable grounds, that this action is necessary to protect the health and safety of students and staff at any school. This legislation also extends the Minister's powers, regardless of whether conduct occurs outside of the school grounds or school hours.

The Assistant Minister for Education, the Hon. Sarah Mitchell, noted in her second reading speech that section 35 of the Education Act 1990 provides that options of suspension and expulsion are available to a principal. This bill seeks to deal with the risk posed by the potential for a student to engage in seriously violent conduct before that risk eventuates. The Opposition shares the concerns of the community and the Government for children, particularly in the school environment, who may be placed in such situations. However, we note from her speech that the non-attendance direction is not designed or intended to be a disciplinary power. The non-attendance direction will be used as a risk assessment and management tool to enable schools to continue to provide a healthy and safe environment for all students and staff. I am sure the entire community agrees with that.

It is an unambiguous and transparent power to proactively protect a school community as is required by a risk that is posed. The power that is sought is similar to what is available under the Public Health Act. Some key elements of the legislation are that the Minister can, in writing, issue, revoke and vary a non-attendance order. There is no maximum number of days. The secretary can subsequently issue an attendance order to a specified school—it can be a non-government school—to a student because of their behaviour. A non-attendance direction of fewer than five days does not qualify for review. A non-attendance direction of more than five days can be reviewed internally, but not by someone involved in the recommendation or investigation process.

Students issued with a non-attendance order that results in their being directed to not attend a school for more than 20 school days in a year may apply to the NSW Civil and Administrative Tribunal [NCAT] for a review. A compulsory schooling order made by the Children's Court does not have an effect to the extent it is not consistent with this order. When she introduced this legislation the Minister gave some real-life examples of the following incidents that could be covered by such a proposal, such as a student suffering from a psychiatric disorder in which the student is obsessed with rape and murder of younger students and has a pattern of seriously socially unacceptable behaviour that has not yet included violence at school but which has included acts of serious violence against persons or animals away from school.

The Minister also gave the example of a student who has a one-way ticket to the Middle East and is in possession of a communication device that has accessed information about the Islamic State, who is stopped at the airport and the next day seeks to return to the school. The Minister noted that members would recall reports in the media last year involving a website on which people were encouraged to post explicit photographs of female

students for the purpose of the images being shared and rated by those visiting the site. Parliaments have no greater role than ensuring that children are safe in our community, in particular in their school environment. The Opposition supports this bill, although we will move some minor amendments that I understand the shadow Minister has discussed with the Minister for Education. We will deal with those in more detail in the Committee stage. We must ensure that the guidelines are collaborative and that all regulations are clear. Obviously, this legislation will allow for regulations. The guidelines, which are not yet written, will be subject to them.

Stakeholders want to be included in developing the guidelines to make sure that they are practical. It is always best to involve educators with a wide range of experience in the school environment to ensure that the guidelines are workable. We must ensure that schools are safe but also that any students placed on these orders have a plan of management. The last thing we want is for children who may present a risk to themselves or others to be unsupervised outside of the school environment. Some of our amendments go to that matter. Engagement is a core underlying principle in counterterrorism and there is a fundamental need to ensure that people remain under supervision in the community because isolation could make them a greater risk in the future. That is the last thing anyone in this Parliament would wish to see. The Opposition supports this legislation. We will have more to say in the Committee stage.

Mr JUSTIN FIELD (17:22): On behalf of The Greens I speak in debate on the Education Amendment (School Safety) Bill 2017. The Greens support a public education system that is inclusive and supportive, and provides a safe place for all children to learn and develop. There is no question that this can be a challenge sometimes. At times, for a range of reasons, some young people do the wrong thing. On rare occasions that includes serious violence or threats of serious violence. All violence and threats of violence are unacceptable. Students, teachers and the community should be able to be confident that our schools are safe places in which to be and to learn. Part of that confidence comes from ensuring that our principals, law enforcement officials and judicial system have the tools they need to remove risks from the school environment, to investigate and punish offenders, and to take action to reduce risks to the community.

In addition, there is a broader systemic question about how we support young people to make them feel included in the school environment and in society generally. It is about how we support young people with mental health needs or other needs. It is about how we respond when kids go off the rails—even seriously—and how we bring them back into the community and enable them to continue their education. That will not always be possible, but it is overwhelmingly in the public interest to ensure that all kids have access and opportunity for a quality education and receive the support they need.

The Greens understand the intention behind this bill, but we do not support it. The current Act contains adequate provisions to enable principals, the police and the courts to take the necessary action to identify and respond to threats, deal with violent offenders when necessary and keep kids in our schools safe. This bill allows the Minister for Education to give a direction to a student to not attend school for a specified period if the Minister believes on reasonable grounds that there is a significant risk that the student will engage in serious violent conduct, or that the student supports terrorism or violent extremism.

Under part 5 of the Education Act, and the Suspension and Expulsion of School Students—Procedures 2011, principals can in effect give non-attendance orders vis-a-vis suspending, expelling or refusing to enrol a student on the grounds that they pose a significant risk to the health and safety of students and teachers. They can seek to gather information from other agencies in the same way that seems to be outlined in the proposed amendment. That makes it hard to understand the rationale for this legislation other than the threat of terrorism, which governments seem to use as motivation at times. It was one of the examples cited in the second reading speech and the briefing notes. We always need to be mindful of how our responses to threats could lead to increased threats in our community.

If we exclude people merely because of a concern of a threat—which is a possibility under the bill as proposed—we run the risk of further isolating people. That has been spoken about time and again in public discussions, including by senior law enforcement officers. The purpose of the Education Act is to support young people to get an education. The more steps we take to increase the capacity for exclusion the more we run the risk of undermining that objective, in particular when significant assumptions need to be made about the potential for a threat.

The operational effect of this amendment will be that a school principal will, in most instances, act on the advice of police and seek a direction from the Minister to give a non-attendance direction. The question is under what guidelines a principal or Minister would determine whether there are reasonable grounds to do that. It is a huge burden to place on a principal. When confronted with a sense of a threat from law enforcement or a teacher it would be very difficult for a principal to not seek for the Minister to make such a direction, given what they understand to be their expected duties. I am not sure this responsibility should sit quite this way with

principals. The provisions in the Act go some way towards enabling that to happen and we do not think they need to be extended. The guidelines are critical because the devil will be in the detail as to how this operates.

I understand that key New South Wales stakeholders have not been consulted in the development of this bill, including the Teachers Federation, the Law Society, the Commission for Children and Young People and the Aboriginal Education Consultative Group. None of those key education stakeholders were consulted before the bill was drafted. I note that the Opposition will support the Government and this bill will become law, but it is absolutely necessary to consult those stakeholders on the development of guidelines and regulations under the legislation. That will be critical to ensuring that the objective of the Education Act, to give kids access to a quality education, is upheld, even when some young people present a risk. The best long-term outcome for the community is to have strategies that manage risk while ensuring that children have access to an education. I note that the Labor Party will move amendments in the Committee stage. I will have more to say about those at that stage. Our education spokesperson, the member for Ballina, will provide more detail about the position of The Greens in the other place.

Reverend the Hon. FRED NILE (17:29): I am pleased to speak on behalf of the Christian Democratic Party in support of the Education Amendment (School Safety) Bill 2017. As other members have already said in the debate, this legislation has arisen as we face a new environment in our State and in our nation and we must be realistic in confronting it. Some members are reluctant to confront it and hope that it will disappear but, sadly, this Parliament has to confront serious issues. Key proposed amendments will create powers that will enable the Minister for Education to direct a student not to attend school if there are reasonable grounds to believe that the student's presence will create a significant risk of serious violent conduct at school or if the school community's health and safety is adversely impacted by the student's presence at school.

Recently there was some controversy about school prayer groups meeting. The Department of Education imposed certain restrictions on those programs as it found that instead of being places for prayer they were places for mobilising Islamic activity that could lead to violence. We would not expect prayer groups ever to be thought of negatively. I indicated to the Government that we should have separated traditional Christian prayer groups from Islamic prayer groups, but the new restrictions apply to all prayer groups whether they are Christian or Muslim.

The bill creates a framework for the Minister to assess the relevant risks involved and to develop risk management strategies if it is ultimately determined that a student is nevertheless to attend school. The bill extends the school's disciplinary powers to deal with conduct that impacts on the contemplated risk. Under the bill, the Minister does not need to consult with the relevant student before making a non-attendance direction; however, written notice of a non-attendance direction is mandated and can be varied. The scheme under the bill is to create an evidence-based system where the Minister takes action pursuant to information obtained about the relevant student. That information can be obtained from a variety of sources including the police, the Department of Family and Community Services, public health organisations and the relevant school. It appears that action can be taken in relation to conduct that has not been prosecuted or for conduct where a court has not yet determined criminal liability.

The bill aims at risk control and minimisation by removing potential threats from the proximity of other young persons at the school. Some have suggested that removing them from school would still render the community at large to be at risk. While that is strictly true, I understand that the object of this bill is specifically to make the schooling environment safer. Any threat to society will be the responsibility of the NSW Police Force and other security forces in our State and nation. There are problems in and around our schools that are so serious that they need to be dealt with by legislation of this type.

Under the bill, the term "serious violent conduct" is defined as conduct that involves the loss of life, serious physical or psychological injury or serious damage to property, or conduct that is of a sexual nature or that involves cruelty to animals. The terms "reasonable grounds", "significant risk" and "serious physical or psychological injury" are not defined in the amended Act or in this bill. These will be subject to judicial interpretation in accordance with existing precedent in common law, relevant State interpretation practices and evolving community standards. This last point may overstate the issue as this is how the meaning of key but sometimes imprecise or vague legislative terms is ordinarily understood and applied—on a case-by-case basis and over time.

The fact that we need such a bill highlights the almost revolutionary change in Australian cultural norms over the past few decades, which I believe is unfortunately at the heart of the need for this legislation. Many of these changes, such as the magnitude and character of the threats and violence that this bill addresses, are the result of activities and beliefs that have been indirectly or directly influenced by public policy. This bill masks a deeper problem that has been simmering away for decades under the noses of Federal and State governments—their policy analysis.

While the risks to safety that the bill addresses concern harm to people, sexual crimes and animal cruelty, I believe the spectre of terrorism and the ideologies under which it is waged have been the major motivating force for these amendments. It is no secret to my colleagues—at least those who are not averse to keeping up with global affairs as well as demographic and cultural norms at home—that Western societies have lately been facing increased threats on two major fronts. The first is the challenge posed by the ideology of international jihad, which is Islamic terrorism or war, and the second has been the internal weakness caused through the dominance of cultural relativism and the general decay of values that follows it. Taken together, these two have prevented society from honestly tackling the root cause of the matters that this bill seeks to address.

We will continue to support this type of legislation and also campaign to strengthen our society's values. It should be obvious to anyone, whether or not they are religious, that we are all affected by these social trends, especially the negative ones. Our tolerance—which is inherent in the Western cultural tradition—has been taken advantage of by hostile ideas and ideologies and now we fear that they may be spreading through our youth at school. The moral vacuum created by relativism has provided a fertile environment in which certain ideas may be appealing to the lost and the easily manipulated.

There was a time when these things were not an issue. So what happened? We have had some naïve people with naïve views as stewards of our society and now we see the fruit of their work. I am constantly amazed when I see how decades of so-called progress have led to a situation where we now need to consider passing legislation such as this. This bill is necessary and urgent. It addresses an immediate problem and an immediate need, but it is no cure for the real issues that have caused these precedents and problems in the first place. The Christian Democratic Party will support this bill because it is both prudent and practical. However, we are mindful that legislation of this type only controls a situation that at this stage shows no sign of abating. We must continue to be observant and vigilant. We need something other than more mechanisms of control. We need policy that does not foster the causes of social decay and moral degeneracy. We support the bill before the House.

The Hon. SCOTT FARLOW (17:37): On behalf of the Hon. Sarah Mitchell: In reply: I thank all members who contributed to this debate—the Hon. Lynda Voltz, Mr Justin Field and Reverend the Hon. Fred Nile. This bill will enable the Minister for Education to direct a student not to attend school for a specified period if the Minister believes on reasonable grounds that there is a significant risk that that student will engage in serious violent conduct or that the student supports terrorism or violent extremism. Initially, a non-attendance direction is necessary to protect the health and safety of school students and staff.

This bill will also require the Minister to assess whether the attendance of the student at school constitutes a health and safety risk and, if appropriate, develop risk management strategies to enable the student to attend school. Lastly, the bill extends school disciplinary powers to student conduct that significantly affects or is likely to significantly affect the health or safety of students or staff regardless of whether that conduct occurs on or outside school premises or within or outside school hours. I note that the shadow Minister, Mr Jihad Dib, is in the gallery. The Government has worked with the Opposition to agree to some minor amendments to the bill. These important amendments will ensure that schools remain a safe and healthy environment for all students, teachers and staff. All people attending a school, for education or work, should have the right to be treated fairly and with dignity in an environment free from disruption, intimidation, harassment and discrimination. The non-attendance direction will be used in a small number of cases as a risk assessment and management tool to enable schools to continue to provide a healthy and safe environment for all students and staff, whilst working with teachers, other government agencies, parents and community organisations to develop a plan for the education of a student who poses a risk of serious violent conduct.

The Hon. Lynda Voltz raised concerns about the guidelines. External consultation with government agencies and relevant community groups in the development of the guidelines will commence in early December 2017. The guidelines will deal with the application of the power; reporting requirements; alternative strategies to manage violent behaviour; the role of parents, students and staff; the role of external agencies, organisations and individuals; additional principles applying to out-of-home care students, students with disabilities and Aboriginal and Torres Strait Islander students; the risk assessment process; the development of customised support plans; and rights of review.

As part of the consultation, the department intends to consult broadly across government, in particular with the Department of Premier and Cabinet, Department of Justice, NSW Police Force, Juvenile Justice NSW, the Children's Court, Department of Family and Community Services, Advocate for Children and Young People, NSW Health, Child and Adolescent Mental Health Service; Children's Guardian, Multiculturalism NSW and the NSW Civil and Administrative Tribunal. The department will also consult externally with the non-government school sector, the Aboriginal Education Consultative Group, the New South Wales Secondary Principals' Council, the New South Wales Teachers Federation, the Public Service Association, the Federation of Parents and Citizens Association of New South Wales and youth peak bodies.

The guidelines will be available to schools following the department's consultation with its internal Principals' Legal Issues Reference Group on the draft guidelines. Once the guidelines have been approved by the Minister and the Social Policy Committee of Cabinet, they will be made available to schools on the department's intranet site. This is expected to occur in the first term of 2018. Schools will be informed of the guidelines through normal communication channels such as SchoolBiz and Legal Hot Topics, as well as through internal telephone advice services such as the Incident Support Unit, Child Wellbeing Unity and Legal Service.

The initial guidelines will be applicable to government schools only. They will be amended if non-government schools require access to the power to issue a non-attendance direction. Non-government schools do not face the same barriers in dealing with student behaviour as the government sector as there are statutory requirements on government schools to enrol students. Children of school age are required to attend school and a large number are arguably vulnerable due to their age, capabilities and life experiences. Schools should be a safe environment for them. They should not have to wait until the risk eventuates before they can take action to assess and manage the risk. I commend the bill to the House.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): The question is that this bill be now read a second time.

Motion agreed to.

In Committee

The CHAIR (The Hon. Trevor Khan): There being no objection, the Committee will deal with the bill as a whole.

The Hon. LYNDA VOLTZ (17:43): I move Opposition amendment No. 1 on sheet C2017-106A:

No. 1 **Enrolment directions**

Page 4, Schedule 1. Insert after line 14:

[10] Section 26H (2A)

Insert after section 26H (2):

(2A) An enrolment direction must specify a school of a kind that is appropriate for the age of the student and that is within a reasonable distance of the student's home.

This is a minor amendment concerning enrolment directions. Access to schools in Sydney is reasonably easy but students who live outside the metropolitan area—for example, students on the Central Coast, particularly those of high school age—might be directed to schools in Newcastle. In the past parents have expressed concerns about this issue—for example, when the TAFE arrangements were changed and students were forced to travel greater distances to study for their higher school certificates. This amendment will ensure that children, particularly younger students to whom this enrolment direction may apply, are directed to a school of a kind that is appropriate for their age and is within a reasonable distance of their home. I understand the Minister for Education has been consulted about this amendment and is in agreement.

The Hon. SCOTT FARLOW (17:45): As indicated previously, the Government has had a constructive working relationship with the Opposition on this bill. We support Opposition amendment No. 1.

The CHAIR (The Hon. Trevor Khan): The Hon. Lynda Voltz has moved Opposition amendment No. 1 on sheet C2017-106A. The question is that the amendment be agreed to.

Amendment agreed to.

The Hon. LYNDA VOLTZ (17:45): I move Opposition amendment No. 2 on sheet C2017-106A:

No. 2 **Support plan for student not attending school**

Page 5, Schedule 1 [13] (proposed section 26HA (3) (c)), line 1. Omit "may". Insert instead "must".

This amendment also concerns proposed section 26HA. Under the bill the Minister "may" draft a plan for students. The Opposition contends that the Minister should draft a plan for students not attending school because they represent some risk. Those students should be given some type of supervision and be engaged at an educational level. The worst thing we could do is to leave isolated students at risk of engaging in terrorism, sexual misconduct or acts of animal cruelty. A support plan of management for these students will ensure that in the future they do not pose a risk to society.

The Hon. SCOTT FARLOW (17:47): While a non-attendance direction will stop a student physically from attending school for a period, it will not stop that student from gaining an education similar to an education that he or she would have received at school. Access to education is a right protected by the Education Act and

that right is not being diminished by this set of amendments. While a student is subject to a non-attendance direction the school will liaise with the student and his or her parents or carers. Students will also continue to receive from the school the normal coursework they would have received had they been physically attending school. It is expected that the school will continue to check in with the student and family every week. The student will also have a customised support plan, which will consider elements such as the student's education, development and wellbeing and, if relevant, his or her reintegration into the school system. The Government does not oppose Opposition amendment No. 2.

Mr JUSTIN FIELD (17:48): The Greens support Opposition amendment No. 2. It goes to the core issues I outlined during the second reading debate. In fact, I understand this recommendation was put forward by the Law Society of New South Wales. I reiterate, children with these sorts of directions placed on them by the Minister will require more support than simply being supplied with coursework. It is critical that targeted, individualised plans are developed to address concerns whilst enabling them to participate in the education system.

The CHAIR (The Hon. Trevor Khan): The Hon. Lynda Voltz has moved Opposition amendment No. 2 on sheet C2017-106A. The question is that the amendment be agreed to.

Amendment agreed to.

The Hon. LYNDA VOLTZ (17:49): I move Opposition amendment No. 3 on sheet C2017-106A:

No. 3 **Publishing information about non-attendance directions**

Page 5, Schedule 1 [13]. Insert after line 16:

(5) At the end of each school year, the Minister is to publish on the Department's website the number of non-attendance directions given by the Minister during that school year.

This amendment, which relates to transparency, is simply asking that the Minister publish on the department's website the number of non-attendance directions given by him or her during that school year. It is not a process through which we would expect to see any details other than a simple number. We do not want a situation in which any personal or identifying information is released; it is simply to give the community an indication of the number of notices that are given to provide some transparency.

The Hon. SCOTT FARLOW (17:49): The bill facilitates the gathering of information about a student to assist with the risk assessment process. Sometimes the information that police or another law enforcement agency provides to the education department may have been obtained from a confidential informant or from covert surveillance. Disclosing this information could result in a police investigation being compromised or the life of an informant being put at risk. Schools also often obtain information about the potential risk posed by a student's behaviour from other sources, including from other students.

For those reasons, the bill provides that the Minister, the secretary or a school are not required to disclose information obtained relating to a non-attendance direction if there are reasonable grounds to believe that to do so would endanger a person's life or physical safety; or enable the existence or identity of a confidential source of information relating to the enforcement or administration of a law to be ascertained; or prejudice the investigation of a contravention, or possible contravention, of a law in any case; or not be in the public interest. Similarly to section 245D (4) of the Children and Young Persons (Care and Protection) Act 1998, it is important to ensure that information that can be used to protect our children and young people is provided freely to the relevant authorities in a safe environment for the discloser of the information. The Government will not oppose the amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. Lynda Voltz has moved Opposition amendment No. 3 on sheet 2017-106A. The question is that the amendment be agreed to.

Amendment agreed to.

The CHAIR (The Hon. Trevor Khan): The question is that the bill as amended 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 with amendments.

Motion agreed to.

Adoption of Report

The Hon. SCOTT FARLOW: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. SCOTT FARLOW: I move:

That the third reading stand as an order of the day for a future day.

Motion agreed to.

ENVIRONMENTAL PLANNING AND ASSESSMENT AMENDMENT BILL 2017

Second Reading Debate

Mr DAVID SHOEBRIDGE (17:54): On behalf of The Greens I contribute to debate on the Environmental Planning and Assessment Amendment Bill 2017. Elements of this bill are supportable, but other substantial parts of the bill give more power and rights to developers, remove the rights of local councils and dumb down our planning laws even further. On balance, The Greens will not be supporting this bill. At the outset, we note that our strongest concern with this legislation is that it fails to provide an adequate framework for dealing with the climate impacts created by the New South Wales planning system. The bill also fails to put in place appropriate measures to ensure new developments are climate-change ready. We know that already there are anticipated impacts arising from climate change, and there is nothing in this bill that will prepare New South Wales for those changes.

Given the New South Wales planning system is the biggest contributor to climate emissions in this State, it is an unacceptable omission in the bill. Indeed, the phrase "climate change" appears not once in either this bill or the Environmental Planning and Assessment Act. This is a missed opportunity to ensure that mitigating climate change and climate preparedness are given the central role they require if we are to avoid the catastrophic impacts of climate change. It is the planning system that approves some of the largest carbon emission projects in the State. It is the planning system that ticks off on coalmines. It is the planning system that builds the disposable commercial buildings that are being replaced every 30 years with the catastrophic levels of carbon emissions associated with those developments. And it is the planning system that is failing to take into account preparedness for climate change, let alone mitigation.

The Government's claimed intention with this bill is—and I quote from the Government's own media—"to slash approval times for state significant developments such as mines, while increasing accountability". Anybody who understands the planning system recognises that those objects are in direct opposition to each other, and the bill fails spectacularly to resolve that. I turn now to some of the specific elements in the bill. As I said before, parts of this bill are supportable—for example, The Greens welcome the inclusion, although in a watered-down form, of ecologically sustainable development as one of the objects of the Act. We believe it should be the principal object and, indeed, we have amendments that will seek to make it the principal object. We note that ecologically sustainable development being an object of the Act was a key recommendation of the independent Moore and Dyer review into planning that reported in 2012. Any new government should dig up that report—which the current Government buried in the backyard of the planning department—have a good look at it and legislate in accordance with many of those recommendations.

As I said, the form of wording of ecologically sustainable development that is incorporated in this bill is weak and does not expressly include key factors that have been essential in protecting the environment in a series of planning matters, such as the precautionary principle and intergenerational equity. They are essential to ecologically sustainable development and are missing from the bill. We propose an amendment to ensure that ecologically sustainable development is the overarching and primary object of the bill, and to make biodiversity and the precautionary principle essential considerations for planning authorities.

There are changes regarding community participation and consultation, and many of these changes are reheated from the 2013 planning bill that ultimately failed. The Greens support requiring all planning authorities to prepare a community participation plan—we said it in 2013 and we say it again now. The requirements proposed under this bill will all be set out in the regulations, but they will require authorities to undertake community participation for proposals and development applications, and the bill says they will need to be consistent with the Community Participation Charter. It is positive to require decision-makers to give reasons for their decisions and, of course, those reasons should be proportionate to the scale of the decisions made. We support those changes which will increase transparency and accountability in the planning. However, we believe the bill proposes inadequate minimum time frames for community participation and we will move amendments to ensure that the community is guaranteed adequate time in which to consult and make submissions on major planning issues that affect them and their neighbourhood.

The planning administration changes to this bill are cosmetic and embarrassing. Division 2.3 of schedule 2 to the bill sets out changes to the Planning Assessment Commission [PAC]. The Greens have long been critical of the Planning Assessment Commission as little more than a rubber stamp for the department. Indeed, indeed the analysis that we have made over a number of years shows that the Planning Assessment Commission is a rubber stamp for the department, agreeing with the recommendations from the planning officials somewhere between 97 per cent and 99 per cent of the time and approving development somewhere between 95 per cent and 96 per cent of the time. It adds little if any real value to the planning system; the community has no confidence in it. It is palpably not independent.

So what changes does the bill propose? The only change the Government proposes to the Planning Assessment Commission, apart from changing it from being a statutory body to an agency, is to rename the Planning Assessment Commission the Independent Planning Commission. Of course, members continue to be appointed by the Minister. The staff required for the operations of the Planning Assessment Commission are all founded in the department. It has no independent research skills; it has no independent experts. It is anything but independent and the figures do not lie. With a 97 per cent concurrence with what the planning officials say, with members chosen by the Minister, with no parliamentary oversight, this so-called Independent Planning Commission is an oxymoron. It continues to be the developers commission and it should be renamed the Developers Commission of New South Wales.

We further note that the bill removes the PAC review stage, which is where planning department submissions are currently considered. This essentially means it will not even have a chance to independently review the information it receives. Currently recommendations from the department are reviewed by the PAC. Submissions are made at that review process and the propositions from the planning department are tested, at least to a small degree, but the Government proposes to remove that testing process and all we will get is an untested recommendation from the planning department. It will go straight to the Planning Assessment Commission; the rubber stamp is just getting bigger.

Under the Government's proposals public hearings will continue to have no merit appeal rights. The Greens say that the opportunity to remedy this problem should be taken when the bill is debated and we will move amendments to reinstate appeal rights for all Planning Assessment Commission matters; merit appeals should go to the Land and Environment Court. If the Government says that this Independent Planning Commission, so-called, is doing valid work, it should not be scared of scrutiny in the courts. Schedule 4.1 to the bill proposes to grant reserve powers to the planning secretary to step in if councils or other agencies are said to take too long on approvals for integrated development. We do not support this.

This is particularly concerning in two cases. The first is where the Heritage Council is considering a matter. In the last few years this agency has almost never complied with the relevant time lines. It is proposed that those powers now be exercised, not by the Heritage Council but by the planning secretary, who can just step in and act as though he or she is the Heritage Council—put in place weak conditions, recommend approval and destroy our heritage. We do not support that and cannot understand how any other party in this Parliament concerned about heritage would support these step-in powers for the secretary to literally take over the role of the Heritage Council.

The second area of very real concern where the secretary can just step in and take over the powers and put himself or herself in the shoes of the referral body is in relation to the Rural Fire Service and development of facilities such as aged care facilities on bushfire-prone land. Currently there is some delay in the Rural Fire Service assessing those developments, determining whether or not they can be approved and putting in place often very stringent conditions so that elderly people are not burnt to death in a bushfire because we have inappropriately positioned development, development that has inadequate access or development that is too close to bushfire-prone land.

This is a matter of life and death. However, instead of giving the Rural Fire Service sufficient resources to do the assessment in time, the Government proposes to allow the secretary to just step in and take over the role of the Rural Fire Service, provide some standard, bland conditions that do not respond to the specific risk and see development approved regardless of the risk from bushfires. Again, we cannot understand how any party in this House would support taking away the role of the Rural Fire Service in those circumstances and handing it to the chief bureaucrat in planning, who we know has a single goal—because the Government has said it—to slash approval times and get development happening regardless of the impact it may have on public safety or heritage.

When it comes to the role of local councils this Government continues to attack them. It takes away their planning powers, and it seeks to remove councils through deeply unpopular forced amalgamations. We know that the community often places far greater value in their local council than they do in State Government. They have a far closer relationship with their local council and their local councillors than they do with their State and Federal

members of Parliament. The Greens support grassroots democracy and we support councils. That is why we cannot support this legislation, which continues to take powers away from local councils.

The bill proposes a series of additional requirements on councils regarding their planning processes and instruments. Some of those are acceptable and indeed some of the strategic planning elements are actually positive but the proposal to put in place standardised development control plans [DCPs] is not supportable. Councils are democratically elected and should have the autonomy to produce planning provisions and planning rules specific to their local area. It is foolhardy to suggest that one can have common planning instruments for environments as diverse as the foreshore of Sydney Harbour and the outskirts of Orange. There are groundbreaking and detailed local development control plans that have been fundamental to saving our heritage.

One of those with which I am particularly familiar is the Paddington Conservation Heritage area, which has fundamentally succeeded and has enormous community support, with place-specific, tailored controls to identify the heritage in Paddington and ensure that the largest area of Victorian architecture in this country has been preserved now, despite very substantial development pressure. To suggest that that DCP can be watered down through a standardisation process and the heritage can still be protected is simply false. Standardisation is death to local character; it is death to the modern concept of planning, which is about place-based locality. It is not about a globalised, bland, one-size-fits-all planning criteria. Modern planning is about place making; it is about focusing on locality.

It is about getting it right in a local neighbourhood to preserve the character and amenity and to maintain the links, pedestrian permeability, local shopping and local transport. That is what good planning is about. It is not about a bland, one-size-fits-all criteria that applies like a wash across the State and we lose local character and in particular we lose heritage. The Greens do not support those changes. We share the concerns of Local Government NSW in that regard, which stated it is concerned that local plan-making and decision-making overall is being progressively eroded. Local Government NSW, along with The Greens, is also strongly opposed to the removal of councillors from the development application determination process and the introduction of mandatory local planning panels, which takes away the role of local councillors in having a say on development.

I agree that there are some rotten councillors but there are also some rotten State members of Parliament and some rotten planning Ministers. We do not fix corruption and we do not help our cities and towns by preventing our democratically elected representatives from having a say on planning. Planning is an inherently political issue. Major changes to local communities and neighbourhoods are political matters. Local communities have a right to have a say on those matters. Indeed, the best people to determine those matters are democratically elected representatives, not bureaucrats or property industry players who are appointed by the State Government.

We do not support the proposal that councillors and mayors are ineligible for membership on local planning panels and we will move an amendment to that effect. We do not support the proposal that the chair of local planning panels will be simply chosen by the planning Minister of this State. There are too many past planning Ministers, known to every member in this House, that were not fit for office. The thought that this Government will give a New South Wales planning Minister express discretionary power is offensive in the extreme for anybody who has a notion of the past history of corruption in this State.

The last matter in the second reading speech I will address is private certifiers. There are additional minor checks and balances proposed for private certifiers and The Greens support those provisions. But this bill does not break the nexus between the developer and the private certifier that the developer chooses to sign off on their development. The developer and the certifier may have an ongoing repeated commercial relationship. We know some of the biggest developers in the State, such as Meriton, have private certifiers on the books and use the same private certifiers for all their developments. There is a close financial relationship and interdependency between them and that is a deeply corruption-prone environment. If the developer continues to choose a certifier that they know will give them the results they want regardless of what is built that is a corruption ready environment and presently what we have in New South Wales.

During the 2013-14 reform process The Greens moved an amendment that proposed the developer not choose the private certifier and instead private certifiers be allocated to developers from a common pool maintained by the Department of Planning and Environment or the Building Professionals Board. That would break the corrupting nexus between the developer and the private certifier. The Greens ask that members join with us to put in place this anti-corruption provision in the planning Act. I thank the Opposition for allowing me to contribute first. I appreciate the personal cooperation from the shadow Minister. The Greens will deal with these matters in detail in the committee stage. The Greens do not support the bill.

The Hon. PETER PRIMROSE (18:11): A consultation draft of this bill has been on exhibition since February of this year. It has been the subject of extensive consultation with over 400 submissions having been received. Despite that, here we are almost nine months later and this bill does very little to address the major

problems confronting a growing Sydney, let alone the rest of the State. The bill is largely about reorganising existing provisions in the Environmental Planning and Assessment Act. It provides a few relatively minor additional mechanisms and changes to machinery provisions. These provisions are largely inoffensive and the Opposition acknowledges that. One or two of them will have beneficial consequences but only on the periphery and in a very technical manner.

The bill represents the latest attempt by the Liberals and Nationals Government in New South Wales to rewrite the planning regime in this State. The last major effort was a disastrous attempt by then Minister Brad Hazzard who failed to get his legislation through the Parliament in 2013. Four years later this bill is largely a non-effort by the Government. You would forgive me if I cannot help but talk about local government in relation to this bill. Over the last four years we have seen an assault on local government by the Liberals and Nationals in this State, with the forced amalgamations debacle being the most obvious example. We now have a three-tiered planning system where some councils were amalgamated and some were not and where the planning regime treats regional areas and the Sydney region differently.

Last month councils in the Sydney region and Illawarra were ambushed by the imposition of local planning panels which removed the powers of councillors to determine development applications. It is important to understand this. The Minister in the other place introduced a major and significant bill on Tuesday afternoon. Labor sought consultation and advice and wanted to have a proper look at this legislation. The Minister said no. That bill was rammed through the lower House, came into this place the next day and was rammed through again. I am pleased that this House, as a House of review, was able to successfully introduce a number of important amendments that improved the legislation.

It needs to be well and truly understood that the legislation that introduced local planning panels is a creature of the New South Wales Liberals and Nationals. It is their legislation. It is not ours. By ramming that through and not allowing proper consultation it has, once again, assaulted local government and thereby local communities in New South Wales. The bill effectively places obligations on councils without supplying further resources. This bill will allow that regime to be extended statewide at the whim of the Minister. I look forward to this matter being debated at the local government conference in December. The Opposition will ensure it is debated in many fora until March 2019. The planning panels are the Government's creation and it will wear the consequences.

In relation to strategic planning, the Greater Sydney Commission was formed and championed by the Labor Party to take the politics out of strategic planning in New South Wales. It was to be an independent body setting the direction for strategic planning and zoning across the city. This has largely been unsuccessful. The draft regional and revised draft district plans contain broad statements of principle but do not have effect at a local level in any meaningful way. There is now a plethora of strategic planning documents meant to guide development in Sydney. This bill will introduce yet another at the local government level—a local strategic planning statement. It is an interesting development for those members opposite who constantly speak of reducing red tape and simplifying the process. The Government is effectively adding another level of confusion and bureaucracy to the planning malaise that is infecting Sydney.

The formation of the Greater Sydney Commission was intended to give effect to planners coordinating the future growth of the city—that is, an expert body with planning credentials would coordinate strategic planning and future growth and lead other government agencies and local councils in the planning endeavour. But the transport agencies are still running the show. WestConnex is an out-of-control near-$20 billion project that will cause traffic chaos in some parts of the city. Its major interchanges are a planning mess. The Sydney Gateway that is meant to connect WestConnex to Port Botany and the Sydney airport does not exist and the cost has blown out from $121 million to nearly $1.8 billion. At the same time, the person responsible for that corporation has welcomed as absolutely fantastic the commencement of tolling on the M4.

The south-west metro has been announced and is proceeding through the transport agencies. Transport merits or otherwise aside, it is a privatised union-busting enterprise. Its financial security is propped up by a proposed massive increase in density along the Sydenham to Bankstown corridor. That rezoning is being driven by the project. I say that again: That rezoning is being driven by the transport project. That is no way to conduct strategic planning. The department of planning has admitted that it may potentially be cramming 92,000 additional dwellings, potentially up to 300,000 new residents, along this corridor. There are community concerns about several issues that are not addressed by this bill.

The Government has not taken the opportunity to address housing affordability, despite being urged to do so by a number of influential community groups and despite Labor's announcement in April this year relating to mandatory affordable housing targets. This bill is silent on this issue and it is a lost opportunity. Communities across New South Wales feel like they are being ignored on issues that affect their area such as infrastructure projects and overdevelopment. Ministers are bickering about overdevelopment themselves. Despite this, the

community participation aspects of the bill impose further obligations on councils without empowering local communities.

The bill does not address heritage concerns or provide additional environmental safeguards. In effect, the Government will continue to behave as it did with the Sirius building at Millers Point. It has not introduced provisions that would have saved the grand 100-year-old trees on Anzac Parade. In fact, the bill allows the Government to declare parts of environmental impact statements confidential for any reason. Labor will not oppose the bill or reject the proposals to amend the Environmental Planning and Assessment Act 1979. The current bill, as presented, is a more considered and balanced approach than those proposed by the first four planning Ministers in the last two terms of this Coalition Government. It is rather damp praise to congratulate a Government for cleaning up a mess that it created in the extreme and widely condemned legislation, which was proposed by Minister Hazzard in 2013 and finally consigned to the scrap heap by this Chamber. It could be said that the current Minister and his predecessors discarded their Government's previously ill-considered proposals, although alleviating self-inflicted harm may not merit the highest of praise.

However, some aspects of the bill require a response from the Minister in this House before any final approval should be given. First, the bill proposes a fundamental change to the process of determining development applications by councils to be undertaken by local planning panels in the Greater Sydney region and Wollongong and with the capacity for it to be extended to other regions by regulation. As I read it, under this bill there are no areas in New South Wales where regulation will not be able to extend the planning panels. That includes regional and rural areas as well as the Hunter and the Central Coast. By definition, the Greater Sydney region does not include the Central Coast, Lake Macquarie or Newcastle. Recent inquiries by the Independent Commission Against Corruption [ICAC] of those areas have pointed to significant issues in the conduct of key political figures.

Why those areas are not included in the requirement for local planning panels must be explained. The Government should say why so in future we know on what basis it may choose to use the regulatory powers provided in the bill to extend the reach of the planning panels. What criteria does the Government use to determine where the planning panels are actually put? It did not put them in the Hunter and in the Central Coast. We have all read the ICAC reports and the issues that it reported on concerning development. The Government did not extend the planning panels in those areas. I am not suggesting for a moment that it should; I am simply trying to understand why it did not. The Government used criteria to extend them to Sydney and to the Illawarra but chose not to do so to other areas of the State, which is the power that is given to the Government if this bill is passed.

The bill also relies heavily on subsequent regulations. Indeed, I would go so far as to say that the bill contains the greatest number of Henry VIII clauses I have ever seen. It is almost regal in how many Henry VIII clauses are contained in it. That itself is not a reason to reject the provisions, but the Parliament is entitled to seek some broad outline of the intention of the Department of Planning and Environment on regulation without having to wait or requiring it to nail them to the door of Parliament House. This is particularly the case, given that the current regulation in clause 8J continues the operation of section 75W of the former part 3A to amend approvals for major developments, in effect, giving an ongoing life to part 3A.

This Government reviled, condemned and repealed those provisions but surreptitiously continued to allow them to exist and to be used. There could be no better example of why some indication of the nature of the proposed regulations is needed. If we introduce legislation that requires an extensive number of regulations to bring it to reality, then it is incumbent on the Government to give an indication of what some of those regulations may be. I have no concern about the regulatory powers to be allowed concerning regulation. There is so much legislation that no modern government can review it and introduce new legislation every time it wishes to change a regulation.

Given there are so many Henry VIII clauses in the bill, if we say that the Minister can regulate, the Parliament should expect the Government in reply to give us some idea about which regulations are proposed to be enacted. The bill proposes a system of local strategic planning statements that councils will be required to prepare every seven years. It is important to understand how the local strategic statements will fit with the work of the Greater Sydney Commission and how they can relate to the transport proposals being developed by the Government. I look forward to the Parliamentary Secretary advising the House how that will come together, otherwise we will end up with a total mishmash. The Government is proposing to introduce additional systems of planning. How will they fit together? It should give us some indication, particularly since it is requiring additional responsibilities and roles for local councils.

The bill seeks to provide greater safeguards to the community on decisions made by private certifiers and to provide improved enforcement powers for councils to address problems arising from the actions of private certifiers. However, there is a need for further examination to ensure that those safeguards are effective and meet the reasonable requirements of local government. The bill addresses development contributions, special infrastructure contributions and voluntary planning agreements. It seeks to amend section 93K to enable the

Minister to decide the method of determining the extent of provision of the public benefit to be made by the developer under a planning agreement.

Given the widespread practice of councils to seek to be paid some proportion—often half—of the value uplift of a rezoning, the Government must explain whether such practices are appropriate and whether it is only the council that will benefit from such contributions. As I indicated, the Opposition is not proposing to vote against the second reading. We have circulated our amendments. We have sought reasonable clarification from the Government and over the dinner break it might consider answering some of those questions and preparing some responses. If it does not, those questions will be left lingering.

The PRESIDENT: I will now leave the chair. The House will resume at 8.00 p.m.

Ms DAWN WALKER (20:00): In my contribution to debate on the Environmental Planning and Assessment Amendment Bill 2017 I will focus on something that has not been included in it—namely, objectives relating to the promotion of community health and wellbeing. This was requested by stakeholders at the time of consultation, in particular by Active Living NSW. It is well known that the way our towns and cities are planned can have a significant impact on our health. Indeed, the way our built environment is designed and how we interact with it can have significant effects on our health outcomes. If health considerations were included in our planning objectives we could build and shape a much better and healthier future for all Australians.

The terms "healthy urban design" and "healthy built environments" are well recognised in urban planning and architecture. They relate to a range of factors to help people live healthy lifestyles. Healthy urban design includes planning buildings, neighbourhoods, transport systems and local services to make them accessible to and supportive of residents. This may take the shape of footpaths and safe street design to encourage walking or it may include bike lanes to encourage active transport. We can measure livability and walkability through these measures and project the potential for positive health impacts.

In Australia our health is in crisis—obesity is on the rise in adults and children, and our mental health is in a poor state. Physical activity is an important component of making our lives healthier and improving our wellbeing. Currently, almost half of all adults in New South Wales do not undertake the levels of physical activity recommended by the World Health Organisation—namely, 150 minutes of moderate physical activity a week or a little more than 20 minutes a day. Meeting these recommended levels will have a huge benefit on our health and general wellbeing. They are easily achieved if we make health an objective in planning the environment in which we live.

We start to break down barriers to incidental exercise when we make our towns and cities more walkable and more accessible to active transport. The recommended 150 minutes of physical activity a week can be met by a 10-minute walk to and from work or the bus stop each day. Making these types of changes to our everyday life will ensure that everyone benefits from exercise, which includes stronger muscles and bones, healthy weight, and reduction in anxiety and depression. It is remiss of this legislation that it does not consider one of the fundamental ways in which we can use planning to improve the lives of people in this State—making health an objective and a priority.

Mr SCOT MacDONALD (20:04): On behalf of the Hon. Don Harwin: In reply: I thank Mr David Shoebridge, the Hon. Peter Primrose and Ms Dawn Walker for their contributions to the second reading debate. The Environmental Planning and Assessment Amendment Bill 2017 will improve planning for our communities, councils and businesses across the State through faster, simpler processes, enhanced strategic planning, improved community confidence and participation, and more balanced and transparent decision-making. I will briefly touch on a number of issues raised by members during debate. The development control plans [DCPs] proposal is not one DCP to rule them all, but a standard format. This approach will allow for appropriate regional and inner-city variations within in a new user-friendly structure. The Government considers that local character is critical for communities, and the introduction of a standard format DCP will do nothing to diminish the ability of councils to reflect local character and the preferences of their communities in their DCPs.

Strategic planning is a key aspect of the changes proposed in this bill. However, some of those opposite appear to be struggling to understand the clear hierarchy of strategic plans that this Government has put in place. From regional to district to local, we will now have a clear line of sight from the State level to the local level. This clear hierarchy and the need for each plan to give effect to the higher strategic plan at a local level means there are not competing plans and therefore no cause for confusion. Rather, there will be a clear hierarchy and the local strategic planning statement will be the final piece to capture how a district plan comes into place. These will then cascade into a council's local environmental plans and development control plans.

I affirm that this Government is absolutely committed to the repeal of the transitional arrangements for part 3A. Indeed, we have been clearly flagging this fact for nearly 18 months. This will be implemented as part

of the package to commence the bill in the first quarter of next year. More than six years after we sensibly repealed Labor's toxic legacy, it is time to bring an end to its transitional arrangements. Part 3A is dead, done and dusted. Only two months ago most members in this Chamber supported the mandatory Independent Hearing and Assessment Panels [IHAPs] legislation. This groundbreaking reform was in recognition of the potential risk of corruption in the exercise of planning functions by local councils. 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?

It beggars belief that amendments proposing to allow councillors to be a panel member have been put forward. Such a change would undermine the basic objective of having development applications [DAs] determined by independent experts. These changes simply cannot and must not be supported. We have run the spivs and the lurk merchants from the temple. Tonight we must not let them rejoice by such ill-considered and ill-informed changes to hold this great State back. I also assure stakeholders that the department will closely monitor the implementation of these reforms. We have had informal advice from councils that IHAPs can save them money by reducing legal challenges to planning decisions. We will monitor the costs and savings to councils and, if necessary, allow adjustment to development application fees to ensure that the cost of IHAPs is not borne by ratepayers generally. We can do this through changes to regulation.

Given the scope of the changes in this bill, the Government will take a staged approach to their implementation. This will result in a smooth transition to the new measures and provide time for councils and planning bodies to understand and prepare for the new requirements. Most of the changes will commence in the first quarter of next year. This will give councils, public authorities and practitioners time to update their documents and forms to reflect the new, modernised structure of the Act. Other changes will take longer to switch on, so new features of the planning system, such as community participation plans and local strategic planning statements, will be introduced over time. This will ensure that councils and communities have a proper opportunity to prepare for changes, supported by guidance material and advice from the department.

These changes will see the biggest overhaul of the New South Wales planning Act since the inception of the legislation nearly 40 years ago. By focusing on community participation, strategic planning, clarity in decision-making and simpler and faster processes, the bill will help strengthen community confidence in the planning system. Greater confidence and participation is essential in accommodating an extra 2.2 million people in New South Wales over the next 20 years, while at the same time maintaining livability and the richness of our natural and built environment. I commend the bill to the House.

The Hon. PAUL GREEN (20:10): By leave: The Christian Democratic Party believes that we should be committed to protecting our environment and doing all that is in our power to be good stewards of what we have been entrusted with. The Environmental Planning and Assessment Amendment Bill 2017 has several parts, but, importantly, it enhances community participation and strategic planning, facilitates infrastructure delivery, makes further provision for development contributions, facilitates the enforcement of complying development requirements, and makes other miscellaneous amendments. We commend the Minister and his department for their extensive work in preparing the amendments to this bill and for drawing on the contributions from a wide variety of stakeholders. When this legislation was first introduced in 1979 it was regarded as cutting edge. Since that time it has undergone 150 amendments, which has resulted in making certain aspects of it quite clunky.

This bill is about rebuilding and simplifying the Act for the twenty-first century. The proposed changes will result in the biggest overhaul of the New South Wales planning system since it was introduced, making the planning system in our State easier to understand and navigate. The Government has also undertaken wide consultation with community and key stakeholders. It has held 10 roundtable forums, which were attended by 373 representatives and 235 key stakeholder organisations. Key changes to the Act were publicly exhibited from 9 anuary to 31 March this year, and 478 submissions were received to the exhibited draft bill. During the exhibition period the department held information sessions throughout New South Wales, which were attended by 291 stakeholders.

I note the concerns and support of various agencies and organisations that have contacted the Christian Democratic Party's parliamentary office. Two concerns that were raised with my office by the Total Environment Centre and Better Planning Network are the use of the words "or for any reason" in sections of the bill pertaining to public exhibition of environmental impact statements, public hearings of the commission, and where the commission may restrict the publication of evidence. I have asked the Government to define examples of what may constitute such reasons. I have been advised that reasons may include if it is information that pertains to plans of correctional or police facilities for security purposes, information that may relate to items of Aboriginal heritage, commercially sensitive information, or, ultimately, any information to be withheld in the public interest.

Secondly, concerns were raised that the 28 days prescribed in legislation for community consultation is not long enough. I have raised this matter with the Government and it has advised that 28 days is, in fact, the

minimum consultation period and that it can be extended beyond the 28 days if needed. Today I met with the Total Environment Centre as well as the Planning Institute of Australia [PIA]. The Planning Institute of Australia has advocated strongly for more strategic planning upfront. The PIA is supportive of much of the proposed reforms but wants the changes to go further to link regional plans, strategic local planning statements and local environmental plans in a more holistic manner. The PIA also points out the need to rebuild community confidence in certification systems, especially with complying development. Further, the PIA has ongoing concerns about the insufficient integration of the biodiversity conservation regulations with the planning Act. I ask the Minister to respond to that concern in his speech in reply.

I have had conversations with Shoalhaven City Council—my old stomping ground—and have received representations from the council requesting adequate lead-in time and support regarding the changes it will need to make, should the legislation pass. I am pleased that the Minister has received this request and that understanding has been shown regarding the burden that local governments can experience as we legislate these changes. Local Government NSW has also made representations to my office regarding its concerns about potential cost-shifting since the establishment of local planning panels. As a member who has experience in local government, I am passionate about ensuring that when the Government makes decisions that affect local councils, the expense of those decisions does not fall on councils. The State Government must work to support local councils and, where changes are necessary and present a new cost to ratepayers, the State Government must accept its level of responsibility for the new cost. Again I ask the Minister to respond to those concerns in his reply.

I now turn to the detail of the bill. The first part of these amendments will update and modernise the language of the Act, while preserving the intent of the policy. There are three objects: promote good design and amenity of the built environment, promote the sustainable management of heritage and promote the proper construction and maintenance of buildings. As noted during the second reading speech, it is important that we learn from the tragedy of the Grenfell Tower fire. I therefore support the focus given to building quality, which, hopefully, will ensure building safety in the future.

The second part of the amendments deals with planning administration. This part seeks to enhance community participation and provides for the community to engage with the planning process. It also includes plans to relaunch the Planning Assessment Commission as the Independent Planning Commission, which will remove duplications in functions and clarify administrative arrangements. It is imperative that the community is meaningfully consulted when developing community participation plans. Consultation should never be a public relations exercise; it must be genuine and it must be comprehensive. All levels of government must respect and uphold this imperative principle. Government is for the people.

I am pleased that decision-makers will be required to give reasons for their decisions about development. Those reasons must be considered if, in the future, there is a request for modifications to be made changing the previous consent. Planning authorities must explain how they will engage communities in plan-making and development decisions. They must set expectations of what good engagement is and state what the minimum requirements are for different planning decisions, including time frames. Changes to the Independent Planning Commission will confirm this independence and improve its efficiency. Further changes to be made include setting out that the Independent Planning Commission's jurisdiction is to be by regulation rather than by delegation; removing the role of reviewing development applications, allowing the commission to focus on determinations; strengthening the public hearing process; and increasing the commission's panel expertise by folding in the Mining and Petroleum Gateway Panel.

The bill will also provide for the consistent administration of Sydney planning panels, regional planning panels and local planning panels. The bill will prohibit property developers and real estate agents from sitting on regional planning panels, will require regional panels to hold public meetings and make electronic recordings, and will prevent a regional panel member from participating in a deliberation on a decision in which they hold an interest. It is good to see the establishment of Independent Hearing and Assessment Panels [IHAPs] beyond Greater Sydney and the city of Wollongong to include Sydney and regional areas. The House has been generous in granting me leave to speak so I will conclude my remarks. I note that the bill is a step forward. It is important that boundaries are established and that the goalposts are not moved without community consultation. One of the highlights of this bill is its strong consultation and I commend it to the House.

The Hon. ADAM SEARLE (20:19): By leave: The Environmental Planning and Assessment Amendment Bill 2017 relies heavily on subsequent regulations. That is not, of itself, a reason to not support the legislation but it would be good if, in reply, the Government were able to provide a broad outline of its intention in relation to those regulations. We have seen a regrettable trend in recent years in which this Government provides legislation that sketches a broad outline with many of the finer details to be coloured in later. The problem that presents for the Parliament is that it is then left with only a very blunt instrument of disallowance and even then only within a short time frame.

Mr David Shoebridge: Much of this is not disallowable.

The Hon. ADAM SEARLE: I acknowledge that interjection. Much of what is to be done here is not disallowable. But to the extent it is, it provides the Parliament only with a blunt instrument where it cannot help craft the solutions that need to be addressed. The problem with disallowance is that it can rob legislation of its ability to operate so the Parliament would be slow in disallowing regulations if they are necessary to the functioning of the planning system in particular. We would like the Government to provide greater detail about why it has chosen to withhold so much of the detail until a later time.

The bill proposes a system of local strategic statements required to be prepared by councils every seven years. It is important to understand how those statements would fit in with the work of the Greater Sydney Commission and how they can relate to transport infrastructure proposals being developed by government. There is no point in having all of these different bodies working at cross-purposes. We need to understand better how the Government intends that the parts will work together. The bill is also said to provide a greater level of safeguards for the community in relation to decisions made by private certifiers. Again, the Government should expand upon this to assure the House and all members that the safeguards are effective and meet the reasonable requirements of local government.

The bill addresses development contributions, special infrastructure contributions and voluntary planning agreements. Given the widespread practice of councils seeking to be paid some proportion of value uplift of a rezoning, the House should be in a position to understand whether such practices are always appropriate and how the needs of local communities can be better addressed in those situations. There are a number of questions still left unaddressed by the bill and by the Government's contribution. To the extent that the Government is able to do so subsequent to this debate, we would invite it to provide that greater level of detail and certainty for the community.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): The question is that this bill be now read a second time.

Motion agreed to.

In Committee

The CHAIR (The Hon. Trevor Khan): There being no objection, the Committee will deal with the bill as a whole. I have three sets of amendments: Opposition amendments on sheet C2017-104A; Shooters, Fishers and Farmers Party amendments on sheet C2017-109A; and The Greens amendments on sheet C2017-105D.

Mr DAVID SHOEBRIDGE (20:25): I move The Greens amendment No. 1 on sheet C2017-105D.

No. 1 **Principal object of Act**

Page 3, Schedule 1.1, line 7. Omit all words on that line. Insert instead:

(1) The principal object of this Act is to promote ecologically sustainable development and, accordingly, all decision-making about planning and development under this Act and the instruments made under this Act must be exercised consistently with the principles of ecologically sustainable development.

(2) ***Ecologically sustainable development*** includes the following:

(a) the precautionary principle—namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation.

In the application of the precautionary principle, public and private decisions should be guided by:

(i) careful evaluation to avoid, wherever practicable, serious or irreversible damage to the environment, and

(ii) an assessment of the risk-weighted consequences of various options,

(b) inter-generational equity—namely, that the present generation should ensure that the health, diversity and productivity of the environment are maintained or enhanced for the benefit of future generations;

(c) conservation of biological diversity and ecological integrity—namely, that conservation of biological diversity and ecological integrity should be a fundamental consideration;

(d) improved valuation, pricing and incentive mechanisms—namely, that environmental factors should be included in the valuation of assets and services, such as the following:

(i) polluter pays—that is, those who generate pollution and waste should bear the cost of containment, avoidance or abatement;

(ii) the users of goods and services should pay prices based on the full life cycle of costs of providing goods and services, including the use of natural resources and assets and the ultimate disposal of any waste;

(iii) environmental goals, having been established, should be pursued in the most cost effective way, by establishing incentive structures, including market mechanisms, that enable those best placed to maximise benefits or minimise costs to develop their own solutions and responses to environmental problems.

(3) The other objects of this Act are as follows:

This amendment does what The Greens believe is probably the most critical and essential surgery to the bill and indeed to the Act. This Act has been around for a number of decades and when the legislation was passed in 1979 it was world-leading legislation that empowered communities and put in place an environmental and social framework through which to assess developments and in which to do plan-making and local planning in particular. Since then not only has the Act been utterly savaged by both Coalition and Labor governments, with community rights, checks and balances and merit appeals downgraded, but also in the past few decades there has been a substantial advance in our understanding of the need to protect our environment and deal with development through the principles of ecologically sustainable development.

Indeed, this bill suggests there will be about a dozen objects to the Act, none of which is given priority. Indeed, it starts with promoting the social and economic welfare of the community and a better environment by the proper management, development and conservation of the State's natural and other resources. Then it talks about facilitating ecologically sustainable development. The Greens firmly believe that there should be one overriding principal object of the Act. This amendment seeks to make it clear that the principal objects of the planning Act should be to promote ecologically sustainable development and, accordingly, all decision-making about planning and development under this Act and the instruments made under this Act must be exercised consistently with the principles of ecologically sustainable development. This amendment seeks to achieve that aim.

The Greens amendment No. 1 sets out clearly and unambiguously what ecologically sustainable development means. I will not read each and every element, but I will summarise them. First, it means the precautionary principle, namely, that if there are threats of serious or irreversible environmental damage, lack of full scientific certainty should not be used as a reason for postponing measures to prevent environmental degradation. If one is not sure and the damage can be very real, one does not proceed with that damaging proposal. The next is intergenerational equity, namely, that the present generation really should just be stewards of our health, and our diversity and productivity of the environment, and our environment should be maintained and enhanced for the benefit of future generations. We cannot plunder this planet as though we are the last generation that will live on it. We must protect it, not just for future generations of humans but for all that multiplicity of nature that deserves its share of this planet as well.

It includes also conservation of biological diversity and ecological integrity, namely, that the conservation of biological diversity and ecological integrity should be a fundamental consideration under the planning Act. The last principle of ecologically sustainable development that we seek to insert in the Act is the need for improved valuation, pricing and incentive mechanisms, namely, that environmental factors must be included in the valuation of assets and services through things such as polluter pays and clear protections for environmental goals.

The Greens know that we do not have the support of the Government or conservative crossbench members. At some point this Parliament or the next Parliament will grapple with the need to have planning laws that do not pretend we are robber barons here to despoil the planet in one generation but accept that we have an obligation to be stewards and custodians of this land, to maintain the natural world, to live in harmony with the natural world and to have a planning Act that implements ecologically sustainable development.

Mr SCOT MacDONALD (20:29): The Government does not support The Greens amendments Nos 1 and 2. A principle hierarchy of objects in the planning legislation is not appropriate. The objects address a broad range of matters relevant to the planning system. Decision-makers must be able to balance different matters that are relevant in these circumstances. The language in the bill already reflects the definition of "ecological sustainable development" [ESD] in the Protection of the Environment Administration Act 1991, just as the current

Act does. The ESD object proposed in this bill is stronger than existing language in the Environmental Planning and Assessment Act. The new object is about the facilitation of ESD, which means actively enabling actions to deliver the desired outcomes. The current object only requires ESD to be encouraged.

The Hon. PETER PRIMROSE (20:30): The Opposition opposes this amendment.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge moved The Greens amendment No. 1 on sheet C2017-105D. The question is that the amendment be agreed to.

Amendment negatived.

Mr DAVID SHOEBRIDGE (20:31): I move The Greens amendment No. 2 on sheet C2017-105D:

No. 2 **Principal object of Act**

Page 3, Schedule 1.1, line 11. Omit "to facilitate ecologically sustainable development". Insert instead "to achieve ecologically sustainable development".

We have had the benefit of a detailed briefing from the Environmental Defenders Office [EDO]. It is one of those organisations that society should be forever grateful exists in New South Wales. It works to protect the natural environment and hold at bay the most damaging proposals, whether mining or other development, to the extent that it can with imperfect laws in New South Wales. The EDO's understanding of the Environmental Planning and Assessment Act is unparalleled. It points out that the Act's current objectives include "to encourage ecologically sustainable development". This bill will change the wording to:

(b) to facilitate ecologically sustainable development by integrating relevant economic, environmental and social considerations in decision-making about environmental planning and assessment,

The EDO points out that the objects of any Act are intended to achieve and guide decision-making. The EDO is concerned that the use of the term "facilitate" significantly downgrades the object of ecologically sustainable development. I note the detailed series of proposed amendments from the Total Environment Centre and the work it has done in analysing the bill. I commend its work. The Greens amendment will omit the term "to facilitate ecologically sustainable development" and insert "to achieve ecologically sustainable development". If ecologically sustainable development is to be one of the principles of the Act it should state unambiguously that we want to achieve it—not that we want to facilitate it, push it along, or give it a nudge and a wink. The Government says it is serious about the watered down definition of "ecologically sustainable development". If that is the case it should state that it wants to achieve it, not encourage it or give it a little push along. The Greens have moved this amendment for those reasons.

Mr SCOT MacDONALD (20:33): The Government does not support The Greens amendment No. 2 for the reasons I have previously stated.

The Hon. PETER PRIMROSE (20:33): The Opposition does not support the amendment.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No. 2 on sheet C2017-105D. The question is that the amendment be agreed to.

The Committee divided.

Ayes 6
Noes 30
Majority.....24

AYES

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

NOES

Ajaka, Mr J	Amato, Mr L	Borsak, Mr R
Brown, Mr R	Clarke, Mr D	Colless, Mr R
Cusack, Ms C	Fang, Mr W	Farlow, Mr S
Franklin, Mr B (teller)	Graham, Mr J	Green, Mr P
Harwin, Mr D	MacDonald, Mr S	Maclaren-Jones, Ms N (teller)
Mallard, Mr S	Martin, Mr T	Mason-Cox, Mr M
Mookhey, Mr D	Moselmane, Mr S	Nile, Reverend F

NOES

Pearce, Mr G	Phelps, Dr P	Primrose, Mr P
Searle, Mr A	Sharpe, Ms P	Taylor, Ms B
Veitch, Mr M	Voltz, Ms L	Wong, Mr E

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): Opposition amendment No. 1 is identical to The Greens amendment No. 3. Therefore, irrespective of the outcome, The Greens amendment will lapse.

The Hon. PETER PRIMROSE (20:42): By leave: I move Opposition amendments Nos 1 and 2 on sheet C2017-104A in globo:

No. 1 **Objects of Act**

Page 3, Schedule 1.1. Insert after line 14:

(d) to promote the provision of land for public purposes,

No. 2 **Objects of Act**

Page 3, Schedule 1.1. Insert after line 15:

(e) to promote the provision and coordination of community services and facilities,

These amendments seek to reinsert important objects that are currently in the Act that the Government is seeking to remove. These are the objects "to promote the provision of land for public purposes" and "to promote the provision and coordination of community services and facilities". This Government has shown its disregard for community amenity and, as such, these amendments are necessary to ensure that public lands, community services and facilities are respected.

Mr SCOT MacDONALD (20:4): The Government will not support Opposition amendments Nos 1 and 2 to promote the provision of land for public purposes that reverts the object to the current wording of the Act. This defeats the aim of updating and modernising the objects in the new bill. Public land is covered by the new consolidated object of promoting the social and economic welfare of the community. The changes in the bill on strategic planning will also help to identify and support the provision of land needed for public purposes.

The PRESIDENT: There is too much audible conversation in the Chamber.

Mr DAVID SHOEBRIDGE (20:43): The Greens support Opposition amendments Nos 1 and 2. Indeed, our amendments include the same amendment as Opposition amendment No. 1 to promote the provision of land for public purposes. Although it was hard, I listened carefully to the Parliamentary Secretary. He said, "Do not worry about having a specific provision that protects land for public purposes. If one stands on one's head in a dark corner of a room with poor torchlight and reads point one in the principles, one can kind of see—if one is half drunk—that it refers to public land." We do not believe that the argument put by the Parliamentary Secretary is particularly persuasive. The protection of public land has attracted a lot of contention, such as the need to protect Crown land in the Crown Lands Act. It is clear that the community wants this Parliament to protect public land and it should be said unambiguously in the purposes and objects of the bill. That is why The Greens support retaining the wording.

What is offensive about the Government's surgery on the principles is that the Opposition, The Greens and other parties did not support coming up with this tonight after five too many coffees. We want to retain the existing wording in the Act. We want to retain the principle "to promote the provision of land for public purposes". Promoting the provision and coordination of community services and facilities should also be in the planning bill. The Greens support that principle. I ask that the votes on Opposition amendments Nos 1 and 2 be put as separate questions because some members in this Chamber may support one but not the other. The Greens support them both but I ask that the votes be put separately.

The Hon. ROBERT BROWN (20:46): The Shooters, Fishers and Farmers Party also supports Mr David Shoebridge's request for the votes to be put separately. We support Labor's amendment No. 1 but feel that The Greens amendment No. 5 is more to our liking than Opposition amendment No. 2 and we would like to have the opportunity to vote that way.

The CHAIR (The Hon. Trevor Khan): The Hon. Peter Primrose has moved Opposition amendment No. 1 on sheet C2017-104A. The question is that the amendment be agreed to.

The Committee divided.

Ayes 16
Noes 18
Majority.....2

AYES

Brown, Mr R	Buckingham, Mr J	Faruqi, Dr M
Field, Mr J	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
Veitch, Mr M	Voltz, Ms L	Walker, Ms D
Wong, Mr E (teller)		

NOES

Amato, Mr L	Clarke, Mr D	Colless, Mr R
Cusack, Ms C	Fang, Mr W	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	Nile, Reverend F
Pearce, Mr G	Phelps, Dr P	Taylor, Ms B

PAIRS

Donnelly, Mr G	Ajaka, Mr J
Houssos, Ms C	Blair, Mr N
Secord, Mr W	Mitchell, Ms S

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): The Hon. Peter Primrose has moved Opposition amendment No. 2 on sheet C2017-104A. The question is that the amendment be agreed to.

The Committee divided.

Ayes 15
Noes 19
Majority.....4

AYES

Buckingham, Mr J	Faruqi, Dr M	Field, Mr J
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	Veitch, Mr M
Voltz, Ms L	Walker, Ms D	Wong, Mr E (teller)

NOES

Amato, Mr L	Brown, Mr R	Clarke, Mr D
Colless, Mr R	Cusack, Ms C	Fang, Mr W
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
Nile, Reverend F	Pearce, Mr G	Phelps, Dr P
Taylor, Ms B		

PAIRS

Donnelly, Mr G	Ajaka, Mr J
Houssos, Ms C	Blair, Mr N
Secord, Mr W	Mitchell, Ms S

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): Before I call on the Hon. Peter Primrose, I indicate that if Opposition amendment No. 3 on sheet C2017-104A is moved then The Greens amendment No. 4 will lapse.

The Hon. PETER PRIMROSE (20:59): I move Opposition amendment No. 3 on sheet C2017-104A:

No. 3 **Objects of Act**

Page 3, Schedule 1.1. Insert after line 18:

(f) to promote the retention and expansion of the urban tree canopy,

This new object to promote the retention and expansion of the urban tree canopy is complementary to the two objects we sought to insert through Opposition amendments Nos 1 and 2. I do not believe anyone needs to argue the importance of retaining the urban tree canopy in urban environments within the Sydney metropolitan area. We see this situation everywhere, particularly in areas I know well such as Hornsby, which has recently elected a new mayor. Councils in many areas have done significant work but Hornsby is the one with which I am familiar, having read its reports. Its studies indicate that within the next couple of decades the tree canopy in Hornsby will basically cease to exist. This is an appropriate object that should be included in the legislation. I urge members to support it.

Mr SCOT MacDONALD (21:00): The Government does not support Opposition amendment No. 3. The object "to promote the retention and expansion of the urban tree canopy" is not needed and duplicates the intent of existing objects. The retention and expansion of the urban tree canopy is already covered by proposed objects (a), (b), (e) and (g) through the proper management and conservation of the State's natural and other resources, facilitating ecological sustainable development, protecting the environment and through good design and amenity of the built environment.

Mr DAVID SHOEBRIDGE (21:01): The Greens support inserting an object to promote the retention and expansion of the urban tree canopy. Indeed, this comes from a very excellent private member's bill that was introduced about six weeks ago.

The Hon. Dr Peter Phelps: Whose was that?

Mr DAVID SHOEBRIDGE: I cannot recall. Promoting the retention and expansion of our urban tree canopy will be essential in Sydney, particularly with the impact of climate change. If we chop down our tree canopy and create urban heat islands we will have days when the ambient ground temperature in Western Sydney will exceed 50 degrees Celsius. In Australia in any given year more people die from extreme heat stress than from bushfires. In urban areas the impact of heat sinks created by large amounts of concrete and the removal of the tree canopy presents not only environmental risks but also major health risks.

The tree canopy is essential for all native animals that share this city with us. Living in Sydney, we are enormously privileged to have a large extent of canopy. It is almost unique in a global city the size of Sydney, and we are losing it. I commend the 2020 reports that show the dramatic loss of tree canopy across parts of Sydney. Although municipalities like Mosman and Pittwater on the north side still have a fair amount of canopy they have been radically reduced, even when their councils are fighting under current planning laws to protect their trees. Those councils are calling for better planning laws to help protect their canopies.

Some councils have promoted an increase in their tree canopies, and in municipalities such as Leichhardt that has happened. But that expansion is at risk of being reversed because this Government has dumbed down our tree protection orders. This Government has expanded things like exempt and complying development that has allowed entire city and suburban blocks to be bulldozed and every tree to be removed. Blocks across Sydney have been covered by bland, cookie-cutter, block-filling developments that have led to every tree being lost. The United States Environmental Protection Agency—not the world's most radical organisation—has done a series of groundbreaking studies that show that trees greatly promote a sense of wellbeing. People feel 10 years younger when they live within 100 metres of 10 mature trees.

The Hon. Matthew Mason-Cox: Look at Lou.

Mr DAVID SHOEBRIDGE: Lou is the picture of health because he lives near a bunch of trees. I commend him but mainly his wife for her work in maintaining the trees on their property. Detailed, peer-reviewed studies in Toronto have shown the benefits of tree canopy cover to health and wellbeing. The study also found—and this should appeal to the Coalition—that living near a fair amount of urban trees makes people feel $10,000 a year richer. A series of studies by the Australian property industry have shown that a substantial amount of tree canopy cover greatly lifts the value of urban properties. Fundamentally for The Greens, urban tree canopy allows the native animals with which we have the privilege of sharing this city to move from one large green reserve to the next green reserve. Just last week my family and I had the great pleasure of seeing two little ringtail possums living in the tree canopy outside our house. We will lose that privilege unless we protect our trees. I commend this amendment to the Committee.

The Hon. PENNY SHARPE (21:05): I support Opposition amendment No. 3 and will make two points. The first is that The Greens did not invent tree canopy in New South Wales. Labor has been very concerned about it for a long time. The second point is that everyone in this Chamber should be concerned about what is happening to trees in our urban areas and the loss of our urban bushland. All members should support this amendment. If the projections about population growth and the amount of housing that must be built are to be taken seriously we will have a hot and unhealthy city if we do not protect the urban tree canopy. We can do something very simple about that: keep the tree canopy that we already have. We cannot air condition our way out of the heat island effect that is coming to Sydney as a result of the growth that is expected. The Government should be protecting the tree canopy because it is good for the critters, good for air and water quality and because it makes people feel better. It is also the economically sound and right thing to do. I urge members to support this amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. Peter Primrose has moved Opposition amendment No. 3 on sheet C2017-104A. The question is that the amendment be agreed to.

The Committee divided.

Ayes 15
Noes 20
Majority.....5

AYES

Buckingham, Mr J	Faruqi, Dr M	Field, Mr J
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	Veitch, Mr M
Voltz, Ms L	Walker, Ms D	Wong, Mr E (teller)

NOES

Amato, Mr L	Blair, Mr N	Borsak, Mr R
Brown, Mr R	Clarke, Mr D	Colless, Mr R
Fang, Mr W	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	Nile, Reverend F	Pearce, Mr G
Phelps, Dr P	Taylor, Ms B	

PAIRS

Donnelly, Mr G	Ajaka, Mr J
Houssos, Ms C	Cusack, Ms C
Secord, Mr W	Mitchell, Ms S

Amendment negatived.

Mr DAVID SHOEBRIDGE (21:14): I move The Greens amendment No.5 on sheet 2017-104D:

No. 5 **Other objects of Act**

Page 3, Schedule 1.1. Insert after line 20:

(g) to promote the expansion of adequate public transport, green space, schools, public hospitals, community facilities and affordable housing in conjunction with housing development,

I encourage members to read the objects that are being proposed by the Government. There is no mention of adequate public transport, green space, schools, public hospitals or community facilities. There is a reference to the delivery and maintenance of affordable housing, but it is marooned from and not connected to being in conjunction with housing development. Particularly in our big cities—Sydney, Wollongong and Newcastle—issues of public transport, green space, and adequate access to affordable housing are critical. Citizens across the State are saying they want their Government to deliver on these issues. One of the key ways we can deliver on that is by preserving adequate land for public transport and setting aside green open spaces and land for community facilities, public hospitals and schools when major changes are being made to our city. The citizens of New South Wales would expect this to be in a planning bill. It is remarkable that it is not. It is astounding that given these pressures on our city it is not. We want to unambiguously insert them into this planning bill and that is why we have moved this amendment.

Mr SCOT MacDONALD (21:16): The Government does not support Greens amendment No. 5. That is all.

The Hon. PETER PRIMROSE (21:16): After that wholesome rebuttal, I will make an equally wholesome argument. Put simply, I suggest members read what is proposed to be inserted:

(g) to promote the expansion of adequate public transport, green space, schools, public hospitals, community facilities and affordable housing in conjunction with housing development

I do not think there needs to be an argument about that, and indeed there has not been. I look forward to seeing anyone stand up and say why inserting that in an environmental planning bill is bad, is not an aspiration or is not an object. How can that possibly not be included?

The Hon. ROBERT BROWN (21:17): It might surprise most members of this House but the Shooters, Fishers and Farmers Party supports the Greens amendment No.5 for the reasons outlined by the Opposition. Why would you not have a clause like this in an Environmental Planning and Assessment Act?

Mr David Shoebridge: For all the reasons the Government gave.

The Hon. ROBERT BROWN: And so I do not need to repeat them. I will put this issue in context. I live in the Sydney suburb of Rydalmere, which is part of the new Parramatta city. Not far from my place there is the Parramatta River and Victoria Road runs parallel to it. There is a fairly big chunk of industrial land between Ryde Bridge and Silverwater Bridge. Those who live in Sydney will know roughly the area I am talking about. A development has been proposed and I think stage one has been approved, I am not sure. I have been trying to get details from my local council, Parramatta Council. The first stage of that development is for 3,000 units, and when stage three is finished there will be 10,000 units.

Even if one could get 20,000-odd people into an area that is water locked and landlocked, it has only one transport corridor, namely, Victoria Road—I do not mean the Parramatta River—and the fair bit of green space that is currently in and around Rydalmere and Parramatta will not be sufficient if that many people are crammed into the area. It would not be a bad thing if a clause such as this was included in the Act to remind bureaucrats and planners on a daily basis what their goals and achievements should be. Heaven help us when those 10,000 units are finally built on that site. Even with the Government building light rail and the propensity of people to use public transport, I will lay odds that 20,000 cars will come with the residents. That means 20,000 cars out in the morning and 20,000 home each night. The Shooters, Fishers and Farmers Party support this admirable amendment.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No. 5 on sheet C2017-105D. The question is that the amendment be agreed to.

The Committee divided.

Ayes 17
Noes 18
Majority.....1

AYES

Borsak, Mr R	Brown, Mr R	Buckingham, Mr J (teller)
Faruqi, Dr M	Field, Mr J	Graham, Mr J

AYES

Mookhey, Mr D	Moselmane, Mr S	Pearson, Mr M
Primrose, Mr P	Searle, Mr A	Sharpe, Ms P
Shoebridge, Mr D	Veitch, Mr M	Voltz, Ms L
Walker, Ms D (teller)	Wong, Mr E	

NOES

Amato, Mr L	Blair, Mr N	Clarke, Mr D
Colless, Mr R	Fang, Mr W	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	Nile, Reverend F
Pearce, Mr G	Phelps, Dr P	Taylor, Ms B

Amendment negatived.

Mr DAVID SHOEBRIDGE (21:24): By leave: I move The Greens amendments No. 6 to 8, 15, 16 and 19 on sheet C2017-105D in globo:

No. 6 **Addressing climate change**

Page 3, Schedule 1.1. Insert after line 27:

(k) to ensure that the development of land is consistent with the reduction of greenhouse gas emissions and the impact of climate change;

(l) to ensure that the development of land adequately minimises the cumulative lifetime greenhouse gas emissions from the development site.

No. 7 **Addressing climate change**

Page 4, Schedule 1.2 [4]. Insert after line 11:

climate change means a change of climate over an extended period, typically decades or longer, that is caused by human activity or natural climate variability.

No. 8 **Addressing climate change**

Page 4, Schedule 1.2 [4]. Insert after line 29:

greenhouse gas emissions means emissions of carbon dioxide, methane, nitrous oxide, sulphur hexafluoride, a hydrofluorocarbon gas, a perfluorocarbon gas or any other gas prescribed by the regulations for the purposes of this definition.

No. 15 **Addressing climate change**

Page 42, Schedule 3.1. Insert after line 10:

[3] Part 3

Insert after section 34 (with appropriate decimal section number):

Special provisions relating to implications for climate change

(1) The Minister must not recommend to the Governor the making of a State environmental planning policy unless the Minister has considered the implications of the proposed policy for climate change.

(2) A local plan-making authority (within the meaning of Division 3.4) must, when making a local environmental plan, consider the implications of the plan for climate change.

(3) In particular, the Minister or local plan-making authority must:

(a) consider the need for environmental planning instruments to be consistent with commitments made by the State and by the Commonwealth to limit the increase in global warming to no more than 1.5 degrees Celsius above pre-industrial levels; and

(b) consider the need to protect the site of the land the subject of an environmental planning instrument, and adjoining areas, from the likely impact of climate change; and

(c) give preference to any adaptation to climate change that involves the reduction or prevention of greenhouse gas emissions.

No. 16 **Addressing climate change**

Page 50, Schedule 4.1. Insert after line 21:

[6] Section 79C Evaluation

Insert after section 79C (1) (b):

(b1) whether the proposed development adequately minimises the cumulative lifetime greenhouse gas emissions from the development site, including:

(i) by assessing all aspects of the development including associated demolition or vegetation clearing and the construction materials used; and

(ii) by ensuring that all emissions associated with ongoing occupation are quantified and taken into account in evaluating the emissions intensity of the proposal; and

(iii) in the case of low-impact residential, commercial or agricultural development—by complying with any standardised assessment process required by the regulations;

No. 19 **Addressing climate change**

Page 55, Schedule 5.1. Insert after line 4:

[1] Section 111 Duty to consider environmental impact, including climate change

Insert after section 111 (1):

(1A) Without limiting subsection (1), a determining authority must consider:

(a) the effect of an activity on climate change, and

(b) in particular, whether the proposed activity adequately minimises the cumulative lifetime greenhouse gas emissions from the site of the activity, including:

(i) by assessing all aspects of the activity including associated demolition or vegetation clearing and the construction materials used; and

(ii) by ensuring that all emissions associated with ongoing occupation are quantified and taken into account in evaluating the emissions intensity of the activity; and

(iii) in the case of an activity that involves low-impact residential, commercial or agricultural development—by complying with any standardised assessment process required by the regulations.

This package of amendments is designed to put climate change into the planning bill for the first time. The bill would expressly say that one of the objects of the bill is to ensure that the development of land is consistent with the reduction of greenhouse gas emissions and meeting the impact of climate change. It would ensure that the development of land adequately minimises the cumulative lifetime greenhouse gas emissions from the development site and puts in a definition of climate change and a modern definition of greenhouse gas emissions. Crucially, it requires special provisions relating to the implications for climate change. I highlight new section 34 subsection 3, which says that when the Minister, local planning authority or council is making any environmental planning decision or instrument, they must:

> Consider the need for environmental planning instruments to be consistent with commitments made by the State and by the Commonwealth to limit the increase in global warming to no more than 1.5 degrees Celsius above pre-industrial levels.

In other words, we are legislating for the Paris targets in the planning Act. It is also requires the Minister or the local government authority to consider:

(b) the need to protect the site of the land the subject of an environmental planning instrument, and adjoining areas, from the likely impact of climate change; and

(c) give preference to any adaptation to climate change that involves the reduction or prevention of greenhouse gas emissions.

Every so often we hear from the Premier and the Leader of the Government in this place a commitment to the Paris Agreement. They say that there is a goal to get down to net-zero emissions by 2050. The Government has a couple of glossy brochures that make it very clear that it has that commitment and it will put it in a press release and occasionally tell it to the environment reporter of the *Sydney Morning Herald.* But to date this Government has failed to legislate for the Paris Agreement. The Government has not legislated for it in any of the electricity bills or in the biodiversity bill.

We are now giving the Government the opportunity to legislate for the Paris Agreement in the planning bill. If the Government means what it says about wanting to meet the Paris commitments then it should legislate it into the planning bill, which is probably the single biggest contributor to greenhouse gas emissions in this State. It is the planning bill that approves the coalmines and the next generation of electricity generators that we will have to build. It is the planning bill that is currently treating our commercial central business district [CBD] and the buildings in it as though they are 30-year disposable objects. We build a building with a 30-year lifespan and then knock it over and replace it with another building 30 years later.

Buildings in Darling Harbour from the mid to late 1980s are already being demolished and replaced with buildings that have only a 30-year life cycle. The award-winning 30-storey commercial building across the road from Parliament House, which was built in the late 1970s or early 1980s, has just been destroyed with all of its embodied energy and carbon, to be replaced by another building that will be two or three storeys higher and that is designed to be destroyed in another 20 or 30 years when there is a new profit-making venture. At no point in any of this are climate change considerations being taken into account. There is never any lifetime assessment of the greenhouse gas emissions for any of these projects.

When it comes to mining in particular, there is zero consideration of the greenhouse gas emissions from things such as the burning of fossil fuels. The Greens are committed to doing everything we can in this place and in the other place to ensure that climate change is front and centre of this Parliament's considerations. It must be front and centre of issues in the planning bill and it must be front and centre of the Minister's consideration and any council's consideration when they are making environmental planning instruments. That is why we are moving these amendments.

Mr SCOT MacDONALD (21:29): The Government opposes The Greens amendments Nos 6 to 8, 15, 16 and 19. Climate change and greenhouse gas emissions are considerations that are already taken into account as relevant through the objects that are facilitating ecologically sustainable development and protecting the environment, including the conservation of threatened and other species of native animals and plants, ecological communities and their habitats. The Government already has a comprehensive policy framework for climate change. The NSW Climate Change Policy Framework establishes aspirational long-term objectives to achieve net zero emissions by 2050 and to make New South Wales more resilient to a changing climate.

The Government is undertaking a range of measures to better ensure climate change is addressed through the planning system, for example, the new Building Sustainability Index [BASIX] targets, coastal management and strategic planning. The measures proposed by Mr Shoebridge reflect those in his climate change cognate bills. Under the current Environmental Planning and Assessment Act, decision-makers must already consider the environmental impacts of a development or activity. The mining State environmental planning policy also requires the consent authority to consider whether conditions of consent are needed to ensure that greenhouse gas emissions are minimised to the greatest extent possible. The proposed amendments largely duplicate existing arrangements.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendments Nos 6 to 8, 15, 16 and 19 on sheet C2017-105D. The question is that the amendments be agreed to.

The Committee divided.

Ayes 6
Noes 32
Majority.....26

AYES

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

NOES

Ajaka, Mr J	Amato, Mr L	Blair, Mr N
Borsak, Mr R	Brown, Mr R	Clarke, Mr D

NOES

Colless, Mr R	Cusack, Ms C	Donnelly, Mr G
Fang, Mr W	Farlow, Mr S	Franklin, Mr B (teller)
Graham, Mr J	Green, Mr P	Harwin, Mr D
MacDonald, Mr S	Maclaren-Jones, Ms N (teller)	Mallard, Mr S
Martin, Mr T	Mason-Cox, Mr M	Mookhey, Mr D
Moselmane, Mr S	Nile, Reverend F	Pearce, Mr G
Phelps, Dr P	Primrose, Mr P	Searle, Mr A
Sharpe, Ms P	Taylor, Ms B	Veitch, Mr M
Voltz, Ms L	Wong, Mr E	

Amendments negatived.

Mr DAVID SHOEBRIDGE (21:40): By leave: I move The Greens amendments Nos 22 and 23 on sheet C2017-105D in globo:

No. 22 **Addressing climate change**

Page 114, Schedule 10.1. Insert after line 5:

[2] Section 157 (1) (h) and (i)

Insert at the end of section 157 (1) (g):

, or

(h) a standardised assessment process for determining whether proposed low-impact residential, commercial and agricultural development adequately minimises the cumulative lifetime greenhouse gas emissions from the development site, or

(i) the process for determining the implications for climate change in the course of preparing or making environmental planning instruments or assessing proposed development or activities.

No. 23 **Addressing climate change**

Page 117, Schedule 11.7. Insert after line 17:

[1] Clause 14 Natural resource management and environmental management

Insert after clause 14 (1):

(1A) Before granting consent for development for the purposes of mining, petroleum production or extractive industry, the consent authority must consider the impact of the development on the global atmosphere, in particular the impact of greenhouse gas emissions from the burning (whether in Australia or outside Australia) of fossil fuels recovered in the course of the development.

[2] Clause 14 (2)

Omit the subclause. Insert instead:

(2) Without limiting subclauses (1) and (1A), in determining a development application for development for the purposes of mining, petroleum production or extractive industry, the consent authority must:

(a) make an assessment of the greenhouse gas emissions (including downstream emissions) of the development, having regard to any applicable State or national policies, programs or guidelines concerning greenhouse gas emissions; and

(b) have regard to the targets specified in the most recent report of the Intergovernmental Panel on Climate Change, and the steps needed to ensure that those targets are not exceeded and that global warming remains less than 1.5–2 degrees Celsius above pre-industrial levels.

The Greens believe, particularly when it comes to mining, petroleum production and other extractive industries, that the current planning bill and current planning law have major flaws, in fact, climate-busting flaws, especially when it comes to the extraction of coal in New South Wales. The way that the planning Act operates is that if there is a large coalmine in the Hunter Valley, the planning Act will consider the greenhouse gas emissions in building a railway line out to the coalmine, putting in some trucks, using all the farmland, digging a ruddy great

hole, digging up the coal, putting it on the rail line and sending it to the port, but that is it. For some reason the planning Act in New South Wales seems to pretend that the coal is not being burnt and ignores the 2½ tonnes of greenhouse gas emissions that are produced for every tonne of coal that is being burnt as though it is all going to be burnt on a different planet; I do not know to where it will be exported.

Mr Justin Field: Planet B.

Mr DAVID SHOEBRIDGE: Planet B. Maybe there is a large Martian coal export industry that I am unaware of but as I understand it the great bulk of coal that is exported and dug out of New South Wales is burnt on planet Earth. It is nuts to have a planning Act that ignores the carbon emissions that come from the burning of coal. We say the same for coal seam gas and other fossil fuel industries in New South Wales. We say with this amendment, "If you are going to dig up coal you have to assume it will be burnt and the burning of that coal needs to be considered in any planning assessment. You cannot approve a big new coalmine if it is going to imperil meeting our Paris climate change agreements." It may well be that the Government and the Opposition will say, "Hang on. That will mean we cannot approve any more coalmines." That is probably right because if we approve any more coalmines or expand any more coalmines we will not be able to reach our Paris targets and that will mean we screw up the climate, not just for ourselves but for generations to come.

We say they should at least be honest about it; anyone who is going to dig up coal should assume it is going to be burnt and should take that into account. We know that there is opposition to these amendments, or anything like them, from the fossil fuel lobby. We know the size of the donations that the fossil fuel industry makes to the major parties in this country; it is constantly funding them to the tune of millions and millions of dollars. We know that that funding to the major parties comes at a cost.

Mr Scot MacDonald: Point of order: Mr David Shoebridge is not speaking to the amendments. I ask that you draw him back to the leave of the amendments.

The CHAIR (The Hon. Trevor Khan): Order! My ruling consistently has been that members speak to the amendments. Mr David Shoebridge is now straying into the area of a second reading debate. I ask him to return to the leave of the amendments.

Mr DAVID SHOEBRIDGE: We cannot be legislating for special interests. We need to be legislating for the essential liveability and viability of this planet as a place for ourselves, for future generations and for nature. For those reasons The Greens have moved these amendments, despite the irrational opposition of some members of this Chamber.

Mr SCOT MacDONALD (21:44): The Government opposes The Greens amendments Nos 22 and 23. I refer the Committee to my previous comments on the earlier block of amendments.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendments Nos 22 and 23 on sheet C2017-105D. The question is that the amendments be agreed to.

The Committee divided.

Ayes 6
Noes 32
Majority.....26

AYES

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

NOES

Ajaka, Mr J	Amato, Mr L	Blair, Mr N
Borsak, Mr R	Brown, Mr R	Clarke, Mr D
Colless, Mr R	Cusack, Ms C	Donnelly, Mr G
Fang, Mr W	Farlow, Mr S	Franklin, Mr B (teller)
Graham, Mr J	Green, Mr P	Harwin, Mr D
MacDonald, Mr S	Maclaren-Jones, Ms N (teller)	Mallard, Mr S
Martin, Mr T	Mason-Cox, Mr M	Mookhey, Mr D
Moselmane, Mr S	Nile, Reverend F	Pearce, Mr G
Phelps, Dr P	Primrose, Mr P	Searle, Mr A

NOES

Sharpe, Ms P	Taylor, Ms B	Veitch, Mr M
Voltz, Ms L	Wong, Mr E	

Amendments negatived.

The Hon. ROBERT BROWN (21:52): I move the Shooters, Fishers and Farmers Party amendment No. 1 on sheet C2017-109A:

No. 1 **Definitions relating to bush fire prone land**

Pages 3 and 4, Schedule 1.2, line 41 on page 3 and line 1 on page 4. Omit all words on those lines.

The amendment relates to definitions for fire-prone land. This amendment seeks to reinstate the terms "bushfire prone land" and "bushfire prone land maps" back into the Act. This bill seeks to remove the legal definition of those two terms. Last week, during a budget estimates hearing, my party colleague the Hon. Robert Borsak asked Rural Fire Service Commissioner Shayne Fitzsimmons whether he was aware of the legislative change. The commissioner admitted that he had not been informed of this proposed legislative change, nor had he been briefed. Further, the commissioner added that the bushfire prone land maps are updated and in use. I understand the Government has made comments that all of his staff knew about it. I went to the volunteers and got it from the horse's mouth that they are essential. My understanding is that the commissioner's stated view is that they require those provisions in the bill.

Some people have tried to convince me that the definition change is inconsequential. I ask members to recall the outcome when the definition of "nursing home" was removed from the Commonwealth Aged Care Act 1997 and New South Wales lost the mandatory requirement to have a registered nurse on shift 24/7 in aged care. That had been law for almost 50 years. It is no good to say that this amendment is unnecessary because it is inconsequential. It is not inconsequential to the people who put their lives on the line fighting fires. The Government has not provided ample time for us to consider the impact of this particular change. With media reports warning of a "horror bushfire season" this summer due to the current La Niña cycle, members will understand my very real concerns and those concerns expressed to me by volunteer firefighters. The names Sir Ivan, Wambelong, Black Saturday and Ash Wednesday should be enough to remind people of the destructive power of bushfires and should be a cautionary note to the Government if it does not support this amendment.

Consequently, I wish to err on the side of caution and keep those two legal definitions in place. Recently I chaired a parliamentary inquiry into the Wambelong fire. I do not want to have the unpleasant duty of chairing another inquiry into another bushfire with questions asked over the Government's role, especially as a result of this bill. I will not say anything further as I have made the point clear. If the Government does not accept the Shooters, Fishers and Farmers Party amendment, if we have another bushfire disaster I suggest that all of New South Wales will be looking towards this Chamber and how each member voted tonight. This is a sensible amendment and I hope that the Government supports it.

Mr SCOT MacDONALD (21:56): The Government opposes the Shooters, Fishers and Farmers Party amendment No. 1. The amendment would do away with the provision of the bill that makes housekeeping amendments to the Act. The Environmental Planning and Protection Act deals with bushfire-prone land under section 146 by requiring this land to be mapped and certified. There are also consultation and concurrence requirements under section 79BA for development on bushfire-prone land. Together, these two provisions ensure that the role of the Rural Fire Service in scrutinising development on bushfire-prone land continues. The definition of the terms "bushfire-prone land" and "bushfire-prone land map" do not add anything to the substantive provisions. These terms only appear in the two sections I have mentioned. The bill removes these definitions as a housekeeping action and instead makes a direct link between sections 79BA and 146 in the new section 10.3. There is no change to how bushfire-prone land is identified or certified by the Rural Fire Service.

The Hon. PETER PRIMROSE (21:57): The Opposition has listened carefully to the views of the Government in response to the arguments of the Hon. Robert Brown. It is very much persuaded by the arguments of the Hon. Robert Brown and will be supporting his amendment.

Mr DAVID SHOEBRIDGE (21:57): The bushfire-prone land mapping in New South Wales is some of the most advanced in the world. Indeed, New South Wales in part led the way in identifying bushfire-prone land, particularly in the urban fringe where large amounts of native vegetation butt up against our big cities and population areas. A series of classes of development are often sought to be constructed on the peri-urban fringe near bushfire-prone land. They include schools and childcare centres and in particular aged-care facilities. Where frail and elderly people in a retirement village or sick people in a hospital or medical facility are concerned, a key

issue when considering approving such a development is whether it is in or adjacent to bushfire-prone land. If the development is in or adjacent to bushfire-prone land, a series of specific and detailed protections are required, including fireproofing the external areas and ensuring clear evacuation lines.

In many cases developments have been rejected because there is only one road in and one road out. If that one road is blocked by a bushfire and people cannot be evacuated it will result in a terrible disaster. The only way that planning authorities, particularly local councils and their offices, are able to identify whether those kinds of additional protections are required is if the development is clearly identified as being on bushfire-prone land, which is defined in the Act. The Act's definitions call up the bushfire-prone land mapping that is now held by almost every council.

This issue was raised with the Rural Fire Service Commissioner last week. I commend the chair of the committee, the Hon. Robert Borsak, for raising the issue with him. We pressed the commissioner further on what he knows about this proposal to strip out the definitions. The chair asked him, "Could you have a look at that. You might also consider how that affects the role of the New South Wales Fire Service throughout the State." Rather uselessly I interjected with, "Particularly in your role—" The commissioner answered the initial question, saying: "It is intriguing me because we still have bushfire prone land maps. They are still current. They are still being updated. Particularly, Mr Shoebridge will recall that we worked to adjust some vegetation classifications with councils in pockets around Sydney for some of the 10/50, in terms of what they were designating as bushfire prone land maps reclassifications."

It was clear that it was a concern for the Rural Fire Service Commissioner. As a matter of abundant caution, it would be foolhardy for this House to strip those definitions from the Planning Act because so much depends on whether the cavalier approach being taken by the Government is right or wrong. These maps are essential to protect public safety. I commend the amendment. I would be astounded if Government members think it is a good idea to put this risk into decision-making on crucial planning matters in Sydney and New South Wales.

The CHAIR (The Hon. Trevor Khan): The Hon. Robert Brown has moved the Shooters, Fishers and Famers Party amendment No. 1 on sheet C2017-109A. The question is that the amendment be agreed to.

The Committee divided.

Ayes 18
Noes 19
Majority.....1

AYES

Borsak, Mr R	Brown, Mr R	Buckingham, Mr J
Donnelly, Mr G (teller)	Faruqi, Dr M	Field, Mr J
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	Veitch, Mr M
Voltz, Ms L	Walker, Ms D	Wong, Mr E

NOES

Ajaka, Mr J	Blair, Mr N	Clarke, Mr D
Colless, Mr R	Cusack, Ms C	Fang, Mr W
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
Nile, Reverend F	Pearce, Mr G	Phelps, Dr P
Taylor, Ms B		

PAIRS

Houssos, Ms C	Mitchell, Ms S
Secord, Mr W	Amato, Mr L

Amendment negatived.

The Hon. ROBERT BROWN (22:10): I move Shooters, Fishers and Farmers Party amendment No. 2 on sheet C2017-109A:

No. 2 **Exclusion of land used for agriculture**

Page 6, Schedule 1.2. Insert after line 20:

(3) Exempt development is also development that comprises only the use of land for agriculture.

This amendment relates to the exclusion of land used for agriculture within the definition of "development". This amendment is designed to classify agricultural practices as exempt development under the Act. My party proposes this amendment as a result of the broad definition on page 5 of the bill, as part of new section 1.5 (1) (a) under the definition of the word "development" is now seen to be the use of land. It is very broad and intended to be so by the Government. The concern of the Shooters, Fishers and Farmers Party is that a literal reading of this definition could allow councils to require development approval for farmers managing their own land as part of normal farming practices. Unfortunately, this concern is not without evidence.

I have received representations from concerned intensive farmers who are being threatened by councils. These are people who farm, for example, blueberries and wish to extend their blueberry crop into sections of land currently under banana plantation up along the Pacific Highway. At least one council is agitating to mandate that these intensive farmers seek development approval for farming because council believes the blueberry bush was more unsightly than banana trees—I think it has something to do with the shade cloth. The situation is not unique and it applies to various manners of farming, particularly intensive farming, and not just to horticulture. That is why the Shooters, Fishers and Farmers Party proposes an exemption for agriculture from development consent by way of exempting from the definition of "development" as simply the use of land.

Other longstanding legislation prevents, for example, development being used too broadly in relation to agriculture, such as section 22 (3) (b) of the Water Act 1912 (NSW) that prevents the unlawful diversion of water from a rural lake. Similarly, there is no reason why farmers should not continue to be able to develop their farms—normal farming practices—without being caught up by too broad a definition of the word "development". We must protect our farmers from being burdened further by green tape. I believe this amendment is a way to make that right. I commend the amendment.

Mr SCOT MacDONALD (22:13): The Government does not support Shooters, Fishers and Farmers Party amendment No. 2. Exempt development is reserved for development that has a minor impact. Many agricultural activities are known to have minor impacts and are already classified as exempt development. Other agricultural activities may well have moderate or even severe impacts on their neighbours, for example, piggeries can have a significant impact on air and water quality and those impacts should be considered through a merit assessment process. It is not appropriate to allow agricultural development across the board to be exempt development.

The Hon. MARK PEARSON (22:14): Quite obviously the Animal Justice Party will certainly oppose what is a rather outrageous amendment that gives carte blanche to any proposal from an agricultural industry to expand, and particularly intensive industries that may expand from having 20,000 animals on the property to having 100,000 animals on the property. It has been recorded and argued repeatedly that the impact of large numbers of animals in a confined space can have an extraordinary impact upon not only the local flora and water but also natural fauna entering or passing through the environment, such as wild birds that are travelling around the world.

There is also the welfare of the very animals that are kept in these intensive livestock industries. Recently local government has learnt to take into account the welfare of animals on these properties, particularly in agriculture, where intensive livestock industries are flourishing. That is why some councils have rejected proposals based on all of those factors. If this amendment were allowed to pass, there would be a loophole for any application for expansion of intensive agriculture industries or other agriculture industries, which would be likely to have very serious consequences for the environment and the animals both within the buildings on the property and in the surrounding area. The Animal Justice Party clearly opposes this amendment.

Mr DAVID SHOEBRIDGE (22:16): The Greens oppose the amendment, and I say this to the Shooters, Fishers and Farmers Party: They should be careful what they ask for, because if this amendment did get up, then feed lots could be built literally right next to the neighbour's farmhouse and destroy all amenity. Piggeries would be built, with all their effluent being pumped into the local water streams without any adequate controls—without any controls, indeed. It would all be exempt development. Intensive chicken production facilities would turn up potentially right on the outskirts of a town.

This amendment would cause major dissent in rural and regional New South Wales if it were allowed to get up. It would be extremely damaging to many people's amenity, the natural environment and, indeed, the productivity and the value of many properties throughout New South Wales. Putting to one side our substantial concerns about the environmental damage that this type of proposal would cause, the Shooters, Fishers and Farmers Party should have great hope and anticipation that this Chamber will vote down this amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. Robert Brown has moved Shooters, Fishers and Farmers Party amendment No. 2 on sheet C2017-109A. The question is that the amendment be agreed to.

Amendment negatived.

Mr DAVID SHOEBRIDGE (22:18): By leave: I move The Greens amendments Nos 9 and 10 on sheet C2017-105D in globo. However, I ask that the questions be put separately:

No. 9 **Members of local planning panels**

Page 14, Schedule 2.1 [1], lines 35 to 37. Omit all words on those lines. Insert instead:

(a) a person with relevant expertise appointed as the chairperson of the panel;

No. 10 **Members of local planning panels**

Page 14, Schedule 2.1 [1], lines 39 and 40. Omit "who is not a councillor or mayor". These amendments seek to put some local control back into what are described as local planning panels. These are the mandatory independent hearing and assessment panels [IHAPs] that have been established by the Government in a debate that we had approximately a month ago. Schedule 2.18 (1) to the bill says the members of a local planning panel are to be appointed by the relevant council. That sounds nice in clause (1), but then clause (2) says the local planning panel can approve anybody they like, provided that the chair is the person who is identified and appointed by the Minister. That is one of the most Orwellian provisions one could ever have. Amendment No.9 would amend the clause so that when the local council is choosing the chair, they can pick any person they like. They can appoint any person with expertise as the chairperson of the panel. It removes the mandatory provision which currently would give the Minister the untrammelled power to appoint his or her choice to local planning panels across New South Wales.

The Greens believe in local government. We want local governments to choose the members of their local planning panels, not the Minister for Planning. As I said in my second reading speech, we do not have to go back far in history to find planning Ministers in this State that we would not trust with our lunch money, let alone trust them to appoint planning panel chairs across New South Wales. The Greens amendment No.10 again responds to what The Greens see as a deeply undemocratic attack on local councils. There is a provision in the bill in schedule 2.18 that prohibits a council from appointing councillors or the mayor to a planning panel.

Councillors and mayors are elected representatives of their community. The Greens respect councillors. We respect mayors—not uniformly, just as we see major flaws in many members of Parliament. There are good councillors, bad councillors, indifferent councillors and fabulous councillors, but ultimately, councillors are elected by their local communities. We have more faith in local communities electing people to make decisions about planning than we have in people who are appointed largely at the behest of the planning Minister. Amendment No.10 removes the prohibition on councillors and mayors being on planning panels. I commend both amendments to the House.

Mr SCOT MacDONALD (22:21): The Government opposes The Greens amendments No.9 and No.10. The Independent Hearing and Assessment Panels [IHAPs] were approved by this House only a few months ago. The model will remove the politics from planning and ensure that independent experts make informed decisions free from influence. IHAP chairs need additional expertise in law, government and public administration to ensure procedural fairness is afforded and to ensure the efficient operation of the panel.

The Hon. PETER PRIMROSE (22:22): The Opposition will support The Greens amendment No.9, but it does not support amendment no.10. I will not go over the reasons. We agree with some of the Government's points in relation to number 10 but we totally disagree with them in relation to amendment No.9 and support the position made by Mr David Shoebridge.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No. 9 on sheet C2017-105D. The question is the amendment be agreed to.

The Committee divided.

Ayes 16
Noes 20
Majority.....4

AYES

Buckingham, Mr J	Donnelly, Mr G (teller)	Faruqi, Dr M
Field, Mr J	Graham, Mr J	Mookhey, Mr D

AYES

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	Blair, Mr N	Brown, Mr R
Clarke, Mr D	Colless, Mr R	Cusack, Ms C
Fang, Mr W	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	Nile, Reverend F	Pearce, Mr G
Phelps, Dr P	Taylor, Ms B	

PAIRS

Houssos, Ms C	Amato, Mr L
Secord, Mr W	Mitchell, Ms S

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No. 10 on sheet C2017-105D. The question is that the amendment be agreed to.

The Committee divided.

Ayes 6
Noes 31
Majority.....25

AYES

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

NOES

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

Amendment negatived.

Mr DAVID SHOEBRIDGE (22:34): By leave: I move The Greens amendments Nos 11 and 12 on sheet C2017-105D in globo:

No. 11 **Minimum public exhibition periods**

Pages 20 and 21, Schedule 2.1 [2], lines 22, 26, 29, 36 and 38 on page 20 and lines 13, 16, 22 and 24 on page 21. Omit "28 days" wherever occurring. Insert instead "45 days".

No. 12 **Minimum public exhibition periods**

Page 21, Schedule 2.1 [2], line 5. Omit "14 days". Insert instead "28 days".

Both these amendments have been recommended by the Total Environment Centre. I commend its members for the work they have done in assessing this bill. Similar amendments were recommended by the Environmental Defenders Office. These amendments would increase the minimum exhibition periods for local environmental plans from 28 days to 45 days. Those who have ever tried to get their heads around a change to a local environmental plan would know about the complexities involved. Someone has to work out the impact that changes to floor space ratio [FSR] and other controls will have, the definitions of planning categories and changes to maps. It is a complex process trying to get one's head around an amendment to a local environmental plan or a development control plan. Currently, the Government is proposing a minimum exhibition period of 28 days.

The Greens do not believe that is adequate and nor do many key stakeholders in the community who regularly make submissions on local environmental plans and development control plans. That is why we are seeking to increase the minimum period from 28 days to 45 days. This would make it consistent with submissions on draft regional and strategic plans. When it comes to development consent the Government's bill proposes a minimum of 14 days for public exhibition. Those who have a complex developments occurring next to them or in the immediate vicinity may want to seek the advice of a planning expert or an architect to help review the impact. Someone cannot realistically become aware of a proposal, track down a planning expert, architect or heritage expert, undertake a proper assessment of the development and then make a submission within 14 days. That is why we are proposing to increase the minimum period from 14 days to 28 days. I commend both amendments to the Committee.

Mr SCOT MacDONALD (22:37): The Government does not support The Greens amendments Nos 11 and 12. The aim of the new community participation requirement is to set minimum benchmarks. There is nothing to stop planning authorities from going further if they feel it is right for the kinds of applications with which they deal. The amendment is unnecessary and will indiscriminately slow down the planning system.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendments Nos 11 and 12 on sheet C2017-105D. The question is that the amendments be agreed to.

Amendments negatived.

The Hon. PETER PRIMROSE (22:38): By leave: I move Opposition amendments Nos 4 to 6 on sheet C2017-104A in globo.

The CHAIR (The Hon. Trevor Khan): We should also move The Greens amendments Nos 13 and 14—

Mr David Shoebridge: The Greens withdraw amendments Nos 13 and 14.

The CHAIR (The Hon. Trevor Khan): That fixes that problem.

The Hon. PETER PRIMROSE: These amendments remove the ability for parts of an environmental impact statement to be kept private or for evidence given before the Independent Planning Commission to be given in private or restricted from publication for "any other reason". The Government has argued that this is necessary to ensure sensitive material in planning documents can be protected, such as commercial information, safety or security matters—for example, the location of secure areas in police stations or correctional facilities or the location of Aboriginal objects. The Opposition's amendments remove the open-ended ambiguity of the Government's proposed clauses and address the substantive matter.

Mr SCOT MacDONALD (22:40): The Government opposes Opposition amendments Nos 4, 5 and 6 relating to the powers of the Planning Assessment Commission to restrict the release of information. There are valid reasons for needing restrictions beyond safety and security where the public authority or the commission considers it appropriate—for example, not disclosing information on the location of Aboriginal artefacts or commercially sensitive information. These provisions largely mirror existing provisions that have been in place since 2008 and have worked well.

Mr DAVID SHOEBRIDGE (22:40): The Greens support the Opposition's amendments. Indeed, our amendment proposed simply to delete "or any other reason", but we see merit in the deletion of that and replacing it with words that allow evidence to be given in private and for the non-publication of evidence before the commission where disclosure of the evidence or matter might compromise the safety or security of any person or

thing. That would pick up Aboriginal heritage concerns, it would pick up concerns about, for example, the internal layout of prisons, and it would pick up all the valid issues that have been raised by the Government.

The very real concern—we should just say it plainly—is that any other broad reason will allow the commission to bury evidence that is alleged to be commercial in confidence—for example, what the proposed economic output of a coalmine would be, which obviously is crucial in trying to work out whether there is a public interest in supporting the mine. The basic proposition should be that the evidence before the Planning Assessment Commission should be given in public. Just having "any other reason" as a get-out-of-jail-free card to shut down evidence, to hide evidence or to have hearings in camera we think is dangerous, and that is why we support the Opposition's amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. Peter Primrose has moved Opposition amendments Nos 4 to 6 on sheet 2017-104A. The question is that the amendments be agreed to.

Amendments negatived.

The Hon. PETER PRIMROSE (22:42): By leave: I move Opposition amendments Nos 7 and 8 on sheet C2017-104A in globo:

No. 7 **Conduct of all meetings of Commission in public**

Page 31, Schedule 2.1 [3], lines 2 to 7. Omit all words on those lines. Insert instead:

(1) A planning body is required to conduct its meetings in public.

(2) A planning body is required to record its meetings (whether

No. 8 **Conduct of all meetings of Commission in public**

Page 31, Schedule 2.1 [3], line 16. Omit "subclause (3)". Insert instead "subclause (2)".

These amendments ensure that the Independent Planning Commission should hold its meetings in public and record its meetings in the same way as other planning bodies such as the independent hearing and assessment panels—that was an amendment secured by the Opposition and the crossbench during debate on the planning panels bill—and Sydney and regional planning panels.

Mr SCOT MacDONALD (22:43): The Government opposes Opposition amendments Nos 7 and 8 relating to meetings of the Planning Assessment Commission. The commission already holds public hearings and meetings, but some of its business is appropriately held in camera. This does not impact on the rigour of the assessments. Additional measures in the bill, such as the statement of reasons for decisions, will further ensure transparency in decision-making.

Mr DAVID SHOEBRIDGE (22:43): The argument that the process is transparent but is being done in a darkened room with the door closed so nobody can see what is happening is a novel argument from the Parliamentary Secretary. He said, "It is perfectly transparent, but we are going to do it in private and you cannot see it." I think the Government's argument does not have much merit. The Greens support Opposition amendments Nos 7 and 8. Councils have to hold public hearings, and one of the reasons for holding public hearings is as an anti-corruption measure. Local planning panels have to make their determinations in public, which again is an anti-corruption measure. Joint regional planning panels have to hold public hearings for the same reason. Sydney planning panels have to hold public hearings.

But when we come to the single biggest developments in this State—the ones done by the so-called independent Planning Assessment Commission—those hearings can be held in a dark room with the public excluded. What nonsense. Of course, a majority of members in this House should support the Opposition's amendments but it looks like that will not be the case. Perhaps we will have to wait 12 months to shine some light on the Planning Assessment Commission.

The Hon. PETER PRIMROSE (22:44): I ask the Parliamentary Secretary to give an instance of when a matter should remain in private before the independent Planning Assessment Commission.

Mr SCOT MacDONALD (22:45): I will let the Minister answer that by correspondence.

The Hon. PETER PRIMROSE (22:45): We are dealing with this bill, but there are no advisers in the advisers area at the moment. I have just realised that there are no advisers present to provide advice to the Parliamentary Secretary when this House of Parliament is debating this important legislation. I am simply asking a reasonable question, based upon the argument given by the Government, and yet there are no advisers to provide information to the Minister.

The Hon. Natasha Maclaren-Jones: They are coming.

The Hon. PETER PRIMROSE: That is good. I persist in asking the same question now that the advisers are present. I urge the Parliamentary Secretary to give us an instance.

The CHAIR (The Hon. Trevor Khan): The Hon. Peter Primrose has moved Opposition amendments Nos 7 and 8 on sheet C2017-104A. The question is that the amendments be agreed to.

The Committee divided.

Ayes 16
Noes 20
Majority.....4

AYES

Buckingham, Mr J	Donnelly, Mr G (teller)	Faruqi, Dr M
Field, Mr J	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
Veitch, Mr M	Voltz, Ms L	Walker, Ms D
Wong, Mr E		

NOES

Ajaka, Mr J	Amato, Mr L	Blair, Mr N
Brown, Mr R	Clarke, Mr D	Colless, Mr R
Cusack, Ms C	Fang, Mr W	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	Nile, Reverend F
Phelps, Dr P	Taylor, Ms B	

PAIRS

Houssos, Ms C	Pearce, Mr G
Secord, Mr W	Mitchell, Ms S

Amendments negatived.

The Hon. ROBERT BROWN (22:54): I move Shooters, Fishers and Farmers Party amendment No. 3 on sheet C2017-109A:

No. 3 **E2 or E3 zones excluded from private land and land used for sporting facilities**

Page 42, Schedule 3.1. Insert after line 10:

[3] Part 3

Insert before section 34 (with appropriate decimal section number):

E2 and E3 zones excluded from private land and land used for sporting bodies

(1) An environmental planning instrument cannot make provision for zoning any of the following land as E2 or E3:

(a) private land,

(b) land used for sporting facilities.

(2) This section does not affect any land zoned E2 or E3 before the commencement of this section. However, the council of the area concerned is required to prepare and submit a planning proposal under this Part to rezone the land for a different land use within 6 months after that commencement.

(3) In this section:

E2 means the land use zone E2 (Environment Conservation) under the standard instrument for a principal local environmental plan under this Part.

> ***E3*** means the land use zone E3 (Environment Management) under the standard instrument for a principal local environmental plan under this Part.
>
> ***private land*** means private land within the meaning of the *Local Government Act 1993*.

This amendment relates to the application of exclusion zones, in particular E2 and E3 zones in the Environmental Planning and Assessment Act. The concept of zones was brought in in 2008 under a Labor government and it was done as part of a package that was described to me by Mr Ian Cohen as part of his suite, a 1,000-year deal that nobody would ever be able to undo. Over the years I have had discussions with many planning Ministers and the question about E2 and E3 zones in relation to private property has been one that I have not been able to resolve. More recently, I have stood shoulder to shoulder with the Christian Democratic Party in opposing E zones being applied to private property, but the Christian Democratic Party and the Shooters, Fishers and Farmers Party have a slightly different way of trying to achieve results.

Those efforts have included organising delegations of affected citizens to join a conga line to Ministers and a visit together with the current minister, the Hon. Anthony Roberts, to farmers and landholders impacted on the North Coast. I will give a couple of examples. We visited a macadamia farmer who over the last 20 or 30 years had planted something like 60,000 native trees in riparian zones on his macadamia farm. The local council wanted to apply E zonings over his property and wanted to sterilise, for example, 100 metres on either side from the centre line of those riparian zones. That would have wiped out 50 per cent of this farmer's crop. He was an environmentalist macadamia farmer.

We then met with a landholder who was running a quarry on part of his property. The landholder showed us evidence of two valuations, one before E zones and one after E zones. Unfortunately, the banks were made aware of the change in the valuation, because the zoning stripped 50 per cent of the value of his property. I challenge anybody in this House to stand still while a government, local government or otherwise, did that to them. The reduced value in the property meant that the collateral was not sufficient to cover the loans and the bank came looking for him. We then spoke to the owner of a camping and caravan park, and this is where things really hit home. I am sorry to say that the owner and his wife gave up, after five to seven years of being harassed by a council wanting to impose zonings on his property. He could not stand the stress any longer and he sold out.

From his point of view, the only good thing that came out of it was that he sold to a big, nasty, mean corporate entity which had the deep pockets to fight the council on these issues. It is terrible when we make representations on behalf of people like that over a couple of years and bring them to Sydney so that they can talk to Ministers, they do not get anywhere, and then all of a sudden they are forced into capitulation and have to run up the white flag. That may not mean much to members here but I guarantee that if the council came looking at their private residential properties they would not stand for it.

Let us talk about residential property. These zonings apply over large residential areas and townships such as Bundeena. The amendment we have moved seeks to exempt all private property, and land zoned RE1 and RE2, which is recreational facilities such as rifle ranges. The Government has failed on a number of occasions using section 117 ministerial directions. A couple of North Coast councils have given the middle finger to the Minister and written back to the department saying they will not do as directed. That failure has prompted the Shooters, Fishers and Farmers Party to move this set of amendments.

I have spoken to the current planning Minister and previous planning Ministers about the situation and all of them have offered to handle this problem by other means, such as another section 117 direction or by regulation. But it has gone on too long: it has failed. This legislation has opened the door for councils to act this way. Between the time the Government gets off its backside and does something about it and when the problem is fixed, more landholders will give up, sell their land and walk away.

The E2 and E3 zones are a little different and I will not go into detail describing them. An E3 zone designates to protect, manage and restore areas of high ecological, scientific, cultural or aesthetic values and to provide for a limited range of development. An E2 zone designates an environmental conservation zone for the purpose of classification, and this is multifaceted. In a nutshell, when applied to private land it almost has the effect of placing it on a par with a national park. E zones and environmental overlays have the effect of alienating private property rights. In that respect they are no different to the effect of the Native Vegetation Act in the west. I can count, and I know this is like the proverbial swivel gun in a bumboat taking on the Spanish armada.

I will not call a division, but I make it plain that there are a lot of landholders—production land landholders or farmers, people who run other enterprises on their land and residential landholders—that E zones effect. I say again that it is unconscionable for a government that supposedly supports private enterprise and the concept of private property to not support this amendment. I do not expect the Government or other members to support these amendments, but I have had my say. I commend the amendments to the House.

Mr SCOT MacDONALD (23:02): The Government opposes the Shooters, Fishers and Farmers Party amendment No. 3. I acknowledge the longstanding and extensive work the Shooters, Fishers and Farmers Party

and the Christian Democratic Party have done in this policy area. The E2 and E3 zones of the standard local environmental plan promote the conservation management of land with environmental values. Councils can currently zone any land this way, subject to appropriate oversight by the State Government through the gateway determination.

Reverend the Hon. FRED NILE (23:03): The Christian Democratic Party concurs with the remarks of the Hon. Robert Brown. We are concerned about the impact of this issue—which I see acknowledged—on many farmers and private property. Our party strongly supports the right to have private property; we do not believe in socialism or communism, even though other parties may. We have had lengthy discussions with Minister Anthony Roberts, and we acknowledge that E zones are an important issue for many farmers.

The Hon. Robert Brown: Point of order: I cannot hear the member's contribution. I ask the Chair to call members to order.

The CHAIR (The Hon. Trevor Khan): Order! I uphold the point of order. Interjections are unnecessary and disorderly. Reverend the Hon. Fred Nile has the call.

Reverend the Hon. FRED NILE: E2 and E3 zones are an important issue for many of our farmers, especially on the North Coast and in and around Bega, as many recent media reports have confirmed. We have asked the Government to take a close look at these zones and come up with a solution that protects farmers' land from overzealous councils, some of which are in the north of the State. We are looking to the Government to take action on this as urgently as possible. We are confident there will be some way in which farmers' land can be protected in the future. At this stage we will not support the amendment but we support the objective in principle.

Mr DAVID SHOEBRIDGE (23:05): The Greens oppose the Shooters, Fishers and Farmers Party amendment No. 3 on sheet C2017-109A. I do not mind some rhetoric in debate but to suggest, as Reverend the Hon. Fred Nile does, that E2 and E3 environmental planning zones are somehow akin to communism shows how at odds with reality this debate has become.

Reverend the Hon. Fred Nile: Read the history of Russia and China.

Mr DAVID SHOEBRIDGE: I hear further interjections about the history of Russia and China. I would be interested to see Reverend the Hon. Fred Nile's essay on land zoning decisions under the environmental planning and assessment Acts of communist Russia and China. I wait for that essay with great anticipation because it is absolute nonsense. Indeed, almost every environmentalist would criticise authoritarian regimes for having little to no regard for environmental protections.

Mr Jeremy Buckingham: Like this one.

Mr DAVID SHOEBRIDGE: Indeed. We have an authoritarian regime in New South Wales that, like so many of its predecessors, has little to no regard for environmental protection.

The CHAIR (The Hon. Trevor Khan): Order! I invite the member to speak to the amendment rather than play to the peanut gallery. It is after 11.00 p.m. Let us move on. I call Mr Jeremy Buckingham to order for the first time.

Mr DAVID SHOEBRIDGE: With E2 and E3 zones we are talking about appropriate environmental protections for remnant rainforest land for coastal heath and ecologically endangered communities. Critically endangered ecological communities get protected under E3. If publicly or privately owned land with endangered ecological communities of rare species is cleared and those species are lost forever any parliamentarian who approved that kind of process would be culpable. I invite those members who think that we should get rid of E2 and E3 zoning to come forward and say which threatened species they want to go extinct in this State. They should tell us about those beautiful native species that they want to drive to extinction by getting rid of E2 and E3 zoning and be honest about what the outcomes will be. If they get rid of E2 and E3 zoning as a sort of sotto voce hope that they will get a Government result on this, our native fauna and flora will face a wave of extinctions. It is a disgrace for any parliamentarian to try to advocate for that and then pretend to have the best interests of New South Wales at heart.

The CHAIR (The Hon. Trevor Khan): I will give the Hon. Paul Green the call, but I remind members that this is not a second reading debate.

The Hon. PAUL GREEN (23:09): I am speaking to the amendment. I will not go down the same route as Mr David Shoebridge. The fact that he is wrong has nothing to do with what I will say. The Hon. Robert Brown has moved an in-depth amendment and has given a history of people across the State who have felt ripped off. There are many others who were not aware that their homes or farms had been zoned E2 and E3. In one case in Bega, a gentleman wanted to put a carer's cottage on his land so that he could have a quality life. When he

submitted the development application he found out that his property had an E zoning and that he was not entitled to build on it. These are the facts.

A gentleman with a macadamia farm spent $1.6 million and planted 60,000 trees in the riparian zone. He did the right thing by the habitat. If we want to see organic farming practices at their best, Rex Harrison's farm in Byron Bay is the one to see. It is awesome and he is using the best of all practices, yet the council is trying to sterilise up to 60 per cent of his property. This is his business. We should not interfere with E zones and take away regional jobs. We are already struggling with high unemployment, particularly youth unemployment. Why carve up this land and sterilise it when these people have done nothing wrong? They love the land and they purchased their properties because they believed in their environmental value, which is why they live where they do.

Mr JEREMY BUCKINGHAM: They didn't check.

The Hon. PAUL GREEN: It is not that they did not check. Councillors who have a high opinion about what the property means to them have overruled the owners. They are running shotgun with the balance of bureaucracy behind them and not obeying section 117, thinking that they can outlast the farmers. These people have done nothing wrong. They love the environment and they love the land. They are looking for a small patch to call their home. How would you like it if someone came to your house and sterilised—

The CHAIR (The Hon. Trevor Khan): I remind the member to address his remarks through the Chair.

The Hon. PAUL GREEN: Members would not like it if someone came to their house and cornered off the lounge room or a quarter of the backyard. We would not stand for it. Why is it right that we can sterilise someone's farm or someone's property because the authorities think it has environmental values? When I was mayor of the Shoalhaven I saw ecosystems coexisting with people in areas where the Government said there should be no dwellings. Those dwellings were 20 or 30 years old. They were illegal and were required to comply with the Building Code of Australia, but they coexisted. The threatened species were surviving and people were enjoying the environment—both were thriving. This is rot about taking land away from the native species or threatened species. We are better than that. We can coexist and the land can be value-added. We must look after these people because they have done nothing wrong. They should be able to use their properties as they wish. They should be able to comply with and value add on their E zones.

Mr JEREMY BUCKINGHAM (23:13): I wish to make a brief contribution. We are debating an important philosophical point.

The CHAIR (The Hon. Trevor Khan): We are not debating a philosophical point; we are discussing amendments before the Committee.

The Hon. Wes Fang: Point of order—

The CHAIR (The Hon. Trevor Khan): There is no point of order while I am dealing with this matter. I invite Mr Jeremy Buckingham to address the amendment before the Committee and not to engage in a philosophical discussion.

Mr JEREMY BUCKINGHAM: Some amendments are more important than others, and this is an important amendment. The Hon. Robert Brown put forward an argument that is against all planning law. We would not recognise the biophysical characteristics of the land we seek to develop and enshrine zones according to those characteristics. We would not have flood zones, slope zones, or development density zones. The argument against E2 and E3 zones has been put in respect of all zoning. Examples were provided referencing E2 and E3 zones in northern New South Wales. One would have to be stupid to move to Byron Bay and not expect to have environmental protection zones in that area. It is why people move there. It is some of the most expensive land in the world because it has been accorded the protection it deserves. The vast majority of landholders recognise that, and that is why those protections will last for thousands of years. The majority of our society recognises the value of environmental protection zones and enshrining them in legislation and in national parks. E2 and E3 zoning will outlive the madness proposed by the Shooters, Fishers and Farmers Party.

The CHAIR (The Hon. Trevor Khan): The Hon. Robert Brown has moved the Shooters, Fishers and Farmers Party amendment No. 3 on sheet C2017-109A. The question is that the amendment be agreed to.

Amendment negatived.

Mr DAVID SHOEBRIDGE (23:16): I move The Greens amendment No. 17 on sheet C2017-105D:

No. 17 **Matters for consideration by consent authority**

Page 50, Schedule 4.1. Insert after line 21:

[6] Section 79C Evaluation

Insert after section 79C (1):

(1A) In determining a development application, a consent authority is required to give due consideration and real weight to its assessment of the dominant opinion of the public with respect to the development the subject of the development application.

If agreed to, this amendment would lead to our finally recognising in unambiguous terms that the public should have a fair and reasonable say in development matters. It proposes to insert new section 79C into the Act. This is the key evaluation provision dealing with the heads of consideration that planning authorities must take into account when determining development applications. This amendment provides that it is not enough simply to invite people to a meeting, to give them a cup of tea and perhaps a biscuit, to pat them on the head and to listen to what they have to say and then to ignore them.

The CHAIR (The Hon. Trevor Khan): The noise to my left from both Government and Opposition members is too great. Mr Shoebridge is entitled to be heard in silence.

Mr DAVID SHOEBRIDGE: It is not enough to take submissions from the public and to ignore them. If a clear and dominant community will is being expressed about a development—either the community loves it or hates it—it should not be ignored. That does not mean that view will determine the decision made about the development application. However, it does mean that the planning authority must give it due consideration and real weight. One of the advances we have made with this bill is that planning authorities will now be required to give reasons for their decisions. If for some reason a planning authority says, "Despite giving due consideration and real weight to the public view that this development is a stinker for the following five reasons, we will ignore it," at least they will be required to put their reasons in writing.

The public of New South Wales is sick of making submissions on planning matters and being ignored by the decision-makers. They are sick to death of turning up to planning assessment commission hearings and saying that a development application should not be approved because the entire community does not want it, and that it is on their land and in their neighbourhood only to be ignored time and again. The legitimacy of the New South Wales planning system has been destroyed because the public has no faith in it. The Greens are saying that if the community turns up and is of one voice in rejecting a development, the decision-makers should pay attention.

Mr SCOT MacDONALD (23:18): The Government opposes The Greens amendment No. 17. This amendment will open the door to cash for comment objections to development proposals and will force decision-makers to side with the loudest voices over the real issues. To suggest that the dominant opinion of a stakeholder campaign should override balanced decision-making is inappropriate and simplistic. The Government is committed to enhancing opportunities for community participation in the planning system. The community participation plans introduced by this bill will permit planning authorities to engage the community in the planning decisions it makes. This is how we build community confidence in planning decisions and achieve better planning outcomes through the input from the community.

Mr DAVID SHOEBRIDGE (23:19): The public are not mugs. The Parliamentary Secretary said, "We have a whole set of new procedures to take submissions from the public. We are going to encourage the public to get involved and make their submissions and give their opinion." Whoopee! At the end of the day the Government is still doing what the planning system in New South Wales has been doing for decades, that is, ignore what the public says. The public is getting sick of making submissions. They make a submission, express an opinion that something should not be done or that it should be changed in such a way that they can live with it and then they are ignored time after time. I know the Parliamentary Secretary is reading from notes given to him by the Minister, but for him to say, "It is okay. We have got a new way of farming submissions from the community", is nonsense. We know that the submissions will be ignored, as they have always been.

The Parliamentary Secretary said it is all about stakeholders and I know the Government is always listening to them—the Minerals Council, the Property Council and the big donors at State and Federal levels—but The Greens are not talking about stakeholders. We are talking about far more important players in the planning system: we are talking about the community, the public who live in an area and have to live with the consequences of development. The Government should not just take submissions from them to the Planning Assessment Commission and then ignore them. They should listened to and understand their concerns and then give them due weight and consideration in the planning. That is why The Greens have moved this amendment.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No. 17 on sheet C2017-105D. The question is that the amendment be agreed to.

The Committee divided.

Ayes 6
Noes 31
Majority.....25

AYES

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

NOES

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

Amendment negatived.

Mr DAVID SHOEBRIDGE (23:29): I move The Greens amendment No.18 on sheet 2017-105D:

No. 18 **Planning Secretary giving approval on behalf of other approval bodies for integrated development**

Pages 51 and 52, Schedule 4.1 [12] and [13], line 33 on page 51 to line 9 on page 52. Omit all words on those lines.

I dealt with this matter in my second reading contribution. We do not believe that the planning Minister should be able to step in and make decisions about consents or approvals on integrated developments, particularly when that development relates to bushfire-prone land where the Rural Fire Service [RFS] is required, or when the development relates to heritage where the Heritage Council is involved. We do not support the fast-tracking of development in dangerous, bushfire-prone land, or development that may destroy heritage. If resource constraints in the RFS or the Heritage Council mean that they cannot get to these assessments in time, the solution is to resource those bodies properly and not to shortcut them.

Mr SCOT MacDONALD (23:30): The Government does not support The Greens amendment No. 18. The Department of Planning and Environment conducted extensive consultation on the bill while updating the Environmental Planning and Assessment Act. It heard repeatedly from many councils and applicants that have concerns regarding delays or conflicting advice from New South Wales agencies on development applications. These delays and conflicts are unacceptable. To address this the bill gives the planning secretary the power to step in and to provide approvals or advice on behalf of other agencies that have not met statutory deadlines or whose advice is conflicting. This reserve power will be exercised in line with statutory rules now being agreed with all relevant agencies. This amendment cannot and will not be accepted as it would eliminate a vital reform that will provide for simpler, faster planning for the people of New South Wales.

The Hon. PETER PRIMROSE (23:31): The Opposition does not support the amendment. We believe it is appropriate to have the reserve power as outlined by the Parliamentary Secretary.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No.18 on sheet C2017-105D. The question is that the amendment be agreed to.

Amendment negatived.

Mr DAVID SHOEBRIDGE (23:31): I move The Greens amendment No.20 on sheet C2017-105D:

No. 20 **Certificates issued by private certifiers**

Page 58, Schedule 6.1. Insert after line 34:

6.3 Allocation of issuing certificates among accredited certifiers

(1) An accredited certifier is not entitled to issue a certificate under this Part unless the certifier has been allocated the function of issuing the certificate by the Building Professionals Board under a scheme prescribed by the regulations for the purposes of this section.

(2) The regulations that prescribe such a scheme are to provide:

(a) for the allocation of accredited certifiers without the knowledge of or influence by the applicants for the certificates, and

(b) for the payment by applicants for the certificates of a fair and reasonable amount of remuneration for the work associated with issuing the certificates.

The private certification mess was introduced initially by Labor in 1998. Minister Knowles—some dark and fetid part of my memory brought out that name—decided he would conduct a great experiment: privatising building certification in New South Wales. It has been an unmitigated disaster ever since because the developer can choose and pay for the certifier of his or her choice and there is such an obvious corruption risk. The really big developers, the likes of Meriton and the others, have decade-long commercial relationships with one or two certifiers who sign off on all their buildings. They sign off on whether or not they comply with the development application and they sign off on building certificates. There is such an obvious corruption risk.

Reverend the Hon. Fred Nile: Name them.

Mr DAVID SHOEBRIDGE: I just did—Meriton, Meriton, Meriton. If that was not clear enough for Reverend the Hon. Fred Nile, I repeat that it was Meriton. A variety of other fly-by-night developers that are building heaven knows what throughout Sydney and New South Wales are having their buildings signed off by a private certifier of their choice—someone that they choose and for whom they pay. The preferred outcome for The Greens would be to get rid of the mess that is private certification that pretty much no player in New South Wales thinks has been a good experiment. It has been a disaster. We would get rid of it and return certification to councils, where public officials certify whether or not a development is appropriate, or that it complies with the development application and the building code. We are talking about essential things such as whether or not a concrete slab is thick enough to support five top layers. The certifiers do not even turn up to the site. From an office in Queensland they certify that a development in the middle of Sydney has complied with the building code of Australia and with the development approval. They are chosen and paid by the developer. We think that certification should be by local councils, but this is a halfway measure that would, at least, put some integrity into the process.

Instead of having that noxious relationship between the developer and the private certifier where the developer identifies, chooses and pays the certifier, this amendment would require that a particular class of certifier would be appointed to a developer from a common pool managed by either the department or the Building Professionals Board. That would break the noxious nexus between the developer and the certifier. If the developer cannot choose the certifier—a choice based on the developer getting an easy ride—but instead is allocated a certifier from a common pool by a government authority, that would go a significant way to stopping the corruption in building certification in New South Wales. The Greens commend the amendment to the Committee.

Mr SCOT MacDONALD (23:35): The Government opposes The Greens amendment No. 20. Matters to do with the regulation of private certifiers are being considered by the Government in its response to the Lambert report, which was an independent review of the Building Professionals Act 2005. The Government has developed a broad package of reforms to strengthen the certification system, including simplifying and consolidating building regulation and subdivision certification provisions into a single, more logical structure within the Environmental Planning and Assessment Act and enabling regulations to allow accredited certifiers to place conditions on the issue of construction certificates and complying development certificates. As such, the Government is already looking at improving the accountability and independence of private certifiers without undermining the entire system, which is what this amendment would achieve.

The Hon. PETER PRIMROSE (23:36): I indicate that the Opposition will be supporting amendment No. 20 moved by The Greens. There are a number of reasons for our support. The first one goes to the nub of the matter and is contained in paragraph 2 (a):

(2) The regulations that prescribe such a scheme are to provide:

(a) for the allocation of accredited certifiers without the knowledge of or influence by the applicants for the certificates …

That is absolutely critical to ensure the integrity of the private certifier scheme. I am not going to go over the reasons that have been outlined already by Mr David Shoebridge. I cannot understand an argument that says that developers should be able to select the agency which will say whether a development is complying. If a private certifier wants a job in the future—I am not suggesting that this applies to all private certifiers—there would be

an incentive for them to say what the developer wants to hear. If the certifier does not say what the developer wants to hear then that certifier may not be selected next time. That is why this is such an important amendment.

I previously outlined my second reason. This bill is replete with Henry VIII clauses. Throughout this legislation the Government is simply saying, "This will happen some time in the future. We will do it, and we will do it by way of regulation." But the Government is not specifying what it will do; it is open-ended, a blank cheque. In this amendment, The Greens have proposed a regulation and specified what it will entail. The Greens have specified that, but not the Government. All good legislation provides a broad outline of the regulations and what they seek to achieve. The Opposition supports this sensible and smart amendment.

Mr JEREMY BUCKINGHAM (23:29): I speak in support of my colleague Mr David Shoebridge's amendment No. 20 on sheet C2017-105D. Before becoming a member of Parliament I worked in local government where I witnessed, amongst other things, the implementation of the private certification scheme in New South Wales. The serious ramifications of that scheme will not be borne out immediately. They will borne out in 15 years, 20 years or 25 years when buildings either fall down or burn down because our planning system is undermined by nepotism, corruption and the conflicts of interest inherent in a private certification scheme. Indeed, it undermines the integrity of the planning regime in New South Wales that proponents can hire their own guns. For instance, in private certification someone turns up with a mobile phone and says—

Mr David Shoebridge: Or does not turn up.

Mr JEREMY BUCKINGHAM: Or does not turn up. They say, "Here's a mobile phone. Check out the slab." Frank replies, "Yes, we've got one." It may be 100 millimetres too thin, but don't worry, it will fall down in 15 years when we are all living on the Gold Coast." It may be that Parsons Brinckerhoff will say, "There will be no water pollution from this. Everything can be managed." If the consultants—whether from major projects or private certifiers enforcing the Building Code of Australia—are hired guns it undermines the integrity of the entire planning system. I note that Cate Faehrmann, a former colleague of mine in this place, moved a bill to that effect—namely, a cab rank scheme for environmental consultants for major developments. The Greens will continue to push for that in this State until it is done. The Greens amendment No. 20 is very wise. It deals with safety, which is the bedrock of our planning system and the foundation of buildings that people in New South Wales will live in.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No. 20 on sheet C2017-105D. The question is that the amendment be agreed to.

Amendment negatived.

Mr DAVID SHOEBRIDGE (23:42): I move The Greens amendment No. 21 on sheet C2017-105D:

No. 21 **Right of appeal against decisions of Commission**

Page 80, Schedule 8.1 [2], lines 36 to 42. Omit all words on those lines. Insert instead:

(3) There is no right of appeal under this Division against the determination of, or a failure to determine, an application for a complying development certificate.

This amendment will reinstate merit appeals from the Planning Assessment Commission to the Land and Environment Court. Currently, we are faced with the nonsense situation where if the Minister refers a matter to the Planning Assessment Commission and says, "Hold a public meeting about X, Y or Z", which is identical to a public hearing, there is no right of appeal. But if the Minister refers the matter to the Planning Assessment Commission and says, "Hold a public hearing about X, Y or Z", which is conducted in exactly the same way as a public meeting, there is no right of appeal and no ability to test matters in the Land and Environment Court, which is a genuinely independent planning commission in New South Wales.

In about 2008 Labor introduced amendments to allow matters to be sent to the Planning Assessment Commission and to be protected from any appeal to the Land and Environment Court. Those amendments were noxious at that time, and they remain noxious. If the Government thinks the Planning Assessment Commission is genuinely a body of merit, it should have no problem in exposing its decisions on merit appeals in the Land and Environment Court. One has only to think of key cases such as Bulga and a variety of others where the Planning Assessment Commission has been woefully inadequate in its assessment—it got the facts wrong and stuffed the matter up from beginning to end. We need to ensure that we have integrity-based merit appeals to the Land and Environment Court. The community has a great deal more faith in decisions made by the Land and Environment Court, with the protections that are afforded to them, than they do in what is the now very secret process that the Government wants to have in the so-called "Independent" Planning Commission. We commend the amendment to the Committee.

Mr SCOT MacDONALD (23:44): The Government opposes The Greens amendment No. 21. The bill does not alter current arrangements in relation to third party merit appeals; rather, it makes them unnecessary. The rigour and effectiveness of the commission's public hearings are being improved. A new two-stage hearing process is being adopted which will enable community members to be involved early in the assessment and determination process and which will help scope out issues and concerns. The commission will then use the second stage of the hearing to publically test the application of the assessment report and draft conditions of the consent. This process is based on effective community participation, which will build the community's confidence in the decision-making process.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No. 21 on sheet C2017-105D. The question is that the amendment be agreed to.

Amendment negatived.

The Hon. PETER PRIMROSE (23:45): I move Opposition amendment No. 9 on sheet C2017-104A.

No. 9 **Effect of appeal on operation of consents for SSD**

Page 82, Schedule 8.1 [2], lines 33 and 34. Omit "9other than State significant development)".

Mr SCOT MacDONALD (23:46): The Government does not support Opposition amendment No. 9. The amendment is not necessary. For major projects it is appropriate that these consents are not suspended and that work can commence. The person bringing the appeal has the option of seeking an injunction to prevent work occurring. Such an application will be assessed on its merits.

Mr DAVID SHOEBRIDGE (23:46): The Greens support the Opposition amendment. Of course, if there is a valid appeal the development should halt until that appeal has been determined or discontinued in some way. Otherwise the appeal is, in legal terms, nugatory. It can have no effect if the development has already started or has happened. It makes a nonsense of appeal rights to have the development completed before the appeal is dealt with.

The CHAIR (The Hon. Trevor Khan): The Hon. Peter Primrose has moved Opposition amendment No. 9 on sheet C2017-104A. The question is that amendment be agreed to.

Amendment negatived.

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

Motion agreed to.

Mr SCOT MacDONALD: I move:

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

Motion agreed to.

Adoption of Report

Mr SCOT MacDONALD: I move:

That the report be adopted.

Motion agreed to.

Third Reading

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

That this bill be now read a third time.

The House divided.

Ayes 30
Noes 7
Majority.....23

AYES

Amato, Mr L	Blair, Mr N	Clarke, Mr D
Colless, Mr R	Cusack, Ms C	Donnelly, Mr G
Fang, Mr W	Farlow, Mr S	Franklin, Mr B (teller)
Graham, Mr J	Green, Mr P	Harwin, Mr D

AYES

Khan, Mr T	MacDonald, Mr S	Maclaren-Jones, Ms N (teller)
Mallard, Mr S	Martin, Mr T	Mason-Cox, Mr M
Mookhey, Mr D	Moselmane, Mr S	Nile, Reverend F
Pearce, Mr G	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

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

Motion agreed to.

ELECTRICITY SUPPLY AMENDMENT (EMERGENCY MANAGEMENT) BILL 2017

In Committee

The CHAIR (The Hon. Trevor Khan): There being no objection, the Committee will deal with the bill as a whole. I have two amendments, one from The Greens on sheet C2017-113 and an Opposition amendment on sheet C2017-110B. I call on Mr Jeremy Buckingham to move The Greens amendment.

Mr JEREMY BUCKINGHAM (23:59): I move The Greens amendment No. 1 on sheet C2017-113:

No. 1 **Duration of declaration of electricity supply emergency**

Page 3, Schedule 1 [3], lines 22 to 25. Omit all words on those lines. Insert instead:

(3) Unless it is sooner revoked by the Premier by order in writing, the declaration of an electricity supply emergency remains in force for such period (not exceeding 30 days) as is specified in the declaration.

This amendment sets a sunset clause on the duration of a declaration of an electricity supply emergency. The Greens believe it is necessary to have a limitation on the extent of these declarations. We are not convinced by the argument of the Minister and his staff that has characterised these incidents as most likely to be short and of limited duration and that a sunset clause would be unnecessary. Without parliamentary oversight and a disallowable element it is reasonable that the Government would seek, after 30 days, to have another emergency declared if the situation warranted it.

The argument that we need to give certainty to the market is outweighed by the public interest test that we would not want to see a regime put in place—with all the best intentions of the Australian Energy Market Operator [AEMO], the Minister and others to ration electricity—that may disadvantage a minority in the community or political opponents of the Government, or that may be unfair for some other reason. The provision of a sunset clause is very important. Clearly we all hope that emergencies do not occur, but if we have a catastrophe like Liddell power station collapsing, catching on fire or failing, catastrophic bushfires and interruptions to the interconnectors and transmission lines or a failure of gas supply lines similar to what happened on 10 February, some of those impacts may well go beyond 30 days. We would like a similar regime to the previous one, which means that the Government would have to seek an extension and be subject to community scrutiny. This is a reasonable measure that we hope we would never have to use. I hope all members support this sensible amendment.

The Hon. ADAM SEARLE (00:02): For the reasons outlined in the second reading debate the Opposition will support The Greens amendment No. 1. We accept that the powers being created in this legislation would be used rarely and sparingly. However, we think part of the proper discipline is simply not to have an open-ended declaration. It is to be expected that when this power is used it would be for relatively short periods. Given that the procedural issue of the Governor making the declaration will be removed and it will be a matter for the Premier to do so, and there is no limitation upon how often a declaration could be made, I would have thought that the very small discipline of simply having a 30-day period is not a big ask. If an issue arises that requires it to go beyond that period, the Premier of the day, on the advice of the energy Minister, would be able to continue it by a fresh declaration without any impediment. Obviously that would have to be communicated to the public, but the mere fact that it was limited would impose some discipline on government to use it rarely and sparingly,

and in the proper circumstances. I do not see the arguments against this, but no doubt the Minister will acquaint us with them.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (00:04): The Government opposes the amendment. The Premier must rely on compelling information before issuing a directive. In practice, this will be done in consultation with the Australian Energy Market Operator. Ministerial directions can be given only while a Premier's declaration is in force and both a Premier's order and a Minister's direction power can be challenged in court if it is beyond the scope of the legislated powers. This provides an important protection.

Flexibility is essential to deal with very different emergency scenarios. In some, directions may apply only to specific users or companies operating in the energy market. There may be no need to impose obligations on the public. The State Emergency and Rescue Management Act 1989 applies to a much broader range of emergency situations, including terrorist acts, and can place significant restrictions on the community. The restrictions imposed on persons under an electricity emergency order are less intrusive from a civil liberties perspective. The Premier's order declaring an emergency can specify a time limit, including a shorter one, recognising that heatwaves usually last for a few days.

There is no practical benefit in imposing a one-size-fits-all maximum period in the context of electricity supply during emergencies. The very argument that the Leader of the Opposition used to justify the 30-day period—how little a burden it was to get an extension to a 30-day order—can be turned on its head: Since it is so simply obtained, why impose any constraint of that sort at all? The need for flexibility was stressed by the Energy Security Taskforce, led by the Chief Scientist and Engineer, in its interim report. For these reasons, the Government will not be supporting the 30-day time limit.

Mr JEREMY BUCKINGHAM (00:07): The Greens moved this amendment principally because we foresee that there may be a circumstance in which an energy supply emergency is ongoing. The Minister has indicated the issues are not broad, as in other disasters, but we do not hold that view. We believe that in an energy emergency the failure by the private sector, with the State taking over those powers, to supply energy to individuals, communities, and business is very broad in its implications. It is basically a catastrophic failing of our civilisation if we do not have the electricity we need.

We could have a situation where after 28 days, for example, under the direction of the Minister, the Government could say, "We are going to continue to turn off the supply of electricity" to BlueScope Steel, Tomago, a particular set of mines or a particular community in the State for whatever reason. Having this provision—regardless of whether it is a rubber stamp or a tick and flick—means there is an accountability mechanism in place, there will be consultation again and the Premier has to give that order again with all the scrutiny, accountability and political pressure that may be brought to bear by a community that may or may not be happy with the way the emergency is being handled.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (00:09): I do not want to detain members, but I will make it clear that I did not in any way downplay the effect that an energy emergency can have on the community. I merely said that it was less intrusive from a civil liberties perspective. That is all.

Mr JEREMY BUCKINGHAM (00:09): The Minister did not say that in his contribution in Committee. He said it would not be as broad as other emergencies. The Greens maintain that a failure to provide electricity to the State would be catastrophic and would undermine the integrity of our civilisation and economy. It could not get broader than that.

The CHAIR (The Hon. Trevor Khan): Mr Jeremy Buckingham has moved The Greens amendment No. 1 on sheet C2017-113. The question is that the amendment be agreed to.

Amendment negatived.

The Hon. ADAM SEARLE (00:10): I move Opposition amendment No. 1 on sheet C2017-110B:

No. 1 **Investigation of industrial matters**

Page 7, Schedule 1 [3]. Insert after line 22:

94J Appointment of qualified person to investigate industrial matters

(1) In this section:

industrial matter has the same meaning as in the *Industrial Relations Act1996*.

qualified person means a member of the Industrial Relations Commission of New South Wales or other person having qualifications that the Minister considers

appropriate to carry out the functions under this section of a person appointed under this section.

(2) If a declaration of an electricity supply emergency is in force, the Minister may, by order published in the Gazette, appoint a qualified person to investigate any industrial matter specified in the order that relates to:

(a) the extraction, production, provision, supply, transportation, distribution or utilisation of electricity, or

(b) persons engaged in the extraction, production, provision, supply, transportation or distribution of electricity.

(3) A qualified person appointed under this section must, as soon as practicable after being appointed, investigate the industrial matter specified in the order and make a report and recommendation to the Minister with respect to that industrial matter.

Note. The Minister may give directions under section 94B to give effect to recommendations made under this section.

(4) A qualified person appointed under this section may carry out the person's functions under this section even though the declaration that was in force when the person was appointed has been revoked.

(5) For the purposes of any investigation under this section:

(a) a qualified person appointed under this section has the powers, authorities, protections and immunities conferred on a Commissioner of a Special Commission of Inquiry by Division 1 of Part 3 of the *Special Commissions of Inquiry Act 1983*; and

(b) section 24 of the *Local Court Act 2007* applies to or in respect of a witness or person summoned by or appearing before a qualified person appointed under this section in the same way as it applies to or in respect of a person appearing before the Local Court.

(6) The provisions of the *Special Commissions of Inquiry Act 1983* (section 20 and Division 2 of Part 3 excepted) apply to or in respect of a witness or person summoned by or appearing before a qualified person appointed under this section in the same way as they apply to or in respect of a witness or person summoned by or appearing before a Commissioner of a Special Commission of Inquiry under that Act.

This amendment replicates section 28 of the Energy and Utilities Administration Bill 1987 in the new part of the electricity supply legislation where the remainder of this legislation will rest. However, it carries over this particular matter so that it continues to apply to electricity issues. At present if a declaration of an electricity or energy supply emergency is in force the Minister may, by an order published in the *Government Gazette,* appoint a qualified person, being a member of the Industrial Relations Commission, to investigate any industrial matter specified in the order that relates to the extraction, production, provision, supply, transportation, distribution or utilisation of that energy source.

As I understand it, the legislation does not affect that provision as it applies to gas and fuel issues. It will no longer apply only to electricity. That is a mistake because it will deprive the State of an important and useful tool when an electricity supply disruption or potential disruption is linked to an industrial dispute. The State would have to rely essentially on the Fair Work legislation to sort it out. Not that long ago we had 18 months of rolling industrial stoppages in the energy distribution sector in this State because the Essential Energy management and workforce could not agree on a new industrial instrument. That is not to cast aspersions on either of the parties to the dispute; it simply could not be resolved because the Fair Work Commission no longer has arbitral powers.

If such a dispute were to occur and jeopardise our electricity supply, the State would lose this important tool to get to the bottom of the problem. Under the current legislation, upon receiving a report of the qualified person the Minister can give effect to those recommendations, end the dispute and secure the energy supply. It would be a mistake to abandon this mechanism as it relates to electricity because the Government appears to be content to allow it to continue to apply to other forms of energy. I look forward to the Minister's contribution in which he explains why electricity is different from gas or other forms of energy. This has all the hallmarks of something that was overlooked in the drafting of the legislation. I urge the Government—and if not the Government, the other members of this House—to maintain the status quo on this.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (00:13): The Government opposes Opposition amendment No.1. I note the comments of the Leader of the Opposition relating to the provision and his assessment that it may be an oversight. I advise the Committee that it is not an oversight.

The Hon. Adam Searle: You didn't mention it in your second reading speech. It is a big change to hide.

The Hon. DON HARWIN: No, it is not. The Hon. Adam Searle raised it in his contribution to the second reading debate. I mentioned it in my reply after he raised it. It is not on oversight. As a matter of practical application, I am advised that this provision is not used, and has not been used for electricity or gas for some time. Essentially it is a moribund provision. The management of gas emergencies now is more or less done entirely at a Federal level. When the Government was drawing up this legislation it decided that it was not necessary to reproduce that provision in the bill. Nowadays, industrial matters are managed through the new industrial relations framework, which is the Fair Work Commission. Our industrial relations regime provides for a range of mechanisms to address industrial disputes and can take energy security into account. Those tools include allowing for government input into an industrial relations dispute.

In May this year, the Victorian Minister for Industrial Relations made an application to the Fair Work Commission to seek a termination of the industrial action at AGL's Loy Yang Power Station, which is a major electricity supplier to the Victorian market. Other States have direct and recent examples of their use of the Fair Work Commission and its jurisdiction to manage the sorts of situations that the Hon. Adam Searle spoke about. On that basis, when drawing up this legislation the Government felt that it was not necessary to bring that old moribund provision into the new Act. It is our expectation that if we have a dispute like the one that occurred at Loy Yang earlier this year, this is how we would handle it. It is not an oversight. Our view is that it is not necessary for this provision to be in the Act. On that basis, the Government does not support the amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. Adam Searle has moved Opposition amendment No. 1 on sheet C2017-110B. The question is that the amendment be agreed to.

Amendment negatived.

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

Motion agreed to.

The Hon. DON HARWIN: I move:

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

Motion agreed to.

Adoption of Report

The Hon. DON HARWIN: I move:

That the report be 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.

TRIBUTE TO JOAN AND GRAHAM NICOLL

Mr SCOT MacDONALD (00:19): I draw the attention of the House to the history of two legends of The Tweed who have made an outstanding contribution to the community. I refer to Joan and Graham Nicoll. As members may know, Joan Nicoll is an iconic figure in tennis, having travelled the world from Wimbledon to Greece, France and America in the 1960s playing tennis. Having first picked up a racquet at age six, Joan became a trailblazer and continues to be an inspiration for girls, women and everyone else in the tennis community. Joan has also dedicated decades of service to teaching children and adults how to play tennis from beginners to elite players. Joan earned great acclaim as John Newcombe's doubles partner for the Australian leg of the world circuit when tennis was going through great historical transition. When Joan played at Wimbledon, both amateur and professionals played in the tournament. Joan competed in two Australian Open tournaments and at Wimbledon, and won titles in Denmark, Spain, England and Fiji. At the senior level, she represented Australia in four world team championships.

However, it is Joan's significant contribution to Tweed tennis that stands out as much, if not more, than her playing career. Joan's service to tennis in northern New South Wales has been extraordinary. In recognition of that, it was decided in 2014 to name the new state-of-the-art Terranora tennis complex in her honour. The new complex comprised 12 courts, including one feature court, seating for 200 spectators at the main court, and tennis facilities for schools and sporting groups in the Northern Rivers region. It also has also enabled disabled players to be involved in tennis. The club boasts some of the region's best juniors, including a State champion and 16 players involved with the North Coast Academy of Sport. Its junior coaches include ex-tour professional Brendon Moore, a hitting partner of Roger Federer and Rafael Nadal, and former John Newcombe Tennis Ranch coach Tom Brownhill.

Unfortunately, on 3 November 2017 the Northern Rivers community woke up to learn that the Joan Nicoll Tennis Centre was the subject of an arson attack. An early morning fire almost completely destroyed the centre. Half of the clubhouse has crumbled and the section closest to the tennis court is gutted. I acknowledge and pay tribute to Tweed Heads Fire and Rescue Services senior firefighter Greg Mackay and his team, who were called to the scene just before 4.00 a.m. and found the centre engulfed in flames. Just two months ago, plans were announced to further expand the site, with a $160,000 grant to begin construction of three grass courts, which would give the centre every major competition surface.

Throughout most of Joan's career she has had her devoted husband Graham's selfless loyalty and support. Graham and Joan have been married for 54 years and have two children—Angus, an orthopaedic surgeon, and Larissa, a senior physiotherapist. Graham is the great grandson of George Wallace Nicoll, and he and his family are iconic figures in the Northern Rivers region. George Wallace Nicoll owned the G. W. Nicoll Line and with his brother Bruce Nicoll commissioned 44 vessels to ply what became known as the "eleventh North Coast run" and opened up the area to trade and commerce.

George Wallace also founded the Norco Cooperative and was instrumental in establishing the timber industry in the area. Both brothers were involved in public life with George Wallace becoming the mayor of Canterbury and Bruce Nicoll the State member for Richmond, which is now abolished. During his time in Parliament, Bruce Nicoll advocated that the proposed Sydney to Grafton railway be extended to Tweed Heads. The Nicoll name is commemorated with creeks, bridges, parks and streets bearing the name—for example, Nicoll Street in Taree and Nicoll Park in Murwillumbah—and Wollumbin Street in Murwillumbah carries the name of one of their ships.

The wonderful community we see today is due in no small part to the efforts of the Nicoll family. I thank Graham and his ancestors for their outstanding contribution to The Tweed. I only hope that the Joan Nicoll Tennis Centre is quickly restored and that every assistance is given by all levels of government and the insurance company to ensure expeditious work on this great centre named in honour of the fine Joan Nicoll.

RACISM

Dr MEHREEN FARUQI (00:24): The vile racial abuse that Senator Sam Dastyari was subjected to last week is just another reminder of the shit people of colour have to face in Australia in 2017. Every single day hate and bigotry plays out on our streets, on public transport, in workplaces and on social media. But when we speak out against it, as I did, this is what I am told on Twitter: "Look, if we Aussies are abusive and racist. Look, pack up or shut the f… up. Don't like whites, you racist." When I called out the cruel and xenophobic treatment of asylum seekers by Labor and the Liberals, one commentator stated:

> Mehreen Faruqi Please explain how Australia benefits from having more unskilled, uneducated, uncivilised, misogynist barbarians in our society. YOU ARE THE PROBLEM.

When we raise our heads and call out racism, we are accused of being racist against white people. Well, I have had it up to here. Enough is enough. Yes, I am brown. Yes, I have an accent. Yes, I much prefer biryani and dhal to throwing a shrimp on the barbie. But I am an upstanding and proud citizen of Australia. I am also proud of my heritage, my brownness and my language. We migrants are here and we are not going anywhere. I want Australia to be the best it can be, for everyone. But we are far from it. Something has to change. Things have to be shaken up.

It is not good enough to refuse to accept the existence of racism. It is not good enough that we have lukewarm allies who are unwilling to let people of colour determine our fate. It is not good enough to tell us to grow a thick skin so we can become immune to it or tell us to ignore it and it will go way. It is not good enough to make excuses for racism whether it is because people are ignorant, or that they take it out on us because they are going through real economic hardship. And it is definitely not good enough for people to use their privilege to sideline us while they speak on our behalf, no matter how great that makes them feel. So no. Just no.

Stop making excuses for why racism exists—racism is about white supremacy, it results from white privilege. It exists because some people think they are better than others because of their race, religion or skin colour. It is naive to think that racism is not about systemic power. It is about hierarchy and entrenched historical structures that need to be dismantled. While I do appreciate white people coming to our rescue and proposing solutions to tackle racism, well-wishers, and even some people on the left— usually those with enough privilege that they will never be the subject of structural oppression—dismiss manifestations of racism, such as online hate, as being inevitable and ineffective.

"Let it go," they say. "The troll army represents no-one. All they want is for you to take the bait." These trolls however are real people—thousands of them across the country—typing horrible, nasty, toxic stuff that is received by real people at the other end. So please do not tell me what to do or not do. Others do not understand the offence and hurt we feel. They do not know how our children feel when, despite being born and raised in Australia, their belonging is questioned every single day because bigotry in this country is being normalised, both in public and political debate. Do not tell me what racism is. Ask me. We have the capacity and the courage to speak. What we do not have is the megaphone that your privilege grants you. If people want to do something useful, sure, join us as an ally, sit next to us while we are in the driver's seat, but please do not use my struggle as a political badge of honour.

WAGES GROWTH

The Hon. PETER PRIMROSE (00:28): The Federal Treasurer tells us that he has us on the road to recovery using his own fresh ideas. Those fresh ideas have delivered the highest unemployment rate since 2003 and the lowest wage increases and real wages growth since the Australian Bureau of Statistics [ABS] started to collect this information. The ABS, the International Monetary Fund and the Reserve Bank have told us that the decline in real wages is now a threat to the Australian economy.

There are many reasons for this wages slump, but few are as pernicious as the rise of precarious and insecure work. Today, nearly half of all Australian workers are casuals, contractors or labour hire workers. Precarious and insecure work encompasses those situations and more—unpredictable and fluctuating pay week to week, inferior work rights and entitlements, irregular and unpredictable hours, uncertainty over job tenure, and having no voice at work. If this is the road to recovery it will be a rough road, especially when workers are expected to take a 46 per cent wage cut to keep their jobs at Streets, and specialist sexual assault and domestic violence counsellors must take a 22 per cent wage cut to keep their jobs at 1800RESPECT. In manufacturing, construction, retail, hospitality and the finance sector, precarious and insecure work is almost the norm.

Recently the Federal Minister for Social Services wrote to the Australian Services Union [ASU] New South Wales branch secretary, Natalie Lang, telling her that it would be "remarkable" for any organisation to provide permanent employment to their staff when they receive Federal Government funding. We are talking about the community sector—workers who deal with some of the most vulnerable people in our society. The sector includes those who are homeless; women and children escaping violence; aged-care services; services for those with drug, alcohol and gambling issues; migrant resource centres; people with a disability and their families; and a range of other vital, often lifesaving services. A youth worker said:

> [Insecure and precarious work] causes stress and fatigue because you have to accept shifts. ... I can't plan anything with my family or children because you have to live by the phone. ... I need full time work for a home loan. The bank won't look at me because I'm only employed as a casual.

What does precarious and insecure work mean? It means no control over one's working hours, not getting enough hours to pay for the basics for one's family, being called in at short notice, and not being able to refuse shifts in case one gets no more work to feed and house one's family. Insecure workers cannot predict their income, so it is harder to pay bills and to make ends meet, and it is almost impossible to get a mortgage or other loan. Despite what Liberal-Nationals governments tell us, we know the truth. The truth is that insecure and precarious work is rarely about choice and flexibility for workers and their families. Insecure work is bad for workers and bad for families. When it is cheaper to hire a contract worker, no worker's job or conditions are safe.

Unions are coming up with ways to reduce insecure and precarious work. In July this year, the Australian Manufacturing Workers' Union [AMWU], with leaders like State secretary Steve Murphy, worked tirelessly on clauses for casualisation. This clause has now been added, and forms part of the rights and entitlements of workers who are covered by 85 modern awards. This is a momentous achievement. Sally McManus, secretary of the Australian Council of Trade Unions is talking about a living wage rather than a minimum or award wage, because at the moment we are headed towards a system in which Sally McManus says "people barely keep their heads above water, despite working full time, sometimes in multiple jobs". This is why all unions, including the AMWU, which represents workers at Streets; the ASU, which represents workers in the community sector such as those at 1800RESPECT; and United Voice, which represents school cleaners and childcare workers, are campaigning to support the right of all workers and their families to have secure work.

AGRICULTURAL INDUSTRY

The Hon. ROBERT BROWN (00:33): Tonight I talk about the interests of farmers and our agricultural sector. Agriculture is our future—that is plain for anybody to see. We cannot rely solely on markets for mineral resources forever. It seems we are not much good at hanging on to our manufacturing industries either. With a burgeoning global population set to peak in the middle of this century at approximately 10 billion people, the vital industries for the future will be in water and agriculture—the two are intertwined. I want to make sure we protect our productive agricultural land so that we can be at the forefront of food production. I was stunned then to learn that a company called Photon Energy Australia announced in September that it wished to build a 146-megawatt solar array on good farming country at Brewongle, seven kilometres south of Bathurst.

I have no concerns about renewable energy other than its inherent unreliability. Given our current energy crisis, the Government urgently needs to consider how it will replace the 1,000 megawatt baseload gap created by Liddell power station when it closes in 2022. Seven 146 megawatt Brewongle solar arrays would not cut it; they do not do the job. We do not have the storage technology at the moment. I note that the powerless Berejiklian Government, rather than simply building new power stations, wants the power to declare electricity emergencies—we recently debated the Electricity Supply Amendment (Emergency Management) Bill 2017—because the Government cannot ensure an adequate supply of electricity this summer. Unfortunately, the solar farm at Brewongle will produce less than 10 per cent of what we need to replace Liddell and will potentially destroy what the farmers in that area regard as prime agricultural land. Even our State's largest solar farm in Nyngan, operated by AGL Limited, is only 102-megawatt.

Some 400,000 solar panels across two million square metres of prime farmland will not allow current agricultural practices to continue on that land. I do not believe claims that animals can continue to graze around such an installation. Current practice demonstrates that this is the case. Both the Royal Society for the Protection of Animals and the new Greyhound Welfare and Integrity Commission require air-conditioned dog kennels. I am not sure how they would feel about livestock grazing under a solar farm where the thermal flux around each panel can reach hundreds of degrees Celsius. I have advice from northern New South Wales agronomist Kieran Knight who attests to the destructive impact of a solar farm on prime agricultural land on plants and animals. He states:

> When photosynthetic activity is slowed or stopped due to plants being shaded, the microbiology has to strip carbon aggregates from the soil to survive and the soil becomes hard and compacted, which greatly inhibits access to vital nutrients and soil moisture for continued growth.

He continues on the impact on livestock:

> When sheep or cattle graze nutritionally poor plants, they do not receive the adequate levels of minerals to meet their daily requirements and they have to graze more of the plants per square metre. Livestock are also far more susceptible to insect and disease attack due to their low Brix level, which is a result of having low mineral density.

Residents of Brewongle are also concerned about the company structure of Photon Energy Australia. They fear that in the event of a mishap with the solar farm—or an emergency as I mentioned earlier—the company will cease trading and simply hide behind a complex structure. In recent rural by-elections, I note that The Nationals Leader John Barilaro adopted Shooters, Fishers and Farmers Party policy to build two new high-efficiency low-emission coal-fired power stations in the Hunter region—a far better solution than building dozens and dozens of Brewongles. Given this welcome shift in The Nationals policy, I am surprised that Mr Barilaro has not rebuked his colleague the member for Bathurst for supporting this plan at Brewongle that will destroy two million square metres of prime agricultural land for a paltry 146 megawatts. This madness needs to be stopped.

INDEPENDENT COMMISSION AGAINST CORRUPTION JASPER INQUIRY

The Hon. Dr PETER PHELPS (00:38): Last Friday the *Australian* published an article by Chris Merritt relating to allegations that have been raised against former Independent Commission Against Corruption [ICAC] Commissioner Ipp and the conduct of the inquiry known as the Jasper inquiry. I found the article quite compelling and further investigation into this issue has led to more and more grave concerns. I am concerned that we as a party and as a Parliament may have been misled into enacting three different Acts of Parliament on the basis of misinformation, deliberate deception and perhaps even gross maladministration by the ICAC.

A particularly great injustice has been done to John McGuigan, Richard Poole and Cascade Coal Pty Limited. Three bills arose as a result of the Jasper inquiry—the Mining Amendment (ICAC Operations Jasper and Acacia) Bill 2014, the Mining and Petroleum Legislation Amendment Bill 2014 and the Independent Commission Against Corruption Amendment (Validation) Bill 2015. The second reading speeches in the first two instances by Barry O'Farrell and in the third instance by Mike Baird all make it clear that these bills arose as a result of the recommendations of the Independent Commission Against Corruption.

The problem with this, and the problem with the statements in the second reading speeches by Mr O'Farrell, is that it appears he had prior consultations with then Commissioner Ipp so that he could get the very outcome he sought. In late 2012 the planning Minister found that exploration licences could not be terminated under the existing legislation. On 30 January Mr O'Farrell wrote to Commissioner Ipp, indicating that the New South Wales Government would welcome any findings and recommendations the commission might see fit to make, including recommendations under the Mining Act, recommendations with respect to amendment of the Mining Act and recommendations concerning legal proceedings against any individual or company surrounding the allocation of exploration licences. The following day this was apparently acted upon, because Mr McGuigan was cross-examined in the public hearing and at that stage the commissioner, for the first time ever, indicated the possibility that there might be an expropriation of the licences.

Liberal Party members have very strong views about the sanctity of property rights, but in those three bills we essentially removed the property rights of people who had a legitimate claim to them at that stage. The interaction by the then Premier with Commissioner Ipp is of grave concern to me. The final report of the ICAC provided no evidence whatsoever of corruption in the granting of licences. There was the possibility of corrupt activity in the creation of the Mount Penny licence, but no allegation was raised about the granting of the licence. Instead, the commission relied on testimony from a gentleman by the name of Gardner Brook. After the discovery of a number of issues it turns out that Gardner Brook is, as revealed in his own private testimony to ICAC, a self-confessed liar and a fraud. Yet this man was given the white hat by ICAC and it was suggested repeatedly that his evidence was of a credible nature.

If all this sounds familiar it is because exactly the same thing happened in relation to the Mike Gallacher case, where Hugh Thomson—probably the person most responsible for taking illegal donations—was given the white hat by ICAC on the basis that he would set up other people in his testimony. ICAC used Gardner Brook in exactly the same way. The bills were justified on the basis of gross maladministration by the ICAC. It must be remembered that Cascade Coal did not win the initial tender; the initial tender was won by Monaro Mining. Gardner Brook was a key person involved in that company. Gardner Brook and Monaro Mining promised the State Government $25 million, and when they could not deliver it the officials—not the corrupt Ministers—contacted Cascade Coal and asked that company, as the runner-up, if it would like to take over the bid. Naturally, Cascade Coal said yes, believing that, because the original successful applicant had fallen over, Cascade Coal could go ahead with it. What we have here appears to me to be gross maladministration by ICAC. Even more importantly, I believe we may have been misled by the then Premier into introducing and passing three bills that have expropriated a property right completely unjustifiably.

PALESTINE OCCUPATION

The Hon. SHAOQUETT MOSELMANE (00:43): In the months of October and November of 1917 there occurred a number of significant events that would have a lasting impact on world affairs. One of these events was the Battle of Beersheba in Palestine—a battle in which, against the odds, Australian and New Zealand troops broke through Ottoman defences and took the Turkish post of Beersheba. With the lines broken, the Turkish domination of Palestine was doomed. Jerusalem was taken, and the prestige and power of the mighty Ottoman Empire would never be the same. The second significant event is the Balfour Declaration—the greatest heist of all time that robbed the Palestinian people of their country. Arthur Balfour, the British Foreign Secretary at the time, wrote to Lord Rothschild, who was then advocating for a Jewish homeland, and noted:

> His Majesty's Government views with favour the establishment in Palestine of a national home for the Jewish people.

In this crude colonialist move the British took Palestine from the Palestinians, which owned 90 per cent of the land, and with a stroke of a pen gave it away. This was despite the British having already promised the Palestinian Arabs that they would support their claim for independence if they helped fight the Turks, which they gallantly did. The Balfour Declaration can be described only as a betrayal of the Arabs, who were wartime allies. That declaration is, was and continues to be an act of treachery against the Arabs. It has created nothing but misery for the Palestinian people, and 100 years on they continue to suffer the indignity of occupation.

Over the past weeks the intertwining of Balfour and Beersheba by the likes of Netanyahu has been made clearer, with our political leaders visiting Israel to commemorate the Battle of Beersheba. Many in the Australian and Palestinian communities were deeply concerned that the commemoration was being used by the Zionist forces, with the tacit approval of the Turnbull Government, to normalise100 years of Palestinian dispossession. The Australia Palestine Advocacy Network noted that the Department of Foreign Affairs and Trade's publication, *Australia and Israel: A Pictorial History*, celebrates the Battle of Beersheba. Israel did not exist in 1917. If anyone is to be celebrated and recognised with the Australian forces in Beersheba it would rightly and justly be the Palestinian people.

I echo the statements of Bishop Browning of the Australia Palestine Advocacy Network that the commemoration of the Battle of Beersheba has been made less about remembering than forgetting. The commemoration is about celebrating our Australian horsemen and their victory; it is not about Netanyahu. As Bishop Browning said, the sacrifices of the Arabs and the current suffering of the Palestinians have been airbrushed from history in favour of a triumphalist Zionist narrative. It is an insult to the intelligence of the Australian people. Furthermore, it is a false and misleading rewrite of history and it must be rejected without hesitation. The Turnbull Government should never have allowed the likes of Netanyahu to use this commemoration to whitewash 100 years of continuing colonialism, displacement and apartheid. Prime Minister Benjamin Netanyahu unashamedly used the opportunity of the commemoration to take a swipe at the Palestinian people and to justify modern Israeli aggression.

The Balfour Declaration has left hundreds of thousands of Palestinians homeless, tens of thousands have been killed, and whatever little is left of the Palestinian territory is littered with hundreds of Israeli settlements and occupiers who are armed to the teeth. Stealing land and calling them settlements does not make them legal. They are, and they continue to be, illegal under international law. Along with many other countries, Australia continues to label Israeli settlements in the West Bank and East Jerusalem as illegitimate and illegal. The passing of Israel's Greater Jerusalem Bill and changing the demographic of Jerusalem should not be allowed. Israel and other countries must come to the negotiating table with clean hands and genuine intentions for the sake of peace for all. Instead, the Netanyahu Government has sought to undermine the peace process with its continued establishment of illegal settlements. To accelerate the peace process, Australia must now recognise the State of Palestine, and to right the wrongs of the Balfour Declaration the British must now also recognise Palestine and free the Palestinians of the shackles of occupation.

The DEPUTY PRESIDENT (Dr Mehreen Faruqi): The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 00:48 until Wednesday 15 November 2017 at 11:00.