



New South Wales

Legislative Council

PARLIAMENTARY DEBATES (HANSARD)

**Fifty-Sixth Parliament
First Session**

Wednesday, 22 November 2017

Authorised by the Parliament of New South Wales

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LEGISLATIVE COUNCIL

Wednesday, 22 November 2017

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

The PRESIDENT read the prayers.

Documents

NSW OMBUDSMAN

Reports

The PRESIDENT: According to the Public Interest Disclosures Act 1994 and the Ombudsman Act 1974, I table a report of the Acting Ombudsman entitled "Oversight of the Public Interest Disclosures Act 1994 Annual Report 2016-17", dated November 2017, received out of session and authorised to be made public this day.

The Hon. DON HARWIN: I move:

That the report be printed.

Motion agreed to.

Business of the House

ORDER OF BUSINESS

The Hon. DON HARWIN: I move:

That on Wednesday 22 November 2017 proceedings be interrupted at approximately 6.00 p.m., but not so as to interrupt a member speaking, to enable the Hon. Natalie Ward to make her first speech without any question before the Chair.

Motion agreed to.

Bills

LOCAL GOVERNMENT AMENDMENT (REGIONAL JOINT ORGANISATIONS) BILL 2017

Third Reading

Debate resumed from 21 November 2017.

The Hon. NIALL BLAIR: I move:

That this bill be now read a third time.

Motion agreed to.

NATURAL RESOURCES ACCESS REGULATOR BILL 2017

Third Reading

Debate resumed from 21 November 2017.

The Hon. NIALL BLAIR: I move:

That this bill be now read a third time.

The House divided.

Ayes17
Noes15
Majority.....2

AYES

Amato, Mr L
Colless, Mr R
Franklin, Mr B (teller)

Blair, Mr N
Cusack, Ms C
Green, Mr P

Clarke, Mr D
Farlow, Mr S
Harwin, Mr D

AYES

Khan, Mr T	MacDonald, Mr S	Maclaren-Jones, Ms N (teller)
Martin, Mr T	Nile, Reverend F	Phelps, Dr P
Taylor, Ms B	Ward, Ms P	

NOES

Buckingham, Mr J	Donnelly, Mr G (teller)	Faruqi, Dr M
Field, Mr J	Graham, Mr J	Houssos, Ms C
Mookhey, Mr D	Moselmane, Mr S (teller)	Pearson, Mr M
Primrose, Mr P	Searle, Mr A	Secord, Mr W
Shoebridge, Mr D	Veitch, Mr M	Walker, Ms D

PAIRS

Fang, Mr W	Sharpe, Ms P
Mason-Cox, Mr M	Voltz, Ms L
Mitchell, Ms S	Wong, Mr E

Motion agreed to.*Motions***DISABILITY SERVICES AUSTRALIA EMPLOYEE ACHIEVEMENTS AWARDS****The Hon. LOU AMATO (11:11):** I move:

- (1) That this House notes that:
 - (a) Disability Services Australia [DSA] is a not-for-profit organisation that provides a range of employment, support and training services for people with disability, and has had a long-term funding relationship with the Department of Family and Community Services [FACS]; and
 - (b) FACS funding for 2015/2016 was more than \$43 million and is now being adjusted incrementally as clients transition to the National Disability Insurance Scheme.
- (2) That this House notes that:
 - (a) on 27 July 2017, DSA held the 2017 employee achievements awards at the Bankstown Sports Club to honour the achievements of employees and transition to work participants; and
 - (b) approximately 700 people were in attendance at the awards function with the following distinguished guests:
 - (i) the Hon. Lou Amato, MLC, on behalf of the Hon. Ray Williams, MP, member for Castle Hill, and Minister for Multiculturalism, and Minister for Disability Services;
 - (ii) Ms Barbara Jones, DSA board member;
 - (iii) Ms Fiona Colcuccio, DSA General Manager, Community Support Services;
 - (iv) Ms Heather Macrae, DSA Communication and Marketing Manager;
 - (v) the Hon. Jane Prentice, MP, Federal Assistant Minister for Social Services and Disability Services;
 - (vi) the Hon. Christian Porter, MP, Federal Minister for Social Services;
 - (vii) Ms Tania Mihailuk, MP, member for Bankstown;
 - (viii) Mr Vik Bansal, disability Australia doctor;
 - (ix) Mr Bernhard Liebmann, DSA director;
 - (x) Ms Margaret Palmer, DSA director;
 - (xi) Mr John Murray, President, Bankstown District Sports Club;
 - (xii) Mr Alex Fulcher, MBE, OAM, Director, Bankstown District Sports Club;
 - (xiii) Mr Jim Hannah, Director, Bankstown District Sports Club;
 - (xiv) Mr Vern Falconer, Director, Bankstown District Sports Club; and

- (xv) Mr Mark Spur, master of ceremonies.
- (3) That this House acknowledges:
- (a) the Darug people, the traditional owners of Bankstown, and pays respect to their elders past and present;
 - (b) the great work of Disability Services Australia;
 - (c) Bankstown District Sports Club for hosting the event; and
 - (d) the following award recipients:
 - (i) Mr Graham Howard, employee of the year;
 - (ii) Mr Gavin Toy, employee of the year;
 - (iii) Ms Tiffany Pickard, employee of the year;
 - (iv) Ms Georgina Seroukas, employee of the year;
 - (v) Costco, business service customer of the year;
 - (vi) Pierre Fabre, business service customer of the year;
 - (vii) Razzak, job seeker of the year;
 - (viii) Andrew Bolsover, job seeker of the year;
 - (ix) Hassan Farhart, job seeker of the year; and
 - (x) Urban Maintenance Systems, TTW employer of the year.

Motion agreed to.

ST VINCENT DE PAUL SOCIETY CEO SLEEPOUTS

The Hon. LOU AMATO (11:12): I move:

- (1) That this House notes that:
- (a) the St Vincent de Paul Society held the annual Vinnies CEO Sleepout on 18 August 2017, an important event that is intended to raise awareness of people experiencing homelessness;
 - (b) the event supports advocacy efforts on behalf of the 105,000-plus Australians who are currently experiencing homelessness, and focuses on the impact of poverty on the lives of more than 2.5 million people experiencing severe hardship;
 - (c) the Broken Bay Catholic Diocese held its Community CEO Sleepout at the St Vincent de Paul Society's Youth Reach at Brookvale; and
 - (d) present at the Brookvale CEO Sleepout were:
 - (i) the Hon. Lou Amato, MLC;
 - (ii) Rhonda Moore, manager of Youth Reach facility and her team;
 - (iii) Maureen Roast and David Murphy, Broken Bay Central Council executive officer and special works manager;
 - (iv) Barry Finch, AO, former Broken Bay Central Council President;
 - (v) John Donnelly, Broken Bay Central Council President; and
 - (vi) Dom Bondar, engagement adviser from the State support office.
- (2) That this House acknowledges:
- (a) the great charitable works of the St Vincent de Paul Society, which in Australia has more than 40,000 members and volunteers working to assist people in need and combat social injustice across Australia; and
 - (b) all charitable organisations which work for the people of our State who through various reasons suffer homelessness, hardship and poverty.

Motion agreed to.

GROW YOUR OWN LUNCH BOX CHALLENGE

The Hon. BEN FRANKLIN (11:13): I move:

- (1) That this House notes that:
- (a) the Grow Your Own Lunch Box Challenge was held on 3 November 2017 at the Mullumbimby Farmers Market; and
 - (b) seven schools participated in the challenge, showcasing the wonderful produce the students have grown and created.

- (2) That this House congratulates the following winners:
- (a) Shearwater Steiner School for best lunchbox main and best new addition;
 - (b) Main Arm Public School for best lunchbox snack and best fundraising idea;
 - (c) Wilsons Creek Public School for best drink and best experiment;
 - (d) Mullumbimby Public School for best value-added product and best education;
 - (e) Ocean Shores Public School for best garden program;
 - (f) Durrumbul Public School for best innovation; and
 - (g) The Pocket Public School for best new orchard and sunflower bed.
- (3) That this House acknowledges Rod Bruin, David Forrrest, Rebecca Barnes and Di Wilson for judging the challenge.

Motion agreed to.

BYRON BAY FILM FESTIVAL

The Hon. BEN FRANKLIN (11:14): I move:

- (1) That this House notes that:
- (a) the Byron Bay Film Festival was held from 6 to 15 October 2017, celebrating the power and storytelling of film;
 - (b) the festival was first launched in 2005 and has built a reputation of showcasing films which seek to raise social, cultural and environmental awareness;
 - (c) the festival includes a series of awards recognising excellence in film; and
 - (d) two Byron Bay film makers received awards for their works.
- (2) That this House congratulates:
- (a) Clare Sladden on winning the inaugural 2017 Byron Bay International Film Festival Screenplay Contest; and
 - (b) Darius Devas on winning the Young Filmmaker of the Year Award.
- (3) That this House acknowledges the importance of film and the arts in the communities; especially regional communities.

Motion agreed to.

BOLSHEVIK REVOLUTION 100TH ANNIVERSARY

The Hon. Dr PETER PHELPS (11:14): I move:

- (1) That this House notes:
- (a) with great regret that 7 November 2017 marked 100 years since Russia's Bolshevik Revolution which subsequently demonstrated, time and time again, that Communism is a murderous political ideology, incompatible with liberty, self-government and the dignity of human beings, and injurious to the national, ethnic and religious traditions of the world's peoples; and
 - (b) that Communism subjected millions to theft, surveillance, terror and ultimate destruction.
- (2) That this House acknowledges that the cultural, political and economic legacy of Soviet Communism still negatively affects vast numbers of people today and accordingly believes that the crimes of Communism, together with those of its mirror image, National Socialism, must forever serve as a warning to humanity of the terrible consequences of totalitarianism in all its forms.

Motion agreed to.

PHILIPPINE CHRISTMAS FESTIVAL OF SYDNEY

The Hon. DAVID CLARKE (11:15): I move:

- (1) That this House notes that:
- (a) on Saturday 11 November 2017 the opening ceremony of the annual Philippine Christmas Festival of Sydney was held at Tumbalong Park, Darling Harbour, Sydney;
 - (b) the festival, which extended over 11 and 12 November 2017, was attended by several thousand members and friends of the Filipino-Australian community, was organised by the Philippine Community Council of NSW, the umbrella organisation for Filipino community organisations in New South Wales with the support of:
 - (i) the Philippine Consulate General in Sydney; and
 - (ii) the Sydney offices of the Philippine Department of Tourism and the Philippine Department of Trade and Investment.
 - (c) those who attended as guests included:

- (i) Mr Marford M Angeles, Consul/Acting Head of Post, Philippine Consulate General Sydney;
 - (ii) Mr Emmanuel K Guzman, Consul, Philippine Consulate General Sydney;
 - (iii) Ms Nicole Therese De Castro, Vice-Consul, Philippine Embassy Canberra;
 - (iv) Mr Kevin Conolly, MP, member for Riverstone, representing the Hon. Gladys Berejiklian, MP, Premier;
 - (v) the Hon. Ray Williams, MP, Minister for Multiculturalism, and Minister for Disability Services;
 - (vi) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (vii) Councillor Robert Kok, representing Clover Moore, Lord Mayor of the City of Sydney;
 - (viii) Reverend Father Ruben Elago, chaplain to the Filipino Community, Catholic Diocese of Parramatta, representing His Excellency Archbishop Adolfo Tito Yilana, Apostolic Nuncio in Australia;
 - (ix) Reverend Father Menardo Mercene, chaplain to the Filipino Community Catholic Archdiocese of Sydney;
 - (x) Reverend Father Norberto Ochoa, parish priest, Warringah Catholic Parish Narrabeena;
 - (xi) Councillor Rey Manoto, representing Councillor George Bricevic, Mayor of Campbelltown;
 - (xii) Councillor Jess Diaz, Blacktown City Council;
 - (xiii) Councillor Linda Santos, Blacktown City Council;
 - (xiv) Councillor Carol Israel, Blacktown City Council;
 - (xv) Councillor Frederick Brillo, Blacktown City Council;
 - (xvi) Mr Roberto Mella Lastica, Chairman, Philippine Christmas Festival 2017;
 - (xvii) Ms Serna Ladia, President, Philippine Community of NSW;
 - (xviii) Mr Dante Maribbay, President, Filipino Community Council of Australia Inc.;
 - (xix) Mr Ronald Manila, SBS Radio;
 - (xx) Ms Marta Terraciano, Chairman, Federation of Ethnic Communities Council;
 - (xxi) Mr Joseph Caputo, OAM, Honorary President, Federation of Ethnic Communities Council;
 - (xxii) Dr Stepan Kerkyasharian, AO, Chairperson, NSW Cemeteries and Crematoria Board;
 - (xxiii) Mr Nathapol Khantahiran, Consul General, Royal Thai Consulate General in Sydney;
 - (xxiv) Mr Keizo Takewaka, Consul General of Japan, Sydney;
 - (xxv) Ms Ekaterina Kopylova, Vice-Consul, Consulate General of the Russian Federation in Sydney;
 - (xxvi) Mr Constantin Shuvalov, Vice-Consul, Consulate General of the Russian Federation in Sydney;
 - (xxvii) Mr Mohd Khalil Zaiyang Sumran, Consul and Acting Head of Post; Consulate General of Malaysia in Sydney;
 - (xxviii) Mr Ian Robinson, Regional Manager Australia and New Zealand, Philippine Airlines;
 - (xxix) Ms Dipsy Altomonte, Director, Australia-Philippine Business Council;
 - (xxx) Dr Frank Alafaci, President, Asian and Australian Business Council Inc. and Mrs Sylvia Alafaci;
 - (xxxi) Mr Kenneth Yap, special trade representative, Philippine Department of Trade and Industry;
 - (xxxii) Ms Norjamin Delos Reyes, tourism attaché, Philippine Department of Tourism;
 - (xxxiii) Mr Yi Zheng, Chief Executive Officer, Australia and New Zealand Express Media Group;
 - (xxxiv) Mr Ignatius Jones, Creative Director, Vivid Sydney, and Mrs Nevy Bereber;
 - (xxxv) Mr Zeng Edwards, Director UNAA Peace Program;
 - (xxxvi) Mr Arthur Barbara, Proprietor SBS Companies; and
 - (xxxvii) representatives of more than 40 Filipino community organisations affiliated with the Philippine Community Council of New South Wales.
- (d) The organising committee of the Philippine Christmas Festival 2017 comprised:
- (i) Mr Marford Angeles, Acting Head of Post, Philippine Consulate General Sydney;
 - (ii) Ms Norjamin Delos Reyes, tourism attaché, Philippine Department of Tourism;
 - (iii) Mr Kenneth Yap, special trade representative, Philippine Department of Trade and Industry;
 - (iv) Jun Relunia, adviser;

- (v) Ms Serna Ladia, President of the Philippine Community of NSW;
- (vi) Bobby Lastica, chair, organising committee;
- (vii) Penny Perfecto, secretariat;
- (viii) Dave Tan, documentation officer;
- (ix) Atty Kate Andres, legal;
- (x) Elsa Collado, marketing;
- (xi) Ronaldo Villaver, promotions;
- (xii) Jhun Salazar and Demi Robinson, finance/treasurer;
- (xiii) Evelyn Beed, stall management;
- (xiv) Demi Robinson, souvenir program;
- (xv) Rod Dingle and Lillian Delos Reyes, program and entertainment;
- (xvi) Darrell Swadling, risk management;
- (xvii) Alric Bulseco, volunteer/crew management;
- (xviii) Angie Jenkins and Mercy Jones, raffle tickets; and
- (xix) Albert Prias, set design and stage management.

(2) That this House:

- (a) congratulates all of those who were involved in organising the Philippine Christmas Festival 2017 particularly: the Philippine Community Council of NSW and its more than 40 affiliated community organisations; the Philippine Consulate General in Sydney; and the Sydney offices of the Philippine Department of Tourism and the Philippine Department of Trade and Investment; and
- (b) commends the Filipino-Australian community for its ongoing contribution to the cultural, social, economic and political life of the State and nation.

Motion agreed to.

FEDERATION OF POLISH ASSOCIATIONS ANNUAL BALL

The Hon. DAVID CLARKE (11:15): I move:

(1) That this House notes that:

- (a) on Saturday 16 September 2017 the annual ball of the Federation of Polish Associations in NSW was held at the Polish Club Bankstown, attended by several hundred members and friends of the Polish-Australian community; and
- (b) those who attended as guests included:
 - (i) Mrs Regina Jurkowska, Consul General of Poland in Sydney;
 - (ii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice; and Mrs Marisa Clarke;
 - (iii) Dr Richard Adams-Dzierzba, President, Federation of Polish Associations in NSW, his wife, Bernadeta, and daughters Annette and Gabriela;
 - (iv) Reverend Fathers Tadeusz Przybylak and Kamil Zylczynski, the Society of Christ of Australia and New Zealand;
 - (v) Mrs Barbara Kwiatkowska, President, Polish Community Council of Australia;
 - (vi) Dr Sylvia Greda-Bogusz, Vice-President, Polish Community Council of Victoria;
 - (vii) Mr Adam Gajkowski, President, Association of Our Polonia and member of the Advisory Committee of the Senate of the Republic of Poland;
 - (viii) Mr Hubert Blaszczyk, President, Polish Political Prisoners Association;
 - (ix) Mr Stanislaw Zak, President, "Klub of Gazeta Polska" in Sydney;
 - (x) Dr Grzegorz Szuladzinski, member of the Parliamentary committee that investigated the crash of the presidential plane near Smolensk in 2010;
 - (xi) Mrs Krystyna Cyron, President, Polish Association, Cabramatta; and
 - (xii) Mr Vitek Skonieczny, Vice-President, Polonia Sports Club, Plumpton.

(2) That this House:

- (a) congratulates the Federation of Polish Associations in NSW on the occasion of its annual ball held in Bankstown on Saturday 16 September 2017; and

- (b) commends the Federation of Polish Associations in NSW for its work on behalf of the Polish-Australian community and its contribution to the social and cultural life of the State.

Motion agreed to.

KNIGHTS OF RIZAL THEATRICAL PRESENTATION

The Hon. DAVID CLARKE (11:16): I move:

- (1) That this House notes that:
- (a) on Saturday 9 September 2017 at the Blacktown Arts Centre, the Knights of Rizal Sydney Chapter held the world premiere of the theatrical presentation entitled *The Story of the Cablesang Tales and the Calamba Hacienda Case—The Untold Story Part 2*, which was attended by several hundred members and friends of the Filipino-Australian community;
 - (b) this theatrical presentation together with a lecture delivered by historian Professor Floro Quibuyen, PhD, highlights an important period of the history of the Philippines;
 - (c) the presentation is an adaption by Professor Quibuyen from classic novels on the life of the Philippines' national hero Jose Rizal and is based on events that became the catalyst for the Filipino Revolution of 1896, resulting in the defeat of the occupying Spanish forces and eventually leading to the independence of the Philippines;
 - (d) those who attended as guests included:
 - (i) Mr Marford Angeles, Acting Consul General Philippines Consulate General in Sydney;
 - (ii) Ms Melanie Diano, Consul, Philippines Consulate General in Sydney;
 - (iii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice, representing the Hon. Gladys Berejiklian, MP, Premier;
 - (iv) Councillor Linda Geronimo Santos, Blacktown City Council;
 - (v) Councillor Rey Manoto, Campbelltown City Council;
 - (vi) Councillor Carol Israel, Campbelltown City Council representing Councillor Stephen Bali, Mayor of Blacktown City Council;
 - (vii) Ms Serna Ladia, President, Philippine Community of NSW;
 - (viii) Mr Jimmy Lopez, President, Narra Co-operative Association;
 - (ix) Ms Michelle Baltazar, President, Plaza Inc., and journalist for *Filipiniana Magazine*;
 - (x) Dr Ruth Beltran, PhD, University of Sydney;
 - (xi) Mr Robert Balzola, prominent Sydney solicitor;
 - (xii) Dr Brett Hurley, prominent Sydney solicitor; and
 - (xiii) representatives of SBS Radio and Filipino community organisations;
 - (e) prominent members of the Knights of Rizal and other Filipino community members who attended and were also involved in the presentation included:
 - (i) Professor Sir Floro Quibuyen, PhD, KCR, researcher, script writer and initiator of the presentation;
 - (ii) Ferdie Dimaano, founding director Filoz Arts Production who assisted with recruiting players for the presentation;
 - (iii) Cesar Bartolome, KCR, Regional Commander Knights of Rizal ANZO Region, production manager of the presentation together with his wife Matumi Bartolome, costumes and prop designer for the presentation;
 - (iv) Danny Peralta, KCR, Chapter Commander, Knights of Rizal Sydney Chapter, executive producer of the performance and participating player;
 - (v) Felino Doloso, prominent Filipino-Australian actor;
 - (vi) Bing Rana, KCR, former regional commander Knights of Rizal ANZO, region presenter and master of ceremonies of the presentation and participating player;
 - (vii) Max Lopez, KCR, Deputy Regional Commander Knights of Rizal ANZO Region and participating performer;
 - (viii) Philip Ranoso, KGOR, former Regional Commander Knights of Rizal and committee chairman dealing with raffles and gifts in support of the presentation;
 - (ix) Ralph Posadas, KCR, past chapter commander Sydney chapter and co-chair of raffles and gifts;
 - (x) Councillor Jess Diaz, KGOR, Blacktown City Council, former Regional Commander Knights of Rizal ANZO Region and chairman of the committee for sponsors for the presentation;

- (xi) Fiel Santos, KCR and Area Commander Knights of Rizal Eastern Australia and co-chair of the committee for sponsors;
- (xii) Jhun Morales, KOR, chapter exchequer and member of the presentation's props and stage crew;
- (xiii) Jeffrey Mendoza, KOR, co-chair of logistics for the presentation;
- (xiv) Boy de los Santos, KCR and chapter archivist and co-chair of logistics for the presentation; and
- (xv) Pat Rana, chairperson of the committee on reception, ushers and usherettes.
- (f) the Order of the Knights of Rizal was established in 1911 in honour of Jose Rizal, a national hero of the Philippines, and is the only Order of Knighthood recognised by the Parliament and Government of the Philippines.
- (2) That this House:
 - (a) congratulates members of the Order of the Knights of Rizal on their initiative in organising the educational and theatrical presentation of *The Story of the Cablesang Tales and the Calamba Hacienda Case: The Untold Story Part 2*, which was held at the Blacktown Arts Centre, on Saturday 9 September 2017; and
 - (b) commends the members of the Knights of Rizal in Australia for their humanitarian and charitable work.

Motion agreed to.

POLISH-AUSTRALIAN ART EXHIBITION

The Hon. DAVID CLARKE (11:16): I move:

- (1) That this House notes that:
 - (a) on Friday 8 September 2017 Mrs Regina Jurkowska, Consul General for Poland in Sydney, hosted at the Polish Consulate General Woollahra the opening of an art exhibition of the works of noted Polish-Australian painter Vitek Skonieczny entitled "Portraits and Composition After Amedeo Modigliani I Pablo Picasso", which was attended by members and friends of the Polish-Australian community;
 - (b) those who attended as guests included:
 - (i) Mr John Barbouttis, Commodore Royal Motor Yacht Club NSW, and his wife, Mrs Karen Barbouttis;
 - (ii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (iii) Mr Ricardo Slamanca, Deputy Consul General of Peru in Sydney, and Mrs Paola Salamanca;
 - (iv) Dr Ferenc Toth, Deputy Head of Mission, Hungarian Embassy in Australia;
 - (v) Mr Hubert Blaszczyk, President Association of Polish Political Prisoners;
 - (vi) Mr John Courtney, member of the Australian Institute of International Affairs;
 - (vii) Ms Carole Lamerton, member of the Australian Institute of International Affairs;
 - (viii) Mr Czeslaw Czczucha, prominent Polish ex-serviceman; and
 - (ix) representatives of numerous Polish Australian community organisations.
 - (c) Mr Vitek Skonieczny was:
 - (i) born in Kalisz Poland and is an artist recognised internationally for his oil paintings, drawings and graphic designs and particularly his satirical works;
 - (ii) during the period of the communist regime a member of the independent trade union "Solidarnosc" [Solidarity] and its Strike Committee, and when martial law was imposed became an organiser of financial aid for families and internees;
 - (iii) repeatedly interrogated by officers of the communist regime's security service and in August 1987 was allowed to emigrate to Australia with no right of return to Poland; and
 - (iv) awarded the Cross of Freedom and Solidarity by the President of Poland on 20 August 2017, for his fight during the days of the communist regime for human rights and the independence and sovereignty of Poland.
- (2) That this House:
 - (a) congratulates Mr Vitek Skonieczny on the opening of the exhibition of his artistic works entitled "Portraits and Composition After Amedeo Modigliani I Pablo Picasso", which was hosted by the Polish Consul General in Sydney, Mrs Regina Jurkowska;
 - (b) congratulates Mr Vitek Skonieczny on being awarded the Cross of Freedom and Solidarity by the President of Poland on 20 August 2017; and
 - (c) commends the Polish-Australian community for its ongoing contribution to the cultural, social and economic life of our State.

Motion agreed to.

REPUBLIC OF CROATIA PRESIDENTIAL VISIT

The Hon. DAVID CLARKE (11:16): I move:

- (1) That this House notes that:
- (a) on Monday 14 August 2017 the European Australian Business Council [EABC] hosted a forum and lunch at the Parliament of New South Wales in honour of Her Excellency Ms Kolinda Grabar-Kitarovic, President of the Republic of Croatia;
 - (b) those who attended as dignitaries from the Republic of Croatia included:
 - (i) Her Excellency Ms Kolinda Grabar-Kitarović, President of Republic of Croatia;
 - (ii) His Excellency Dr Damir Kušen, Ambassador of Croatia to Australia; and
 - (iii) Mr Hrvoje Petrušić, Consul General of Croatia in Sydney.
 - (c) those who attended as dignitaries and officials from Australia included:
 - (i) Her Excellency Ms Elizabeth Petrovic, Australian Ambassador to Croatia;
 - (ii) Marian Kljakovic, Senior Manager, International Strategy, Australian Securities and Investments Commission [ASIC]; and
 - (iii) David Landers, General Manager—The Americas and EMEA, Austrade.
 - (d) those who attended as dignitaries from the Parliament included:
 - (i) the Hon. Trevor Khan, MLC, Deputy President of the Legislative Council, and Chair of Committees;
 - (ii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (iii) Mark Coure, MP, Parliamentary Secretary for Transport and Infrastructure;
 - (iv) John Sidoti, MP, Parliamentary Secretary to Cabinet;
 - (v) the Hon. Walt Secord, MLC, Deputy Leader of the Opposition in the Legislative Council, shadow Minister for Health, the Arts and for the North Coast;
 - (vi) Adam Crouch, MP, Temporary Speaker in the Legislative Assembly;
 - (vii) Sonia Hornery, MP, member for WallSEND; and
 - (viii) Felicity Wilson, MP, member for North Shore.
 - (e) those who attended as officials from the Republic of Croatia (Office of the President of Croatia) included:
 - (i) Natalija Hmelina, Chief of Cabinet of the President;
 - (ii) Anamarija Kirinić, Chief of Staff;
 - (iii) Marko Jurčić, economic adviser to the President;
 - (iv) Ambassador Dario Mihelin, Adviser to the President for foreign and European policy;
 - (v) Renata Margaretić Urlić, Adviser to the President for social affairs and youth; and
 - (vi) Luka Durić, Spokesperson of the Office of the President.
 - (f) those who attended as EABC Business Partners included:
 - (i) Aldina Aljukic, Head of Communications and External Affairs, Novartis Oncology Division;
 - (ii) Philip Corne, Executive Chairman, L Catterton;
 - (iii) David Epstein, Principal, DE Advisory;
 - (iv) Hugh Fitzsimons, Division Director MIRA, Macquarie Group;
 - (v) Peter Grey, Chairman, MLC Life Insurance;
 - (vi) Ivan P. Hudaly, Director, Podravka International;
 - (vii) Zoran Jaksic, Thales Australia;
 - (viii) Adnan Kucukalic, co-head, Australian Equities Research, Credit Suisse;
 - (ix) Peter Murphy, head of external affairs, Novartis Australia;
 - (x) Alexandra Suvajac, Senior Communications Manager, Novartis Group; and
 - (xi) Shemara Wikramanayake, head of asset management, Macquarie Group.
 - (g) those who attended as representatives of various Australian and Croatian chambers of commerce included:
 - (i) Luka Burilović, President, Croatian Chamber of Economy;

- (ii) Ivan Barbarić, Chief of Staff, Croatian Chamber of Economy;
- (iii) Duro Fricek, President, Australian Croatian Chamber of Commerce (NSW);
- (iv) Vince Sikic, President, Victorian Croatian Chamber of Commerce;
- (v) Luke Jurcevic, President, Australian Croatian Chamber of Commerce Western Australia; and
- (vi) David Tudorovic, President, Australian Croatian Chamber of Commerce and Industry (SA).
- (h) those who are members of the EABC staff and were responsible for organising the lunch forum were:
 - (i) Jason Collins, chief executive officer;
 - (ii) Jo Johns, director membership and programs;
 - (iii) Tim Goulain, director of policy; and
 - (iv) Sophia Grattan-Smith, manager events and communications.
- (i) Her Excellency Kolinda Grabar-Kitarovic, formerly Croatia's Ambassador to the United States from 2008-2011 and later Assistant Secretary General of the North Atlantic Treaty Organisation [NATO], became President of Croatia in February 2015 and visited Australia in August 2017.
- (2) That this House:
 - (a) extends greetings to Her Excellency Ms Kolinda Grabar-Kitarovic, President of the Republic of Croatia on the occasion of her visit to Australia; and
 - (b) commends the Croatian-Australian community for its ongoing contribution to the economic, cultural and social life of our State of New South Wales.

Motion agreed to.

TRANSGENDER REMEMBRANCE DAY

Dr MEHREEN FARUQI (11:17): I seek leave to amend Private Members' Business item No. 1806 outside the Order of Precedence by omitting paragraph 3 (b).

Leave granted.

Accordingly, I move:

- (1) That this House notes that:
 - (a) Transgender Day of Remembrance is acknowledged on 20 November every year; and
 - (b) Transgender Day of Remembrance is a day to remember and memorialise those who have been murdered as a result of transphobia and transphobic violence and to draw attention to the continued violence endured by the transgender community, here in Australia and around the world.
- (2) That this House acknowledges 20 November as the Transgender Day of Remembrance.
- (3) That this House calls on the Government to acknowledge its important role in preventing discrimination and violence against transgender people.

Motion agreed to.

AUSTRALIAN FRIENDS OF MAGEN DAVID ADOM

The Hon. DAVID CLARKE (11:17): I move:

- (1) That this House notes that:
 - (a) on Sunday 13 August 2017 the Australian Friends of Magen David Adom held its annual campaign event at the University of NSW Kensington attended by several hundred guests;
 - (b) the purpose of the event was to raise awareness of the humanitarian work performed by Magen David Adom, Israel's (and probably the Middle East's) largest privately funded and largely volunteer operated emergency medical disaster ambulance and mobile blood bank service;
 - (c) those who attended as invited guests included:
 - (i) Mr David Sharma, former Australian Ambassador to Israel;
 - (ii) Councillor Sally Betts, Waverly Council;
 - (iii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (iv) Councillor Isabelle Shapiro, OAM, (and former Mayor), Woollahra Municipal Council;
 - (v) Mr Vic Alhadeff, CEO, NSW Jewish Board of Deputies and Mrs Alhadeff;
 - (vi) Rabbi Mendel Kastel, OAM, CEO, Jewish House;
 - (vii) Rabbi Dr Dovid Slavin, CEO, Our Big Kitchen;

- (viii) Rabbi Shua Solomon, Rabbi of Bondi Mizrahi Synagogue;
 - (ix) Rabbi Yossi Friedman, Rabbi of Bondi Maroubra Synagogue;
 - (x) Mr Robert Magid, Patron, Australian Friends of Magen David Adom;
 - (xi) Mr Roland Nagel, President, Australian Friends of Magen David Adom;
 - (xii) Pastor Paul Jung, President, Israel Institute Inc. and representative of the Korean Christian Community; and
 - (xiii) Ms Jacqueline Bakkar from C4i [Christians for Israel].
- (d) founded in 1930, Magen David Adom has since June 2006 been recognised by the International Committee of the Red Cross as the national aid society of Israel under the Geneva Conventions and is a member of the International Federation of Red Cross and Red Crescent Societies.
- (2) That this House commends the work of the Australian Friends of Magen David Adom, particularly its efforts to encourage support for humanitarian focused efforts.

Motion agreed to.

ENGINEERING EXCELLENCE AWARDS

The Hon. BEN FRANKLIN (11:18): I move:

- (1) That this House notes the NSW Institute of Public Works Engineering Australasia [IPWEA] excellence awards were held on 9 November 2017.
- (2) That this House congratulates all award winners, in particular Ballina Shire Council, which took out first place in the environmental enhancement project category with its dynamic coastal recreational path project.
- (3) That this House acknowledges:
 - (a) the Ballina to Lennox Head Coastal Recreational Path Project, which completes a six-kilometre recreational pathway connecting East Ballina to Lennox Head;
 - (b) that the pathway includes a series of environmentally friendly boardwalks, bridges and viewing platforms;
 - (c) the unique Aboriginal cultural values and stories of the area on display along the pathway; and
 - (d) the hard work of John Truman, Group Manager City Services Ballina Shire Council and his team in delivering this impressive project for the community.

Motion agreed to.

POOL SAFETY

The Hon. PAUL GREEN (11:18): I move:

- (1) That this House notes that Lake Macquarie City Council offered free learn-to-swim classes on Saturday 23 September 2017 to celebrate Learn2Swim Week.
- (2) That this House acknowledges the previous comments of the Hon. Paul Green, MLC, who stated in the House, "Libraries are free, so why not the local swimming pool? People can go into libraries and get intellectual exercise, but if they go to the local pool they have to pay for that; even though swimming pools help the wellbeing of individuals."
- (3) That this House notes that:
 - (a) as the nation is surrounded by beautiful beaches and is full of inland waterways, it is imperative that the children of New South Wales learn how to be safe in and around water;
 - (b) drowning is the number one cause of death worldwide for children under five years of age;
 - (c) last year 96 people died in New South Wales as a result of drowning; and
 - (d) teaching children to swim is the best prevention for drowning.

Motion agreed to.

POPE TAWADROS II AUSTRALIAN VISIT

The Hon. DAVID CLARKE (11:18): I move:

- (1) That this House notes that:
 - (a) during September 2017 His Holiness Pope Tawadros II, 118th Pope of Alexandria; Patriarch of the See of St Mark and World Leader of the Coptic Orthodox Church made his first Papal visit to Australia;
 - (b) to mark the visit a celebratory dinner was held at Rosehill Gardens on Sunday 3 September 2017, attended by more than 1,000 members and friends of Sydney's Coptic Orthodox community; and
 - (c) those who attended as special guests included:
 - (i) His Holiness, Pope Tawadros II;

- (ii) His Grace Bishop Daniel, Coptic Orthodox Bishop of Sydney and Affiliated Regions;
- (iii) His Grace Bishop Anba Daniel, Bishop and Abbot of St Shenouda Monastery Sydney;
- (iv) His Grace Bishop Anba Suriel, Coptic Bishop of Melbourne and Affiliated Regions;
- (v) the Hon. Gladys Berejiklian, MP, Premier;
- (vi) Mr Luke Foley, MP, Leader of the Opposition;
- (vii) Senator the Hon. Concetta Fierravanti-Wells, Federal Minister for International Development and the Pacific, representing the Hon. Malcolm Turnbull, Prime Minister;
- (viii) Mr Chris Bowen, MP, Federal shadow Treasurer representing Mr Bill Shorten, MP, Federal Opposition Leader;
- (ix) His Grace Bishop Ammonious, Coptic Bishop of Luxor Egypt;
- (x) His Grace Bishop Hermina, Coptic Bishop of Ein Shams and Mataria Cairo Egypt;
- (xi) His Grace Bishop Daniel, Coptic Bishop of Maadi Churches, El Basatien, Dar El Salam and its territories Cairo Egypt;
- (xii) the Very Reverend Father Angelos Isaac, Secretary to His Holiness Pope Tawadros II;
- (xiii) His Grace Bishop Haigazoun Najarian, Primate of the Armenian Church of Australia and New Zealand;
- (xiv) His Grace Archbishop Amel Nona, Chaldean Catholic Bishop of Australia;
- (xv) His Grace Bishop Antoine-Charbel Tarabay, Maronite Catholic Bishop of Australia;
- (xvi) His Grace Robert Rabbat, Melkite Catholic Bishop of Australia and New Zealand;
- (xvii) His Grace Archbishop Mor Malatius Malki Malki, Patriarchal Vicar of the Syriac Orthodox Church in Australia;
- (xviii) the Very Reverend Monsignor Basil Sousanian, head of the Armenian Catholic Church in Australia;
- (xix) Right Reverend Archimandrite Basilios Kodseie, Patriarchal Vicar of the Antiochian Archdiocese of Australia and New Zealand;
- (xx) Bishop Anthony Randazzo, Catholic Auxiliary Bishop of Sydney;
- (xxi) Senator the Hon. Zed Seselja, Assistant Minister for Social Services and Multicultural Affairs;
- (xxii) the Hon. Ray Williams, MP, Minister for Multiculturalism, and Minister for Disability Services;
- (xxiii) the Hon. Matthew Kean, MP, Minister for Innovation and Better Regulation;
- (xxiv) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice, and Mrs Marisa Clarke;
- (xxv) Mr Mark Coure, MP, Parliamentary Secretary for Transport and Infrastructure;
- (xxvi) Ms Sophie Cotsis, MP, shadow Minister for Ageing, Multiculturalism and Disability Services;
- (xxvii) Mr Guy Zangari, MP, shadow Minister for Justice and Police, Corrections and Emergency Services;
- (xxviii) Mr Jihad Dib MP, shadow Minister for Education;
- (xxix) the Hon. Natasha Maclaren-Jones, MLC, Government Whip;
- (xxx) the Hon. Shaoquett Moselmane, MLC, Opposition Whip;
- (xxxi) Mr David Coleman, MP, Federal member for Banks;
- (xxxii) Mr Matt Thistlethwaite, MP, Federal Shadow Assistant Minister for Treasury;
- (xxxiii) Mr Damien Tudehope, MP, member for Epping and Mrs Diane Tudehope;
- (xxxiv) Ms Melanie Gibbons, MP, Deputy Government Whip in the Legislative Assembly;
- (xxxv) Mr Chris Minns, MP, member for Kogarah;
- (xxxvi) Mr Edmond Atalla, MP, member for Mount Druitt, and Mrs Dimyana Atalla;
- (xxxvii) Commissioner Michael Fuller, APM, NSW Police Force;
- (xxxviii) Assistant Commissioner Mark Walton, NSW Police Force;
- (xxxix) Chief Inspector Adel Atalla, NSW Police Force, and Mrs Neveen Atalla;
- (xl) Chief Inspector Anthony Long, NSW Police, and Mrs Christine Long;
- (xli) Detective Superintendent Michael McLean, NSW Police Force;
- (xlii) Reverend Richard Tutin, General Secretary, Queensland Council of Churches;

- (xliii) Reverend Father Moussa El Anthony, Abbot of St Mary and St Anthony's Monastery Queensland;
 - (xliv) Reverend Father Shenouda Mansour, Coptic Orthodox Church;
 - (xlv) Reverend Father Youssef Youssef, Coptic Orthodox Church;
 - (xlvi) Mr Nishan Basmajian, Executive Director, Diocese of the Armenian Church of Australia and New Zealand;
 - (xlvii) Reverend Sister Elizabeth Delaney;
 - (xlviii) His Excellency Mr Mohamed Khairat Ambassador Extraordinary and Plenipotentiary of Egypt, and Mrs Omneya Khairat;
 - (xlix) Mr Youssef Shawki, Consul General of Egypt in Sydney, and his wife, Mrs Dalia Zaki;
 - (l) Mr Mohammed Farghal, Deputy Consul General of Egypt in Sydney;
 - (li) Mr Alhassan Soliman, First Secretary, Embassy of Egypt;
 - (lii) Mrs Amal Nadhy, Consulate General of Egypt;
 - (liii) Mr Mohammed Taher, Assistant Consul General of Egypt in Sydney;
 - (liv) Mr Youssef George, Consulate General of Egypt;
 - (lv) Mrs Riham Arafat, Consulate General of Egypt;
 - (lvi) Mr Tarek Khattab, Consulate General of Egypt Sydney;
 - (lvii) Mrs Sonia Alexanian, Deputy Head of Mission of the Consulate General of Egypt Sydney;
 - (lviii) Mrs Aliaa Abouelnagna, Deputy Head of Mission of the Consulate General of Egypt Sydney;
 - (lix) Mrs Miranda Devine, writer, journalist and commentator at the *Daily Telegraph* and *Herald Sun* newspapers;
 - (lx) Mr Paul Signorelli, Executive Director, Doltone House Group;
 - (lxi) Mr Michael Ebeid, CEO and Managing Director of SBS, and Mrs Sofia Ebeid;
 - (lxii) Ms Wies Schuiringa, Manager of Social Services and Mental Health, the Benevolent Society
 - (lxiii) Ms Wendy Boyton, Mr Richard Corfield and Ms Jessica Douglas-Henry, ABC *Compass* program;
 - (lxiv) Mr Andrew West and Ms Nadyat El Gawley, ABC Radio Religion and Ethics Report;
 - (lxv) Ms Prue MacSween, Director of Verve PR;
 - (lxvi) Mr Chris Lehman; and
 - (lxvii) representatives of numerous Coptic Orthodox community organisations.
- (2) That this House:
- (a) extends greetings to His Holiness Pope Tawadros II, 118th Pope of Alexandria and Patriarch of the See of St Mark, on the occasion of his first papal visit to Australia and New South Wales;
 - (b) congratulates the Australian Coptic community on the occasion of the first papal visit to Australia by His Holiness Pope Tawadros II; and
 - (c) commends the Australian Coptic Community for its ongoing and outstanding contribution to the life of the State.

Motion agreed to.

HOLROYD COMBINED CHURCHES COMMUNITY DINNER

The Hon. PAUL GREEN (11:19): I move:

That this House notes that:

- (a) the Hon. Paul Green, MLC, attended the Holroyd Combined Churches fortieth annual community dinner on Tuesday 29 August 2017;
- (b) the speakers at the annual community dinner were Allan Ezzy, former Mayor of Holroyd Council and Richard Feeny, Director of NSW and ACT Prison Fellowship;
- (c) the annual community dinner is an annual combined churches event for congregations in the old Holroyd Council area and is an example of unity amongst various Christian organisations;
- (d) the idea behind the annual community dinner stemmed from the idea of the American Presidential Prayer Breakfast, but an evening event was chosen as it was thought more appropriate;
- (e) over the years of the annual community dinner being held, over 5,000 people from clergymen and residents to politicians and members of council have attended; and

- (f) the annual community dinner is an excellent opportunity for people to gather from various backgrounds and to hear from speakers as they reflect on the Christian message and how it influences their experience in public life.

Motion agreed to.

BERNIE BANTON FOUNDATION

The Hon. COURTNEY HOUSSOS (11:20): I seek leave to amend Private Members' Business item No. 1818 outside the Order of Precedence as follows:

- (1) insert after paragraph 3 (m) "The Hon. Penny Sharpe, MLC", and
(2) insert at the end of paragraph 3 (n) "as awarded by the NHMRC".

Leave granted.

Accordingly, I move:

- (1) That this House notes that:
- (a) on Tuesday 21 December 2004 former Premier Bob Carr signed a historic 40-year agreement for the victims of James Hardie asbestos to secure \$4.5 billion in compensation;
 - (b) James Hardie, the Government, the Australian Council of Trade Unions, Unions NSW and Mr Bernie Banton, on behalf of asbestos victim groups, were all parties to the agreement; and
 - (c) the long campaign for this historic agreement by the labour movement was led by Greg Combet, with Bernie Banton as the face of the victims suffering from mesothelioma and other asbestos related diseases.
- (2) That this House acknowledges the work of the Bernie Banton Foundation, a not-for-profit organisation that raises awareness, educates and advocates on behalf of sufferers of mesothelioma and other asbestos related diseases and provides peer-to-peer counselling services to sufferers and their families.
- (3) That this House notes that on Monday 20 November 2017 a Bernie Banton Day Breakfast was held at Parliament House and attended by:
- (a) former Premier the Hon. Bob Carr;
 - (b) the Hon. Bob Debus, AM;
 - (c) the Hon. Greg Combet, who was awarded the Bernie Banton Award for 2017;
 - (d) Dr Geoff Lee, MP, representing the Premier;
 - (e) Mr Luke Foley, MP, Leader of the Opposition;
 - (f) the Hon. Taylor Martin, MLC;
 - (g) Reverend the Hon. Fred Nile, MLC;
 - (h) the Hon. Courtney Houssos, MLC;
 - (i) Ms Yasmin Catley, MP;
 - (j) Mr David Harris, MP;
 - (k) Mr Clayton Barr, MP;
 - (l) Ms Jenny Aitchison, MP;
 - (m) Mr Thomas George, MP;
 - (n) the Hon. Penny Sharpe, MLC;
 - (o) Dr Willem (Joost) Lesterhuis, Research Fellow with the School of Biomedical Sciences and the National Centre of Asbestos Related Diseases at the University of Western Australia, who was named the inaugural and current Fellow of the Bernie Banton Foundation, as awarded by the NHMRC;
 - (p) Karen Banton, wife of Bernie Banton and CEO and founder of the Bernie Banton Foundation; and
 - (q) Dean Banton, son of Bernie Banton.
- (4) That this House congratulates the Bernie Banton Foundation on its invaluable work.

Motion agreed to.

TREEHOUSE THEATRE PRODUCTION

Dr MEHREEN FARUQI (11:20): I move:

- (1) That this House notes that:
- (a) young refugees performed in the annual production *Suitcase Stories* in November 2017;

- (b) *Suitcase Stories* is a production of the Treehouse Theatre as part of its mentoring program that provides a platform for young refugees to share their lived experiences through performance; and
 - (c) the aim of the program and resulting performances is to instil confidence and wellbeing in the participants who have often endured hardships, and to educate the community about the difficulties of refugee resettlement and past trauma.
- (2) That this House commends:
- (a) the performers in *Suitcase Stories* for having the courage to share their stories; and
 - (b) Treehouse Theatre for mentoring young refugees and providing them with a platform to present their stories.

Motion agreed to.

LISMORE REGIONAL GALLERY

The Hon. BEN FRANKLIN (11:22): I move:

- (1) That this House notes that:
- (a) the Lismore Regional Gallery was officially opened on Saturday 28 October 2017;
 - (b) this new permanent gallery includes five exhibit spaces, with the creative program changing every six months;
 - (c) the gallery will host works by Picasso, Rembrandt, Anish Kapoor and Sarah Lucas, among others; and
 - (d) the gallery was designed by Bangalow-based architect Dominic Finlay-Jones.
- (2) That this House acknowledges gallery director Brett Adlington for his hard work and dedication over many years to bring this project to life.
- (3) That this House recognises the importance of the arts, especially in regional communities, in creating identity and celebrating creativity.

Motion agreed to.

INTERNATIONAL JUSTICE MISSION

The Hon. PAUL GREEN (11:21): I move:

- (1) That this House notes that:
- (a) more than 45 million people are trapped in slavery right now;
 - (b) slavery is the use of lies or violence to force another person to work for little or no pay; and
 - (c) modern-day slavery is as brutal as ever, more vast than ever, but more stoppable than ever.
- (2) That this House notes that:
- (a) International Justice Mission [IJM] is a global organisation that protects the poor from violence in the developing world;
 - (b) IJM fights to end modern slavery, sex trafficking and sexual violence;
 - (c) IJM helps rescue victims, bring criminals to justice, restore survivors and strengthen justice systems;
 - (d) by guiding victims all over the world through their justice systems, IJM:
 - (i) builds relationships within the system;
 - (ii) uncovers where the system is broken; and
 - (iii) proves the system can work.
 - (e) by doing this IJM prevents crime from happening in the first place.

Motion agreed to.

FAIRFIELD LOCAL AREA COMMAND AWARDS CEREMONY

The Hon. DAVID CLARKE (11:22): I move:

- (1) That this House notes that:
- (a) on Friday 17 November 2017 the NSW Police Fairfield Local Area Command Awards Ceremony was held at Cabra-Vale Diggers Ex-Active Servicemen's Club Canley Vale;
 - (b) those who comprised the official party were:
 - (i) Assistant Commissioner Frank Mennilli, APM, Commander, South West Metropolitan Region, NSW Police Force;

- (ii) Superintendent Peter Lennon, APM, Commander, Fairfield Local Area Command, NSW Police Force;
 - (iii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice, representing the Hon. Troy Grant, MP, Minister for Police and Emergency Services;
 - (iv) Reverend Gaby Kobrossi, Police Chaplain, NSW Police Force;
 - (v) Mr Guy Zangari, MP, shadow Minister for Justice and Police, Corrections and Emergency Services;
 - (vi) Mr Nick Lalich, MP, Opposition Whip;
 - (vii) Dr Hugh McDermott, MP, member for Prospect; and
 - (viii) Detective Inspector Edmund Walsh who acted as master of ceremonies.
- (c) those who received the National Police Service Medal were:
- (i) Detective Chief Inspector Gus Viera, RES;
 - (ii) Sergeant Cameron Henshaw, RES;
 - (iii) former Detective Sergeant David Hatchwell, retired 2016;
 - (iv) Detective Sergeant Troy Mowlam, RES;
 - (v) Detective Sergeant Andrew Panigyrakis, RES;
 - (vi) Sergeant Daniel Piserchia, Fairfield LAC;
 - (vii) Sergeant John Purcell, RES;
 - (viii) Sergeant Troy Williams, Fairfield LAC;
 - (ix) Leading Senior Constable Daniel Sewell, Fairfield LAC; and
 - (x) Senior Constable John Weiling, Fairfield LAC.
- (d) those who received the National Medal were:
- (i) Sergeant Daniel Piserchia, Fairfield LAC; and
 - (ii) Leading Senior Constable Daniel Sewell, Fairfield LAC.
- (e) those who received the National Medal 1st Clasp—25 years were:
- (i) Sergeant Cameron Henshaw, RES; and
 - (ii) former Detective Sergeant David Hatchwell, retired 2016.
- (f) those who received the National Medal 1st Clasp—35 years were:
- (i) Superintendent Peter Lennon APM, Fairfield LAC;
 - (ii) Chief Inspector Stephen Thomas, Fairfield LAC; and
 - (iii) former Detective Sergeant David Hatchwell, retired 2016.
- (g) those who received the New South Wales Police Medal were:
- (i) Sergeant David Lawler, Fairfield LAC;
 - (ii) Leading Senior Constable Mathew Kennedy, Fairfield LAC;
 - (iii) Leading Senior Constable Christopher Rugg, Fairfield LAC;
 - (iv) Detective Senior Constable Brendan Gunn, Fairfield LAC;
 - (v) Senior Constable Scott Holbutt, Fairfield LAC;
 - (vi) Senior Constable Chloe McDonald, RES
 - (vii) Senior Constable Daniel Orchard, Fairfield LAC;
 - (viii) Senior Constable Renee Simpson, Fairfield LAC; and
 - (ix) Senior Constable Bane Zekanovic, RES.
- (h) those who received clasps to the New South Wales Police Medal (35 years) were:
- (i) Superintendent Peter Lennon APM, Fairfield LAC; and
 - (ii) Chief Inspector Stephen Thomas, Fairfield LAC.
- (i) those who received clasps to the New South Wales Police Medal (30 years) were:
- (i) Inspector Raven Maharaj, Fairfield LAC;
 - (ii) Detective Sergeant Andrew Panigyrakis, RES; and

- (iii) Sergeant Rudolf Trinajstic, Fairfield LAC.
- (j) those who received clasps to the New South Wales Police Medal (25 years) were:
 - (i) Sergeant Cameron Henshaw, RES; and
 - (ii) former Detective Sergeant David Hatchwell, retired 2016.
- (k) those who received clasps to the New South Wales Police Medal (20 years) were:
 - (i) Detective Chief Inspector Gus Viera, RES;
 - (ii) former Detective Sergeant David Hatchwell, retired 2016;
 - (iii) Detective Sergeant Troy Mowlam, RES;
 - (iv) Sergeant John Purcell, RES;
 - (v) Sergeant Troy Williams, Fairfield LAC; and
 - (vi) Senior Constable Milos Gaiyich, Fairfield LAC.
- (l) those who received clasps to the New South Wales Police Medal (15 years) were:
 - (i) Sergeant Daniel Piserchia, Fairfield LAC;
 - (ii) Leading Senior Constable Karolyn Bottle, Fairfield LAC;
 - (iii) Leading Senior Constable De Sang Khuu, Fairfield LAC;
 - (iv) Leading Senior Constable Daniel Sewell, Fairfield LAC;
 - (v) Senior Constable Zeylla Mungia, Fairfield LAC; and
 - (vi) Senior Constable John Weiling, Fairfield LAC.
- (m) the Medallion (10 years) was received by Mr Alex Sentana, Fairfield LAC;
- (n) a Certificate of Service was received by Mr Peter Toohey who retired in 2017;
- (o) a Commissioner's Unit Citation was received by Senior Constable Chloe Smith RES;
- (p) a Region Commander's Commendation was received by Leading Senior Constable
- (q) the Region Commander's Unit Citation was received by:
 - (i) Detective Chief Inspector Gus Viera, RES;
 - (ii) Detective Sergeant Andrew Panigyraakis, RES;
 - (iii) Sergeant Cameron Henshaw, RES;
 - (iv) Sergeant John Purcell, RES;
 - (v) Detective Sergeant Troy Mowlam, RES;
 - (vi) Senior Constable Peter Archibald, RES;
 - (vii) Senior Constable Peter Brown, RES;
 - (viii) Senior Constable Dylan Chapman, RES;
 - (ix) Senior Constable Adam Galbraith, RES;
 - (x) Senior Constable Kutlu Gurbuz, RES;
 - (xi) Senior Constable Callum McArthur, RES;
 - (xii) Senior Constable Chloe McDonald, RES;
 - (xiii) Senior Constable William Middlebrook, RES;
 - (xiv) Senior Constable Nathan Murray, RES;
 - (xv) Senior Constable Sergio Domingos Nunes, RES;
 - (xvi) Senior Constable Daniel Jacobs, RES;
 - (xvii) Senior Constable Braden Ross, RES;
 - (xviii) Senior Constable James Whalan, RES;
 - (xix) Senior Constable Bane Zekanovic, RES; and
 - (xx) Constable Evan Porou, RES.
- (r) a Commendation from Other Commands was received by:
 - (i) Senior Constable Kutlu Gurbuz, RES;
 - (ii) Senior Constable Chloe McDonald, RES;

- (iii) Senior Constable Sergio Domingos Nunes, RES; and
- (iv) Senior Constable Braden Ross, RES.
- (s) a Citation Certificate was received by Constable Dylan Chapman RES;
- (t) a Certificate of Merit was received by Constable Callum McArthur RES; and
- (u) an Appreciation Award was received by:
 - (i) Mr Kamal Basta;
 - (ii) Mr Graham Cheetham;
 - (iii) Mr William Lockhart;
 - (iv) Mr Michael Thomson;
 - (v) Mr Robert Bowman;
 - (vi) Mr Craig Koshel; and
 - (vii) Mr Ala Samara.
- (2) That this House congratulates all medal and award recipients on their outstanding service to the NSW Police Force and to the people of New South Wales.

Motion agreed to.

BANGALOW SHOW

The Hon. BEN FRANKLIN (11:22): I move:

- (1) That this House notes that:
 - (a) the 120th Bangalow Show was held on Friday 17 and Saturday 18 November 2017;
 - (b) the theme for this year's show paid homage to dairy cattle, in recognition of the importance of the dairy industry in the Bangalow district; and
 - (c) the show included cow-inspired events including the Rockabilly Cowgirl of the Show and the Holy Cow Batman challenge.
- (2) That this House congratulates:
 - (a) Bangalow Show Society Secretary, Karen Ryan, and the whole Show Society on their hard work in organising this year's show; and
 - (b) Neve Kelly on being sashed the 2017 Bangalow Showgirl.
- (3) That this House acknowledges the importance of regional shows in celebrating the hard work and dedication of community members throughout the year.

Motion agreed to.

Notices

PRESENTATION

[During the giving of notices of motions]

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

Motions

BLACKTOWN, MOUNT DRUITT, QUAKERS HILL LOCAL AREA COMMAND AWARDS CEREMONY

The Hon. DAVID CLARKE (11:22): I move:

- (1) That this House notes that:
 - (a) on Tuesday 21 November 2017 the NSW Police Local Area Commands of Blacktown, Mount Drutt and Quakers Hill medals and awards ceremony was held at Blacktown City Council Chambers Blacktown;
 - (b) those who comprised the official party were:
 - (i) Deputy Commissioner Jeff Loy, APM, Metropolitan Field Operations, NSW Police Force;
 - (ii) Assistant Commissioner Denis Clifford, APM, Commander, North West Metropolitan Region, NSW Police Force;
 - (iii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice, representing the Hon. Troy Grant, MP, Minister for Police and Emergency Services;

- (iv) Superintendent Gary Merryweather, Commander Blacktown Local Area Command, NSW Police Force, and host;
 - (v) Superintendent Jeff Philippi, Commander Mount Druitt Local Area Command, NSW Police Force;
 - (vi) Acting Superintendent Paul Carrett, Commander Quakers Hill Local Area Command, NSW Police Force;
 - (vii) Councillor Julie Griffith, representing Councillor Stephen Bali, Mayor of Blacktown City Council;
 - (viii) Mr Kevin Conolly, MP, member for Riverstone;
 - (ix) Mr Kerry Robinson, General Manager, Blacktown City Council;
- (c) the master of ceremonies was Inspector Rodney Ormes;
- (d) the Humanitarian Overseas Service Medal was received by Senior Constable Steven Henderson;
- (e) those who received the National Police Service Medal were:
 - (i) former Sergeant 2nd Class Ian Lindsay;
 - (ii) former Inspector Leonard Walker;
 - (iii) former Sergeant Jeffrey Pope;
 - (iv) Superintendent Rodney Smith;
 - (v) former Sergeant Phillip Connor;
 - (vi) former Detective Inspector Norman Walker (deceased) received by his grandson, Detective Senior Constable Daniel Walker;
 - (vii) former Senior Constable William Whalley;
 - (viii) former Sergeant Bradley Ford;
 - (ix) Detective Sergeant Peter Crampton;
 - (x) Sergeant Julia Brown;
 - (xi) Detective Senior Constable Mark Roots;
 - (xii) Sergeant Lauren Martin;
- (f) those who received the National Medal and Clasps were:
 - (i) Detective Senior Constable Kerrie Perry;
 - (ii) Detective Senior Constable Mark Roots;
 - (iii) Sergeant Lauren Martin;
 - (iv) Sergeant Craig Weston 2nd Clasp;
 - (v) Superintendent Rodney Smith 2nd Clasp;
 - (vi) Detective Senior Sergeant Mario Guillaumier 2nd Clasp;
 - (vii) Sergeant Jennifer Hilder 1st Clasp;
- (g) those who received the NSW Police Medal and Clasps were:
 - (i) Senior Constable Andrew Collins;
 - (ii) Senior Constable Jason Chapman;
 - (iii) Detective Senior Constable David Boylan;
 - (iv) Detective Senior Constable Penny Allan;
 - (v) Sergeant Craig Weston 5th Clasp;
 - (vi) Superintendent Rodney Smith 5th Clasp;
 - (vii) Detective Senior Sergeant Mario Guillaumier 5th Clasp;
 - (viii) Inspector Donna McCarthy 4th Clasp;
 - (ix) Sergeant Jennifer Hilder 3rd Clasp;
 - (x) Detective Sergeant Peter Crampton 2nd Clasp;
 - (xi) Detective Senior Constable Kerrie Perry 1st Clasp;
 - (xii) Detective Senior Constable Mark Roots 1st Clasp;
- (h) those who received the NSW Police Medallion and Pins were:

- (i) Former Administrative Officer Helen Sundstrom, 20 years pin;
 - (ii) Administrative Officer Rebekah Matthews, 15 and 20 years pin;
 - (i) those who received the Commissioner's Commendation for Courage were:
 - (i) Sergeant David Flood;
 - (ii) Former Leading Senior Constable Paul Gale;
 - (j) the G20 Queensland Citation was received by Senior Constable Brendon Adams;
 - (k) the Commissioner of Police Administrative Officer Long Service Award was received by:
 - (i) Mrs Sirea Niukore, 25 years;
 - (ii) Ms Rebekah Matthews, 15 years;
 - (l) the Region Commander's Award was received by:
 - (i) Leading Senior Constable Stephen Lewis, Region Commander's Citation;
 - (ii) Senior Constable Timothy Hansell, Region Commander's Citation;
 - (iii) Senior Constable Muhsen Bayazidi, Region Commander's Citation;
 - (iv) Constable Richard Yang, Region Commander's Citation;
 - (v) Constable Andrew McCarthy, Region Commander's Citation; and
 - (m) the Certificate of Appreciation (State Crime Command) was received by Leading Senior Constable Jason Davis.
- (2) That this House congratulates all medal and award recipients on their outstanding service to the NSW Police Force and to the people of New South Wales.

Motion agreed to.

NATIONAL ADOPTION AWARENESS WEEK

The Hon. PAUL GREEN (11:23): I move:

That this House notes that:

- (a) the tenth National Adoption Awareness Week was held from 12 to 18 November 2017, with the launch, Adopt Changes, attended by the Hon. Paul Green, MLC;
- (b) National Adoption Awareness Week was founded by Deborah-Lee Furness to shine a light on the critical challenges facing vulnerable children that deny them permanency and belonging;
- (c) in Australia there are almost 40,000 children living in the out-of-home care system for two or more years who are unlikely to return to live with their birth families;
- (d) in 2015/2016 only 278 children were adopted in Australia, and of those only 70 were adopted through the Australian out-of-home care system;
- (e) in November 2016 all State and Territory community services Ministers made a national commitment to permanency; and
- (f) this year the awareness campaign focused on a home for every child.

Motion agreed to.

GREEK NATIONAL DAY ANNIVERSARY

The Hon. DAVID CLARKE (11:24): I move:

(1) That this House notes that:

- (a) on Friday 27 October 2017 the President Mr Harry Danalis and Board of the Greek Orthodox community of New South Wales hosted a cocktail party at the Greek Community Club Lakemba, in remembrance and commemoration of the seventy-seventh anniversary of the Greek National Day 28 October 1940; and
- (b) those who attended as special guests included:
 - (i) Dr Stavros Kyrimis, Consul General for Greece in Sydney;
 - (ii) Reverend Father Panagiotis Mavromatis, representing His Eminence Archbishop Stylianos, Greek Orthodox Church in Australia;
 - (iii) Reverend the Hon. Fred Nile, MLC, Assistant President of the Legislative Council;
 - (iv) Mrs Sophie Cotsis, MP, shadow Minister for Women, Ageing, Disability Services and Multiculturalism;
 - (v) Mr Jihad Dib, MP, shadow Minister for Education;

- (vi) Ms Tania Mihailuk, MP, shadow Minister for Family and Community Services, Social Housing, Mental Health and Medical Research;
 - (vii) Mr George Houssos, representing the Hon. Courtney Houssos, MLC;
 - (viii) Mrs Ekaterini Gkikiza, Consul, Consulate General of Greece in Sydney;
 - (ix) Councillor Anthony Andrews, Randwick City Council;
 - (x) Mr Soterios Tsouri, OAM, President of the Cyprus community of New South Wales;
 - (xi) Mr Michael Tsilimos, Secretary of the Greek Orthodox community in New South Wales;
 - (xii) representatives of numerous Hellenic community organisations.
- (2) That this House commends the Greek Orthodox community of New South Wales for its successful holding of a function to commemorate the seventy-seventh anniversary of the Greek National Day.
- (3) That this House extends greetings to members of the Greek Orthodox Community of New South Wales on the occasion of the seventy-seventh anniversary of the National Day of Greece.

Motion agreed to.

TRIBUTE TO MR JUREK KRAJEWSKI AND MRS JADWIGA SOLKA-KRAJEWSKI

The Hon. DAVID CLARKE (11:24): I move:

- (1) That this House notes that:
- (a) Mr Jurek Krajewski was born in Palestine in 1944 of Polish parents who were attached to Polish Army forces serving there as part of Allied Forces during World War II;
 - (b) in 1970 Mr Krajewski migrated to Melbourne, where he completed a master's degree in engineering in 1973 before settling in Sydney in 1975 where he became prominent in the activities of the Polish community; and
 - (c) among his many achievements, Mr Krajewski:
 - (i) established in 1975-76 the Polish Dance group Mazowsze;
 - (ii) founded in 1978-79 the Federation of Polish Associations in New South Wales uniting most Polish community organisations in the State under one umbrella organisation;
 - (iii) served from the time of its foundation as the federation's President up until 2014 when he resigned due to health issues, whereupon he was elected as Honourary President in appreciation of his decades of selfless and diligent service;
 - (iv) was elected in 1996 to the Board of the Polish community of Australia Inc in which capacity he served for many years;
 - (v) has been the recipient of many honours and awards from the Polish Government in recognition and appreciation of his service to the Polish-Australian community and to Poland itself during its struggle to obtain its freedom from communist subjugation.
- (2) That this House further notes that:
- (a) the wife of Mr Jurek Krajewski is Jadwiga Solka-Krajewski, who was born in Poland in 1925;
 - (b) in 1940 following the Soviet Army's occupation of Eastern Poland, she together with her family was deported to Siberia from which she and one sister were the only family members to survive;
 - (c) as a result of an amnesty for Polish citizens announced by the Soviet Union she and her sister were transferred to Iran then India and finally to Australia in 1950, settling in Sydney, where she became active in the life of the Polish community; and
 - (d) among her achievements, Mrs Jadwiga Solka-Krajewski:
 - (i) was an avid proponent of Polish literature and founded at Redfern the first Polish library in New South Wales;
 - (ii) was one of the founders of the Polish Women's Association, which was established in Ashfield, and also became an active member of the Federation of Polish Women in Australia and New Zealand, in which she held the office of Vice-President and in 1973 the office of President;
 - (iii) in 1975 organised the first PolArt Festival in Sydney, which is held every three years and is still ongoing;
 - (iv) has been awarded a Military Cross by the Polish Government for her time in captivity in Siberia, as well as other awards for services to the Polish-Australian community and to the cause of Poland's freedom from communism;
 - (v) in November 2000, Jadwiga married her second husband, Jurek Krajewski, and together they continued their work in partnership for the Polish-Australian community until advanced age forced her to curtail her work efforts.

- (3) That this House congratulates and commends Mr Jurek Krajewski and his wife Mrs Jadwiga Solka-Krajewski for their many years of illustrious service to the Polish-Australian community as well as to the wider Australian community.

Motion agreed to.

NETBALL NSW ANNUAL AWARDS 2017

Mr SCOT MacDONALD (11:25): I move:

- (1) That this House notes that:
- (a) residents of the Lower Clarence and Central Coast were represented in the recent Netball NSW Annual Awards with Tania Maree Kane of Lower Clarence Netball Association being awarded the prestigious Anne Clark BEM Outstanding Service Award, Madeleine Taylor of the Central Coast Heart Premier League Team named the Nance Kenny OAM Samsung Premier League Player of the Year and Jordon Kiss of Gosford Netball Association awarded the Neita Matthews OAM Umpires Award; and
 - (b) the 2017 award recipients included:
 - (i) Anne Clark BEM Service Awards: Carole Field (Hastings Valley Netball Association), Clara Hicks (Randwick Netball Association), Tania Maree Kane (Lower Clarence Netball Association), Christine King (Illawarra District Netball Association), Catherine Nealon (Inner West Netball Association);
 - (ii) Marilyn Melhuish OAM Suncorp Super Netball Player of the Year: Maddy Proud (NSW Swifts);
 - (iii) Marj Groves AM Scholarship: Tayla Fraser (St George District Netball Association);
 - (iv) Nance Kenny OAM Samsung Premier League Player of the Year: Madeline Hay (Sutherland Stingrays) and Madeleine Taylor (Central Coast Heart);
 - (v) Lynn Quinn OAM Bench Official Award: Alan Melville (Ku-ring-gai Netball Association);
 - (vi) Neita Matthews OAM Umpires Award: Jordan Kiss (Gosford Netball Association);
 - (vii) Margaret Corbett OAM Coaches Award: Jenny O'Keeffe (Baulkham Hills Shire Netball Association);
 - (viii) Judy Dunbar Media Awards: Western Weekender (Community Media Excellence), Adrian Arciuli, SBS (Best Feature) and Mark Kolbe, Getty Images (Best Photograph);
 - (ix) re-endorsed International Umpire Award recipients: Jemma Carlton, Helen George and Clare McCabe with Helen George and Michelle Phippard selected to officiate at the Commonwealth Games.
- (2) That this House acknowledges:
- (a) the outstanding work of Netball NSW's Indigenous Road Show which travelled to Gunnedah, Moree, Inverell, Tingha and Armidale in October 2017 to provide skills clinics for 400 students at 15 different primary schools across the northern inland, meet with local associations to assist with their governance, growth and future goals for facility development and provide MyNetball training to ensure netball clubs and associations are ready for mandatory online registrations in 2018; and
 - (b) the Netball NSW staff that helped deliver the Indigenous Road Show: Sophie Sincock; Northern Inland Regional Development Officer, Ashlee van Katwyk, Hunter Regional Development Manager, Nathan Keys, Participation Officer, Laura Abrahams, Inclusion and Diversity Officer, Kristian Whitaker, Association Development Manager and Gill Cotter, Northern NSW Regional Development Manager.
- (3) That this House congratulates and commends all award recipients at the 2017 Netball NSW Awards Dinner.
- (4) That this House acknowledges and commends Netball NSW for its outstanding work within regional areas of the State and its efforts to include and encourage the Indigenous community into the sport.

Motion agreed to.

PROJECT FUTURES

The Hon. PAUL GREEN (11:25): I move:

That this House notes that:

- (a) Project Futures is working to end human trafficking;
- (b) Project Futures is connecting people to the issue of human trafficking and slavery by creating meaningful experiences that raise funds, educate and empower others to take action;
- (c) there are more than 45 million people enslaved in the world and nearly one in three victims of slavery are children;
- (d) human trafficking is the fastest growing crime worldwide, hidden by factors related to the presence or absence of protections for basic human rights;
- (e) Project Futures has established programs in Cambodia and Australia that seek to prevent and support victims of human trafficking and exploitation;

- (f) partners of Project Futures include the Salvation Army's Trafficking and Slavery Safe House, Acting for Women in Distressing Situations Cambodia, and the Cambodian Children's Trust; and
- (g) Project Futures is currently working to transform the lives of the 4,300 women and children they have identified as victims of human trafficking in Australia.

Motion agreed to.

SOUTH ASIAN AUSTRALIAN ASSOCIATION CULTURAL EVENING

The Hon. DAVID CLARKE (11:25): I move:

- (1) That this House notes that:
 - (a) on Saturday 14 October 2017 the South Asian Australian Association Inc together with the Hindi School Kogarah, which it founded and manages, held a Diwali Mela and cultural evening at St George Girls High School Kogarah attended by over 1,500 guests;
 - (b) those who attended as special guests included:
 - (i) Dr Yadu Singh, President of the Federation of Indian Associations of New South Wales;
 - (ii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (iii) Mr Sagar Dave, representing the University of New South Wales;
 - (iv) Mrs Sudha Natarajan, Resourceful Australian Indian Association;
 - (v) Mr Bhavin Patel;
 - (vi) representatives of various Indian-Australian community organisations;
 - (c) the South Asian Australian Association's Hindi School opened in 2015 in response to the needs of first and second generation migrants in the St George area whose first language is Hindi and currently has more than 125 students mainly between the ages of 5 to 16 years; and
 - (d) the Executive of the South Asian Australian Association Inc comprises:
 - (i) Mrs Shreya Shetty, President;
 - (ii) Mrs Sarojini Pillay, Vice-President;
 - (iii) Mr M. K. Singh, Secretary;
 - (iv) Mrs Hiral Patel, Treasurer;
 - (v) Ms Madhulika Roy, Public Officer and Principal of the Hindi School Kogarah.
- (2) That this House:
 - (a) congratulates the Executive and members of the South Asian Australian Association on its initiative in founding and managing the Hindi School Kogarah; and
 - (b) commends the principal and teachers of the Hindi School Kogarah for the educational service they provide in teaching the Hindi language in the St George area of Sydney.

Motion agreed to.

POLICE RESCUE AND BOMB DISPOSAL UNIT SEVENTY-FIFTH ANNIVERSARY

Mr SCOT MacDONALD (11:26): I move:

- (1) That this House notes that:
 - (a) in October the Rescue and Bomb Disposal Unit of the NSW Police Force celebrated its seventy-fifth anniversary;
 - (b) each year police rescue operators and bomb technicians respond to thousands of incidents, with some better known events including the multi-agency response to Darwin in 1974-75 in the wake of Cyclone Tracy, the Granville train disaster of 1977, the Hilton Hotel bombing of 1978, the Newcastle earthquake of 1989, the Thredbo landslide of 1997, the Glenbrook train derailment of 1999, the Waterfall train derailment of 2003; the Mosman collar bomb case of 2011 and the Lindt Cafe siege of 2014;
 - (c) in 1942, then NSW Police Commissioner Bill Mackay authorised the creation of a capability to deploy general duties police trained to use an improvised wooden crane and manila rope, to recover the bodies of people who jumped or fell to their deaths along Sydney's eastern cliffs which in time became known as the NSW Police Cliff Rescue Squad;
 - (d) from 1946 to 1962 this part-time squad, mostly consisting of general duties officers led by Special Sergeant Harry Ware, became widely regarded as innovative and able to respond to any type of rescue or body recovery call, be it be from cliffs, crashed vehicles, rivers, buildings or the bush;
 - (e) the flexibility and expanding role of the team was such that in 1953 its name was changed to the NSW Police Rescue Squad;

- (f) in 1958 Special Sergeant Ware and two constables were attached to the squad on a full-time basis, at the Redfern Police Barracks;
 - (g) later in the 1960s, under the leadership of Sergeant Ray Tyson, the unit slowly grew in size and its reputation for excellence extended throughout Australia;
 - (h) many rural communities in New South Wales subsequently sought Police Rescue Squads of their own, with decentralised units, or "de-cents", established in the Blue Mountains in 1968, at Goulburn, Wollongong and Newcastle in 1977, at Lismore in 1978 and at Bathurst in 1979;
 - (i) rescue and ballistics police were trained in bomb appraisal duties in the early 1970s and it was a ballistics section officer who became the first NSW police officer to be trained as a bomb technician, in 1971;
 - (j) by the end of the 1970s all ballistics section officers were qualified bomb technicians, as were a large number of crime scenes officers located throughout the State with police taking the lead role to render safe duties in New South Wales in 1994 and formed a full-time bomb response team, later renamed the Bomb Disposal Section;
 - (k) the 2000 Sydney Olympics and the need for additional highly skilled bomb technicians prompted an amalgamation of the Police Rescue Squad at Zetland and Bomb Disposal Section in 1998;
 - (l) no other police force in the Western world operates one team where rescue operators are also bomb technicians, all capable of undertaking a vast variety of police support tasks at short notice;
 - (m) the unit, along with the network of de-cents, giving the NSW Police Force a unique highend capability that swiftly responds to any threat, hostile or hazardous, or both to protect the community and achieve its mission of reducing violence, crime and fear; and
 - (n) the moto of the of the Unit is "Viam Inveniemus" or "We will find a way".
- (2) That this House acknowledges and commends the brave efforts of those in the Rescue and Bomb Disposal Unit for their outstanding service in protecting the New South Wales community and extends its congratulations on its seventy-fifth anniversary.

Motion agreed to.

SAYAT NOVA MINSTREL AND FOLKLORIC ENSEMBLE OF ARMENIA CONCERT

The Hon. DAVID CLARKE (11:26): I move:

- (1) That this House notes that:
- (a) on Sunday 24 September 2017 the Regional Committee of Hamazkaine Armenian Educational and Cultural Society of Australia hosted a concert featuring the Sayat Nova State Minstrel and Folkloric Ensemble of Armenia at the Concourse Concert Hall Chatswood, attended by members and friends of the Armenian-Australian community;
 - (b) the concert was part of the Emerge Festival organised by Willoughby City Council, which is the largest cultural and entertainment celebration on Sydney's North Shore;
 - (c) those who attended as special guests included:
 - (i) His Grace Haigazoun Najarian, Primate of the Armenian Apostolic Church of Australia and New Zealand;
 - (ii) Mr Vicken Kalloghlian, Chairman, Hamazkaine Armenian Educational and Cultural Society Australia;
 - (iii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (iv) Councillor Wendy Norton, representing the Mayor of Willoughby City Council, Councillor Gail Giles-Gidney;
 - (v) Councillor Judith Rutherford, Willoughby City Council, and Mr Rutherford;
 - (vi) Councillor Sarkis Yedelian, Ryde City Council;
 - (vii) Reverend Fathers of the Armenian Apostolic Church of Australia and New Zealand;
 - (viii) representatives of numerous Armenian-Australian community organisations including the Armenian National Committee of Australia, Hamazkaine Regional Committee, the Homenetmen Regional Committee, the Armenian Relief Society Regional Committee and representatives of the Armenian media;
 - (d) the Sayat Nova Minstrel and Folkloric Ensemble of Armenia was:
 - (i) re-established in 1972 under the leadership of Professor Trovmas Poghosian and features both professional singers and a wide range of traditional Armenian instruments;
 - (ii) has performed worldwide including in Russia, Georgia, Iran, Lebanon, Syria, the United Kingdom, the United States and extensively throughout Armenia; and
 - (e) the Hamazkaine Educational and Cultural Society was established in 1928 with the aim of preserving the ancient language and culture of the Armenian people, and was established in Australia in 1963 where it

currently offers hundreds of children and adults the opportunity to participate in dance and theatre performances.

(2) That this House:

- (a) welcomes the Sayat Nova Minstrel and Folkloric Ensemble of Armenia on its first visit to Australia; and
- (b) commends the Hamazkaine Educational and Cultural Society for hosting the concert by the Sayat Nova Minstrel and Folkloric Ensemble of Armenia held at Willoughby on Sydney 24 September 2017 and for its ongoing contribution to the cultural life of the State.

Motion agreed to.

VIETNAM SYDNEY RADIO DINNER

The Hon. DAVID CLARKE (11:26): I move:

(1) That this House notes that:

- (a) on Friday 3 November 2017 at the Liberty Palace Reception Lounge Bankstown, Vietnam Sydney Radio held a celebratory dinner to mark the 30-year Sydney reunion of prominent Vietnamese-Australian entertainers who have given their services to the cause of human rights in Vietnam, and to other charitable and humanitarian causes within the Vietnamese-Australian community;
- (b) the function, which was attended by 500 members and friends of the Vietnamese-Australian community, included the following invited guests:
 - (i) Mr Craig Kelly, MP, Federal member for Hughes;
 - (ii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (iii) Professor Frank Zumbo;
 - (iv) Dr Peter Thang Ha, President of the Vietnamese Community in Australia New South Wales chapter;
 - (v) Mr Glen Daly, Blue Mountains Vietnam Veterans and Associated Forces;
 - (vi) Dr David Tang, President of Australian Vietnam Aged Care Services;
 - (vii) Mr Lam Xuan, President, Advisory and Auditing Council New South Wales;
 - (viii) Mr Cuong Vo, President of Veterans of the former Army of the Republic of Vietnam (former South Vietnam);
 - (ix) Ms Jessica Watkins, Marketing Manager and board member of the Cabramatta Bowling Club;
 - (x) Mr Peter Schinson, Manager of Radio 2 Triple OFM; and
- (c) those who organised the celebratory event, the financial proceeds from which were donated to the Braeside Hospital Fairfield, were Mrs Bao Khanh and Mr Joachim Nguyen from Vietnam Sydney Radio.

(2) That this House:

- (a) commends those prominent Vietnamese-Australian entertainers who over the past 30 years have donated their services to the cause of human rights in Vietnam and other charitable and humanitarian causes within the Vietnamese-Australian community; and
- (b) congratulates Vietnam Sydney Radio particularly Mrs Bao Khanh and Mr Joachim Nguyen on their initiative in organising the celebratory function held on Friday 3 November 2017.

Motion agreed to.

AUSTRALIAN HELLENIC EDUCATORS ASSOCIATION COMPETITION

The Hon. DAVID CLARKE (11:26): I move:

(1) That this House notes that:

- (a) on Sunday 19 November 2017 the Australian Hellenic Educators Association held its presentation ceremony for the 2017 Treasures of Ancient Macedonia Student Design Competition, at the Alexander The Great Macedonian Club, Marrickville, which was attended by students, their families and guests from the Hellenic-Australian community;
- (b) those who attended as guests included:
 - (i) Mr Dimitrios Kametopoulos, Bankstown Intensive English Centre, NSW Department of Education and SBS Radio;
 - (ii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (iii) representatives of various Hellenic-Australian community organisations;
- (c) students who were chosen as winners in The Treasures of Ancient Macedonia Student Design Competition 2017 were:

- (i) year 6 student Andrew Pieri, Earlwood Public School who was awarded the 2017 Technology Prize;
- (ii) year 4 students Zoiana Grigoriou, McCallum's Hill Public School, and Anastasios Karagiannis, Earlwood Public School, who were awarded equal first place; Maria Leighton, Hurstville Greek Afternoon School, and Androniki Tsakirids, Kingsgrove Public School, who were awarded equal second place; Matthew Pieri, Earlwood Public School, and Jonathon Siampis, Earlwood Public School, who were awarded equal third place; and Mikayla Goros, St Euphemia College, and Boston Lam, Clemton Park Public School, who were awarded equal fourth place;
- (iii) year 5 students Katerine-Helene Atsalis, St Nektarios Greek Afternoon School, Antonia Vakis, Kingsgrove Public School, Maree Tsangarakis, Kingsgrove Public School, and Zena Hamze, Kingsgrove Public School, who were awarded equal first place; Mile Jovanovic, Earlwood Public School, and Nathaniel Kim, Clemton Park Public School, who were awarded equal second place; Sophia Parkes, Earlwood Public School, who was awarded third place; and Eleni Mihali, St Paraskevi Greek Afternoon School, and John Pepas, St Paraskevi Greek Afternoon School, who were awarded equal fourth place;
- (iv) year 6 students Maria Kalogerakis, Earlwood Public School, and Christos Antoniou, St Paraskevi Greek Afternoon School, who were awarded equal first place; Frankie Soilemezis, Earlwood Public School, and Contessa Pavlis, St Gerasimos Out of School Hours Greek School, who were awarded equal second place; Dimitris Apostolidis, St Nektarios Greek Afternoon School, Sophie Lobsey, Earlwood Public School, and Mia Kollias, Earlwood Public School, who were awarded equal third place; Alyzza Pasqual, Clemton Park Public School, Jack Gergiou, Earlwood Public School, and Nicola Vassiliou, Earlwood Public School, who were awarded equal fourth place;
- (v) year 7 students Antonis Atsalis, All Saints Grammar, who was awarded first place; Lucia Tragotsalos, St Paraskevi Greek Afternoon School, who was awarded second place; and Stephanie Divis, St Paraskevi Greek Afternoon School, who was awarded third place;
- (vi) year 8 students Costas Kotrolos, St Paraskevi Greek Afternoon School, who was awarded first place;
- (vii) year 9 student Christina Karabalis, private student, who was awarded first place;
- (d) the Australian Hellenic Educators Association, now in its twenty-fifth year, is a statewide body of educators involved in Hellenic studies, predominantly teaching Modern Greek language and culture at the primary, secondary and tertiary levels; and
- (e) the Executive of the Australian Hellenic Educators' Association comprises:
 - (i) Dr Panayiotis Diamadis, President;
 - (ii) Mrs Charoulla Themistocleous, Secretary;
 - (iii) Mrs Mary Alimbakis Tatara, Treasurer;
 - (iv) Mrs Anna Skribia;
 - (v) Mrs Chrystalla Paphitis;
 - (vi) Mrs Soula Giannaros;
 - (vii) Mrs Panagiota Koutriki.
- (2) That this House:
 - (a) congratulates all those school students from year 4 to year 9 who submitted entries in this year's Treasures of Ancient Macedonia Student Design Competition, particularly the prize winners; and
 - (b) commends the Australian Hellenic Educators' Association for hosting and organising this year's design competition and for its ongoing contribution to the Hellenic-Australian community and to the cultural life of New South Wales.

Motion agreed to.

CONFLUENCE—THE FESTIVAL OF INDIA IN AUSTRALIA

The Hon. DAVID CLARKE (11:27): I move:

- (1) That this House notes that:
 - (a) on Monday 2 October 2017 a reception in honour of Confluence—The Festival of India in Australia 2017 was held at the Australian Maritime Museum, hosted by the Hon. Ray Williams MP, Minister for Multiculturalism, and Minister for Disability Services, representing the Premier, the Hon. Gladys Berejiklian, MP;
 - (b) the reception was followed by a performance featuring India's foremost violinist and composer Dr L. Subramaniam together with Kavita Krishnamurti Subramaniam;
 - (c) those who attended as guests included:
 - (i) the Hon. Ray Williams MP, Minister for Multiculturalism, and Minister for Disability Services, representing the Hon. Gladys Berejiklian, MP, Premier;

- (ii) Mr B. Vanlalvawna, Consul General for India in Sydney;
 - (iii) Dr Geoff Lee, MP, Parliamentary Secretary to the Premier, Western Sydney and Multiculturalism;
 - (iv) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice, and Mrs Marisa Clarke;
 - (v) Ms Melanie Gibbons, MP, Deputy Government Whip in the Legislative Assembly;
 - (vi) Mr Mark Taylor, MP, member for Seven Hills;
 - (vii) the Consuls General for Egypt, Japan, Papua New Guinea, Sierra Leone, Spain and Turkey;
 - (viii) representatives from numerous Indian-Australian community organisations; and
 - (d) Confluence—The Festival of India in Australia 2017 was held between September and October 2017 across seven major Australian cities and celebrates India's culture through a diverse range of performances comprising dance, music, theatre, cinema literature and puppetry.
- (2) That this House congratulates and thanks the Government of India, its Ministry of Culture and its diplomatic representatives throughout Australia together with Teamwork Arts in conjunction with numerous Australian partners for the presentation throughout Australia of Confluence—The Festival of India in Australia 2017.

Motion agreed to.

Documents

TABLING OF PAPERS

The Hon. SCOTT FARLOW: I table the following papers:

- (1) Annual Reports (Departments) Act 1985—Reports for year ended 30 June 2017:
 - Crown Solicitor's Office
 - Department of Justice
 - Department of Transport, incorporating Transport for NSW—volumes 1 and 2
 - Judicial Commission
 - Ministry of Health, together with financial statements—volumes 1, 2 and 3
 - Office of the Director of Public Prosecutions
 - Office of Sport.
- (2) Annual Reports (Statutory Bodies) Act 1984— Reports for year ended 30 June 2017:
 - Art Gallery of New South Wales Trust
 - Australian Museum Trust
 - Chief Investigator of the Office of Transport Safety Investigations
 - Health Care Complaints Commission
 - Historic Houses Trust of New South Wales
 - Library Council of New South Wales
 - New South Wales Institute of Sport New South Wales
 - NSW Education Standards Authority
 - NSW Skills Board
 - NSW Trains—volumes 1 and 2
 - NSW Trustee and Guardian, incorporating the Public Guardian
 - Rail Corporation New South Wales—volumes 1 and 2
 - Roads and Maritime Services
 - State Transit Authority of New South Wales—volumes 1 and 2
 - State Sporting Venues Authority
 - Sydney Olympic Park Authority
 - Sydney Opera House Trust
 - Sydney Trains—volumes 1 and 2
 - Trustees of the Museum of Applied Arts and Sciences
 - Venues NSW.
- (3) Annual Reports (Statutory Bodies) Act 1984 and Health Practitioner Regulation National Law (NSW)—Report of Health Professional Councils Authority volumes 1, 2 and 3 for year ended 30 June 2017, incorporating:
 - Aboriginal and Torres Strait Islander Health Practice Council
 - Chinese Medicine Council of New South Wales
 - Chiropractic Council of New South Wales
 - Dental Council of New South Wales
 - Medical Council of New South Wales
 - Medical Radiation Practice Council of New South Wales
 - Nursing and Midwifery Council of New South Wales
 - Occupational Therapy Council of New South Wales
 - Optometry Council of New South Wales
 - Osteopathy Council of New South Wales
 - Pharmacy Council of New South Wales
 - Physiotherapy Council of New South Wales
 - Podiatry Council of New South Wales
 - Psychology Council of New South Wales.

- (4) Anti-Discrimination Act 1977—Report of Anti-Discrimination Board of New South Wales for year ended 30 June 2017.
- (5) Civil and Administrative Tribunal Act 2013—Report of NSW Civil and Administrative Tribunal for year ended 30 June 2017.
- (6) Coal Innovation Administration Act 2008—Report of Coal Innovation NSW Fund for year ended 30 June 2017.
- (7) Health Administration Act 1982—Report of New South Wales Health Foundation for year ended 30 June 2017.
- (8) Health Practitioner Regulation National Law (NSW)—Reports for year ended 30 June 2017:
Australian Health Practitioner Regulation Agency
National Health Practitioner Ombudsman and Privacy Commissioner.
- (9) Health Services Act 1997—Report of Administrator of the National Health Funding Pool for year ended 30 June 2016.
- (10) Jobs for NSW Act 2015—Report of Jobs for NSW for year ended 30 June 2017.
- (11) Law Reform Commission Act 1967 Report of Law Reform Commission for year ended 30 June 2017.
- (12) Legal Aid Commission Act 1979—Report of Legal Aid New South Wales for year ended 30 June 2017.
- (13) Legal Profession Uniform Law Application Act 2014—Reports for year ended 30 June 2017:
Law Society of New South Wales, together with financial statements, volumes 1, 2 and 3
Legal Profession Admission Board
Legal Services Commissioner
Legal Services Council, incorporating Commissioner for Uniform Legal Services Regulation
New South Wales Bar Association.
- (14) Water Industry Competition Act 2006—Report of Independent Pricing and Regulatory Tribunal entitled "Licence compliance under the Water Industry Competition Act 2006: Report to Minister: Water—Annual Compliance Report", dated October 2018.

I move:

That the reports be printed.

Motion agreed to.

Committees

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Report: Inquiry into Preference Counting in Local Government Elections in NSW

The Hon. Dr PETER PHELPS: I table report No. 3/56 of the Joint Standing Committee on Electoral Matters entitled "Inquiry into preference counting in local government elections in NSW", dated November 2017.

I move:

That the report be printed.

Motion agreed to.

The Hon. Dr PETER PHELPS (11:28): I move:

That the House take note of the report.

Debate adjourned.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. ADAM SEARLE: I move:

That Business of the House Notice of Motion No. 1 on the *Notice Paper* for today be postponed until Wednesday 7 March 2018.

Motion agreed to.

Committees

PROCEDURE COMMITTEE

Extension of Reporting Date

The Hon. DON HARWIN: I move:

That the reporting date of the Procedures Committee's inquiry into e-petitions be extended until the last sitting day in June 2018.

Motion agreed to.

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

Mr JEREMY BUCKINGHAM (11:45): I move:

That standing and sessional orders be suspended to allow Private Members' Business item No. 1784 outside the Order of Precedence relating to an order for papers regarding the first, second and third NSW Ombudsman's reports of 2009, 2012 and 2013 referred to at pages 9, 10 and 11 of the "Investigation into water compliance and enforcement 2007-15: A special report to Parliament under section 31 of the Ombudsman Act 1974", to be called on forthwith.

This morning during formal business The Greens attempted under Standing Order 52 to move this motion—a reasonable request of a Government that says it is all about transparency, accountability and setting the record straight. However, the Government objected to me moving this motion. I know that the Hon. Mick Veitch is keen to see these reports.

The Hon. Mick Veitch: What's to hide?

Mr JEREMY BUCKINGHAM: The Hon. Mick Veitch asked, "What's to hide?" What does the Government have to hide? Why is the Government hiding these reports, some of which are nearly a decade old and have not seen the light of day? The Minister said that these reports contain specific matters and the names of certain people. The Government is able to redact anything that is defamatory.

The Hon. Niall Blair: Point of order: The member needs to state why his motion is more urgent than any other matter and why it should be debated. He is now debating the substance of the motion on the *Notice Paper*.

The PRESIDENT: I have allowed the member a little leeway to set the foundation, but Mr Buckingham should state why this matter is more urgent than any other matter.

Mr JEREMY BUCKINGHAM: This matter is urgent as it has been at the forefront of people's minds for many months and they are sick of waiting—they have already waited for eight years—for the Ombudsman's reports. I have been inundated with requests from people in the community for this information. They want this information now. The Government could have allowed me to move my motion during formal business—The Greens put it on the table—but I was not allowed to do so. My motion is urgent as this matter is a scandal of monumental proportions. There has been a piecemeal approach by the Government when responding to the Matthews report. These reports are urgent as they will assist members of the community in understanding these matters.

The Ombudsman's reports urgently should be brought into the light of day to receive the disinfecting salve of sunlight right now. The community cannot wait. The community is jumping up and down for this information. In the past month The Greens have been approached by numerous whistleblowers. Former and current members of the Department of Primary Industries, Water NSW and the Government are coming forward and revealing all types of documents that The Greens are referring to the Independent Commission Against Corruption.

As recently as this week in Albury I met people who are revealing all types of matters that probably are recorded in the Ombudsman's reports. Those people said they raised those matters with senior bureaucrats and Ministers, but were ignored. The Greens want to know what is in those reports and we want to know now. The Minister has been at pains to say that this all happened on some other Minister's watch and that since he took over the portfolio, he has been a new broom. Is that the truth? Surely if those reports can be secured by us, they will inform us about whether or not the Minister's proposition is reasonable. There is doubt in the minds of the community that incoming water Ministers—and we have had a raft of them—would have availed themselves of those reports.

Of course the reports will be incendiary in their impact when revealed, so the Government in its political twilight, as it staggers towards the 2019 election and electoral oblivion, has hidden them. The Government has a choice: either to give the reports to us now, or we will see the reports in 2019. If the Government wants to protect its reputation and the integrity of the Executive of the State of New South Wales, it should reveal the documents. If the Government does not give them to us now, we will get them in 2019 when we throw this Government out of office.

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (11:50): The Government opposes the motion to give precedence as a matter of urgency to debating the motion on the *Notice Paper* relating to an order for tabling of documents under Standing Order 52. As recently as last week the matter was dealt with in relation to the 2017 interim report of the Ombudsman. The Ombudsman's 2017 report publicly refers to reports for 2009, 2012, and 2013. The

Ombudsman's 2017 report has been written in the manner the Ombudsman has deemed appropriate since a subsequent final report will be presented in the future. The Ombudsman purposely wrote the 2009, 2012 and particularly the 2013 reports with a view to those reports not being published.

Mr Jeremy Buckingham: Oh!

The Hon. NIALL BLAIR: The Ombudsman did that because those reports identify individuals.

The PRESIDENT: Order! The Clerk will stop the clock. I am always reluctant to stop the clock, but Mr Jeremy Buckingham had his opportunity to speak. He spoke for five minutes without interjections and he should afford the same courtesy to the Minister. I am finding it incredibly difficult to hear the Minister, notwithstanding the fact that the Minister has had to yell to be heard above the interjections. I can only imagine the problems that Hansard is having. The Minister has the call. The Clerk will restart the clock.

The Hon. NIALL BLAIR: The Ombudsman determines the reports that will be made public. The Government is addressing as a priority many of the issues that have been identified. This morning this House finalised the first response of the Government to the Matthews report. In contrast to the matter currently being debated, the Matthews report is urgent. This House should get on with addressing the issues that have been identified in the Matthews report. Other issues have been raised in the Ombudsman's 2017 report, and their mention in that report is the appropriate response from the Ombudsman. If reports that are many years old are made public, I imagine a great deal of redacting of sensitive information would be required.

Mr Jeremy Buckingham: I bet they do.

The Hon. NIALL BLAIR: That is not a matter of urgency. If the Ombudsman wanted to table the 2009, 2012 and 2013 reports, the Ombudsman would have done so earlier. The Government has other matters before the House today that need to be addressed: There are other more important water matters identified by investigations that need to be addressed urgently. Providing Mr Jeremy Buckingham with what he clearly referred to as another tool with which he can play a political game is not a matter of urgency.

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

The House divided.

Ayes15

Noes18

Majority.....3

AYES

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

Donnelly, Mr G (teller)
Houssos, Ms C
Pearson, Mr M

Secord, Mr W
Veitch, Mr M

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

Sharpe, Ms P
Walker, Ms D

NOES

Amato, Mr L
Colless, Mr R
Franklin, Mr B (teller)
Khan, Mr T

Blair, Mr N
Cusack, Ms C
Green, Mr P
MacDonald, Mr S

Clarke, Mr D
Farlow, Mr S
Harwin, Mr D
Maclaren-Jones, Ms N
(teller)
Nile, Reverend F
Ward, Ms P

Mallard, Mr S
Phelps, Dr P

Martin, Mr T
Taylor, Ms B

PAIRS

Graham, Mr J
Voltz, Ms L
Wong, Mr E

Fang, Mr W
Mason-Cox, Mr M
Mitchell, Ms S

Motion negatived.

Bills

ELECTORAL BILL 2017

Second Reading Speech

Debate resumed from 15 November 2017.

The Hon. BEN FRANKLIN (12:02): On behalf of the Hon. Don Harwin: The bill would also clarify and improve the provisions that provide for alternative means of casting a vote. The Government has reviewed the categories of voters who are eligible to vote by way of technology assisted voting—including the iVote system—to ensure that the policy grounds for providing access to technology assisted voting are clear and consistent, and that it is available to those who face barriers to voting in person. To this end, the bill enables technology assisted voting to be used by additional classes of persons, including silent electors and registered early voters.

It also enables technology assisted voting to be used at by-elections by electors who will not, throughout the hours of voting on the election day, be within the electoral district concerned. In addition, the bill would streamline the multiple criteria for early voting and postal voting so that they are clear and concise. The bill also provides new powers for the Electoral Commissioner, with the approval of the Secretary of the Department of Premier and Cabinet, to requisition the use of rooms and halls in certain premises as voting centres in specified circumstances—for example, to enable wheelchair accessibility. Put simply, these reforms strengthen the electoral system by making it easier for people to vote.

As for how these votes are counted, I note that the bill adopts a centralised model for the counting of postal votes and declaration votes. This is intended to achieve greater efficiencies and cost savings and higher quality scrutiny, and expedite the counting and declaration of the result. A key reform in part 7 of the bill responds to a 2013 committee recommendation that the Government undertake a comprehensive review of the penalties that currently apply for breaches of the Parliamentary Electorates and Elections Act to ensure that they deter non-compliance and are consistent with the penalties in the Election Funding, Expenditure and Disclosures Act 1981. The bill maintains or increases the penalties for offences under the current Act, repeals redundant offences and consolidates a large number of existing offences into fewer, more general offences.

It also provides that penalty notices can be issued for offences prescribed by the regulations. In updating the penalties that currently apply, there has been concern to ensure that the level of the penalty is commensurate with the prohibited conduct. In particular, the increases reflect the importance of protecting the secrecy of the vote, the integrity of the vote and the privacy of New South Wales citizens in participating in the electoral process. I note that public consultation on the draft bill has helped to determine the penalties that should apply to offences against the proposed Act. The bill maintains the significant penalties that apply to some of the more serious offences, including the offence of electoral bribery.

Part 8 of the bill sets out the provisions that govern the Court of Disputed Returns. This part substantially replicates the existing provisions in the current Act. Part 9 deals with enforcement of the proposed Act. Notably, it includes a provision that would clarify the process for prosecuting parties that are unincorporated, by providing that proceedings for an electoral offence alleged to be committed by a party that is unincorporated may be brought against the party in its own name—and not in the name of any of its members. This is consistent with the United Kingdom approach and the recent recommendations of the committee following its review of the Schott report on political donations. That provision also provides that any penalty imposed on an unincorporated party is payable out of the property of the party, which is consistent with the current section 113 of the Election Funding, Expenditure and Disclosures Act.

Part 10 of the bill contains miscellaneous machinery provisions, including a regulation-making power and a requirement that an approval by the Electoral Commissioner or the Electoral Commission under the proposed Act must be published on the commission's website. Finally, the schedules to the proposed Act deal with a range of matters and include provisions relating to the Electoral Commission, the Electoral Commissioner and the Redistribution Panel. Notably, schedule 6 provides that a person who has been convicted of multiple voting, or is suspected on reasonable grounds to have engaged in multiple voting, may be designated by the Electoral Commissioner as a "special elector" and may only cast a declaration vote. This is consistent with recommendation 2 of the committee's 2015 election report.

I will briefly address the amendments made to the bill in the other place. The bill as introduced in the other place would have increased the required nominators for independent Legislative Assembly and Legislative Council candidates from 15—as required in the current Act—to 50. The purpose of including that reform—which

arose out of recommendation 19 in the committee's report on the 2015 State election—was to ensure that candidates have a reasonable level of community support before being eligible to nominate for election. However, it is not the Government's intention that this provision be unduly prohibitive. On that basis, the Government supported amendments moved in the other place that reduced to 25 the number of required nominators. The Government considers that the provision as amended strikes the right balance between ensuring that candidates have sufficient community support and ensuring that prospective independent candidates are not unduly burdened by administrative requirements in the lead-up to an election. In addition, two further amendments were made, which simply corrected drafting errors that were identified after the bill had been introduced in the other place.

This bill will refresh the legislative framework for elections in New South Wales, modernising and streamlining the existing legislation for the benefit of all participants in the electoral process. The content of this bill was developed in close consultation with the Electoral Commissioner and members of staff of the NSW Electoral Commission. I thank them for their active participation in this process and for their dedication to improving the State's electoral laws. I am also grateful to everyone who made submissions on the exposure draft of this bill, which was released for public consultation. Each submission has helped to enhance this bill. I commend the bill to the House.

Second Reading Debate

The Hon. ADAM SEARLE (12:08): I lead for the Opposition on the Electoral Bill 2017 and note that the Opposition does not oppose the bill. The New South Wales Labor Party made submissions on the draft bill, and a number of submissions have been incorporated in the version of the bill we have before us. We commend the Government for its positive response; the electoral laws of this State should not be a political football. The object of the bill is to make provisions for the conduct of State parliamentary elections. The bill repeals and replaces the Parliamentary Electorates and Elections Act 1912. It is based upon a number of reports from the Joint Standing Committee on Electoral Matters, on which the Hon. Peter Primrose and the Hon. Courtney Houssos have served, and I note the shadow Attorney in the other place also served on that committee from 2012 to 2015. The bill is also based on suggestions from the NSW Electoral Commission and more widely.

Self-evidently, the legislation that this bill repeals is more than a century old, and it looks it. A series of amendments and changes over time have not made it clearer or better designed and has necessitated an overhaul. The joint committee's intention and the Government's stated aim in introducing a modernised version of the legislation is a good objective. The Government presents the bill as a modernised version of the existing law, largely based on the current position with a number of useful, if not life-changing or earth-shattering improvements. We agree with those objectives. The committee chair's foreword at page viii of the report stated that "whilst the essential principles of our representative democracy remain valid, the legislative framework through which they are given effect, requires modernisation". We agree with the substance of that comment.

While the Government places great emphasis upon its reliance on the joint committee's reports to develop the provisions of the bill, it is certainly not the case that all the committee recommendations in their entirety have been adopted. Given the high number of recommendations and the complexity and importance of the subject matter it would be nothing short of extraordinary if all of them were adopted completely. For example, recommendation 19 of the committee's report on the administration of the 2015 New South Wales election and related matters recommended that the Government increase the number of required nominators for independent Legislative Council candidates from 15 to 100.

Clause 83 of the bill does something else and says there are 50 rather than 100 nominators. I notice that has also been the subject of change, so we think the Government rather than the committee has the balance right on these changes. Recommendation 6 of the committee's 2015 election report made some commentary about iVote. Again, we do not disagree with those provisions. However, the most significant discrepancy between the committee's recommendations and the provisions of the bill that deserve some comment relates to recommendation 1 of the 2013 report, which states:

That the NSW Government introduce legislation for a new electoral act for NSW which provides for both the conduct of State elections and the regulation of campaign finance and expenditure.

This bill does half of that by repealing and replacing the Parliamentary Electorates and Elections Act but leaves untouched the Election Funding, Expenditure and Disclosures Act, which of course would have been a much more challenging task to undertake, particularly in the time frame. I ask the Parliamentary Secretary in reply to indicate whether or when the Government intends to bring forward an overhaul of the Election Funding, Expenditure and Disclosures Act. In accordance with modern practice, the bill adopts an objects clause. Its definition provisions clarify and aim to simplify the terms used in the legislation in a range of ways that I will not go into now. The bill continues the provisions for the registration of political parties with what looks to be an enhanced capacity to obtain information from parties.

In relation to the conduct of parliamentary elections, the Electoral Commission is provided to be the returning officer with the appointment of officials to assist. The issue of writs for the normal four yearly election is set for the Monday following the expiry of the Legislative Assembly. That is sensible. This allows more time to publicise the date for the close of authorised rolls. The opening of nominations is allowed before the issue of writs for general elections. This can allow a longer period between the close of nominations, the subsequent ballot draw and the opening of the pre-poll period.

There are changes concerning child-related conduct to which we do not object. The Electoral Commission will have powers, with the approval of the Secretary of the Department of Premier and Cabinet, to requisition halls and rooms as voting centres because of the features of the facilities; for example, wheelchair accessibility or if other premises in the district have become unavailable due to fire, flood or other emergency and no alternative is reasonably available. A voting centre cannot be a room or hall used exclusively for religious or residential purposes. No cost is payable, except reasonable costs for lighting, heating, air conditioning or cleaning, or the costs of repairs. Disputes about the amount payable are to be resolved in the Local Court.

The bill re-makes the provisions for the Court of Disputed Returns. There are new provisions about prosecuting parties that are unincorporated associations. Part 10 of the bill has various miscellaneous machinery provisions that include a regulation-making power. I note that penalties for electoral offences have been maintained. The draft bill did seem to reduce a number of existing penalties, for example, in clauses 183, 186, 187 and 195 of the draft bill but, as I will briefly touch on, the Government has abandoned those changes and we welcome that.

The Australian Labor Party NSW Branch made a submission and it is worth touching on some of the points made. For example, new section 66 required that the registered officer of a political party must make an application to amend its particulars on the register of parties within 10 days of an amendment. The Labor Party considered that 10 days was an unreasonably short period within which to finalise amended rules for lodgement with the Electoral Commission. For example, such a short time frame would not allow an appropriate time for internal checking. The Government has extended that time to 21 days rather than the two months we had suggested. The fact the Government positively engaged was worthwhile.

We had concerns also about whether it should be a notification or a proper application. The Government has indicated that there would be no change to that because the Electoral Commission would be likely to refuse an application to change the name of a party to the name of an existing party if it was an application made during a freeze period or it was not merely a notification; it was simply the capacity to make substantive changes. Therefore, we note the Government's reasoning and will not agitate the issue further at this point. We also had concerns about the new provision in new section 180H of the bill, which provides that non-complying electoral material would include material that "contains a statement intended or likely to mislead an elector that the material is an official communication from the Electoral Commissioner or the Electoral Commission".

The Labor Party provided a response to the inquiry into the 2015 State election by the Joint Standing Committee on Electoral Matters that outlined concerns in relation to other parties' conduct. We welcome stronger provisions to prosecute such behaviour. We were concerned that the framing of the provision might overreach. For example, we are mindful that it is a key function of registered parties to inform voters about elections and what they should do. The Labor Party requested that the proposed provision be amended so that where the material has been clearly authorised by a political party and the material did not breach section 180H, it ought to be amended in a way that only included false statements. The Government has not taken up our suggestions on the basis that material clearly authorised by a registered party would be unlikely to be found to fall foul of the provision. The Government's view was that the proposal about limiting it to only false material would be a weakening of the provision. I am sure this is an issue that will get exercised in the practice of elections; time will tell.

We also have concerns about the way in which new section 210, which replaces section 151 of the Parliamentary Electorates and Elections Act and specifically section 210 (1), seeks to provide "the free exercise or performance by any other person of any political right or duty that is relevant to an election under the Act". The Labor Party supports that objective but considered that the drafting was ambiguous. It is unclear whether the provision would be limited to activities in direct connection with an election or whether it could have application, for example, to the internal processes of registered parties such as preselections. The issue was raised at budget estimates with the Premier and the Electoral Commissioner but was not resolved there. The Labor Party made suggestions that section 210 (1) be amended and the Government has in part taken that Labor Party's proposal on board.

In relation to the diminution of the maximum penalty, the Government has, on second thoughts, decided to retain the existing penalty and we certainly welcome that. There was a range of proposed reductions in the maximum imprisonment penalties across a range of provisions in the bill that the Labor Party did not support. At

present, anyone who prints, publishes or hands out unauthorised election material of the type witnessed in Federal and State election campaigns, for example, in Lindsay and East Hills respectively, faces significant fines and a sentence of up to six months imprisonment. That penalty was removed from the draft legislation. Additionally, under the proposed amendments the maximum sentence for the offence of electoral bribery was reduced from three years to two years.

The proposed decreases in maximum penalties of imprisonment came at a time when the Electoral Commission had confirmed that in recent local council elections in Sydney it was investigating highly inflammatory, homophobic and unauthorised election material aimed at Labor candidates in Chinese-speaking communities. We considered that was a weakening of important integrity measures and was of great concern. Of equal concern was that neither the Electoral Commissioner, the Premier nor her departmental secretary—who were at budget estimates—was able to explain how or why those changes came about. I recognise that the Government has responded constructively and taken those suggestions on board.

As with the reduction in the maximum jail penalty proposed in the original clause 210 of the bill, the Labor Party considers that any perceived weakening of the consequences of undermining the integrity of our democratic processes must be avoided. The bill is an opportunity to improve public confidence in the electoral system by strengthening both the processes and the penalties for breaching laws. In its original form the bill appeared to do the opposite in many clauses and sent a green light to those who would corrupt or undermine the integrity of the electoral system. That should not be permitted and we welcome the Government's positive response to that.

The Opposition was concerned that the ability to issue penalty notices provided by clause 263 of the bill was cast too widely. The power to issue penalty notices will now be restricted to authorised officers being inspectors within the meaning of section 110 of the Electoral Funding, Expenditure and Disclosures Act 1981. That is a suitable response to the concerns that we raised. The Opposition raised other matters in its submission, but those were the key concerns. We are content that the Government has engaged constructively with us and has taken our key concerns on board. The Opposition does not oppose the legislation.

Mr DAVID SHOEBRIDGE (12:21): On behalf of The Greens I indicate that we will support the Electoral Bill 2017. I commend the work of my colleague the member for Balmain, Mr Jamie Parker, who spoke in detail on the bill in his contribution to the second reading debate in the other place. I will not traverse his comments, but I support and endorse them. It has been largely a collaborative process to bring the Electoral Bill to this stage. There have been some concerns about the quantum of some penalties in the bill. The bill that has come to this Chamber with the amendments of the lower House is by and large a consensus bill. Hopefully it is a promising sign that political parties across the spectrum can sit down together to reach a consensus on something as sensitive as the rules used to elect us to this place.

However, there are two matters that we will move amendments for in the Committee stage. The Greens say these are fundamental and important for protecting the franchise in New South Wales. The Greens have a fundamental belief that the views of young people should be incorporated into politics. We should be getting out and hearing the views of the 16- and 17-year-olds, who have the biggest stake in the decisions we make as a Parliament. Approaching adulthood, these young people look around the world and realise the injustices and the environmental damage that the generations that came before them have done to the planet. They look at the prospect of war, and they say they want the world to be a better place. They are engaging with politics. They are hopeful and they want to make a positive change to the planet.

The Greens fundamentally believe that young people who have an interest in politics and a drive to make the world a better place should have the vote. It is a remarkable state of affairs when young people aged 16 pay tax—some of them work a second job outside of school—but do not get a say in representation in this place. Young people aged 17 can join the army, but they do not get a say in their elected representatives. The Greens say that if young people can pay tax and join the army, they bloody well should get the vote. We will move amendments to entitle young people aged 16 and 17 to not only be on the electoral roll but also give them the right to vote at State and local council elections.

We will not make it compulsory. There may be some 16- and 17-year-olds who do not want to vote or do not feel like they have enough information to hand to vote. We believe it should be voluntary for 16- and 17-year-olds to vote, therefore our amendments will remove any penalty on those who choose not to vote. The Greens look to young people for inspiration and many of our supporters are young people. We believe in giving those people respect and a fair say in the future of their society. We believe 16- and 17-year-olds should be able to throw out a government they do not like. The second amendment that we will move in Committee is also about the fundamental right to vote. There are few rights more important in our society than the right to engage in the democratic process and to have a say over the future of one's society. The right to vote is protected by the International Covenant on Civil and Political Rights. Article 25 of the convention states:

Every citizen shall have the right and the opportunity, without any of the distinctions ... and without unreasonable restrictions

...

- (b) To vote and to be elected at genuine periodic elections which shall be by universal and equal suffrage and shall be held by secret ballot, guaranteeing the free expression of the will of the electors ...

Prisoners are often denied the right to vote in Australia. This bill proposes that any prisoner facing a sentence of 12 months or more is disqualified from voting. I do not say that the Government is changing the law. The bill is remaking the existing law that has that 12-month prohibition. I do not say that the Government, the Opposition and other members have crafted some sort of sneaky amendment to take the law backwards. This bill remakes the existing law, which prohibits prisoners from voting if they have been sentenced to imprisonment for 12 months or more. There are clear international obligations that say that those sorts of unreasonable restrictions on the rights of prisoners to vote are inappropriate. As recently as 2007 the High Court in *Roach v Electoral Commissioner* found that attempts by the then Commonwealth Government to prohibit all prisoners from voting breached the constitution. We have heard a bit about breaching the constitution today.

The Hon. Dr Peter Phelps: Yes, but what else did they say in *Roach*? I was intimately involved in that because I worked for the solicitor at the time.

Mr DAVID SHOEBRIDGE: The Hon. Peter Phelps will get his chance. They say that it breached it because it went beyond what was reasonably appropriate and adapted to the maintenance of representative government. The Commonwealth then—obviously on advice—amended the law from a prohibition on prisoners voting to a prohibition on prisoners voting if they were sentenced to a period of imprisonment of greater than three years, which matches the electoral cycle in the Federal Parliament. That was clearly the rationale behind the Commonwealth. They thought they should have a prohibition that said any prisoner who is likely to come out of prison during the three years in which a Parliament sits should have the right to vote. The Commonwealth thought—in the eyes, it appears, of a majority of members in the Commonwealth Government—that a reasonable restriction was three years.

At the time The Greens in the Senate, Bob Brown and Kerry Nettle, spoke against that and moved an amendment to reinstate the rights of all prisoners to vote, and I commend them for that work. However, the Commonwealth law was changed from a complete prohibition to providing that any prisoner sentenced to imprisonment for three years or more was not entitled to vote. One would expect some consistency across the country. Of course, the Queensland legislation takes a far-right approach in that it provides that any prison sentence prohibits—

The Hon. Dr Peter Phelps: Are you referring to that far-right Palaszczuk Government?

Mr DAVID SHOEBRIDGE: Indeed, I am. Any prison sentence prohibits a prisoner from voting in Queensland. That is probably a throwback to Joh Bjelke-Petersen times. Western Australia and New South Wales have legislation providing that any prisoner serving a sentence of 12 months or more is prohibited from voting; both Tasmania and the Commonwealth have legislation providing that any prisoner serving three years or more is prohibited from voting; Victoria has legislation providing that any prisoner serving five years or more is prohibited; and the South Australia and the Australian Capital Territory legislation contain no restrictions on prisoners voting. Indeed, all prisoners can vote in South Australia and the Australian Capital Territory.

That is consistent with the legislation in at least two State jurisdictions I am aware of in the United States. I think they are Maine and Vermont, but I could be wrong. I know that is the case in New England. A number of countries, including Croatia, the Czech Republic, Azerbaijan, Denmark, Albania, Finland, the Former Yugoslavian Republic of Macedonia, Lithuania, Moldavia, Montenegro, Portugal, Slovenia, Sweden, Switzerland, the Ukraine, Germany and The Netherlands all allow prisoners to vote.

The Greens believe that disenfranchising the great majority of prisoners as proposed in this bill is inappropriate. The disenfranchising of prisoners in New South Wales disenfranchises Aboriginal people to a disproportionate extent. More than one-quarter of prisoners in New South Wales are Aboriginal; that is, one in four prisoners in this State are Aboriginal. Aboriginal people are imprisoned at the rate of somewhere between 10 and 20 times their non-Aboriginal counterparts. Therefore, a law that takes the vote from all prisoners serving more than 12 months disproportionately impacts on Aboriginal people. We know from study after study that Aboriginal people already are less likely to vote than are non-Aboriginal people.

The Parliamentary Secretary would be aware that that is particularly true in regional New South Wales, where often Aboriginal people are offended by the concept of engaging in the voting process. Many of them reject the concept of what they see as colonial laws that took their country and their land from them. However, many other Aboriginal people, because they have less secure accommodation, simply fall off the roll and do not have

the opportunity to vote. Taking the vote from that disproportionately large number of people who are in jail further disenfranchises Aboriginal Australians. The Greens strongly oppose broad disenfranchising for that reason.

The Greens amendment does not go as far as proposing that we adopt the provisions in the South Australian and the Australian Capital Territory legislation. However, I must be frank and state that I see merit in their legislation. The Greens amendment proposes to restore voting rights for all prisoners apart from those serving a life sentence. The rationale is that a prisoner serving a life sentence will never again participate in civil society, so removing their right to vote is meaningless. The Greens amendment provides that only persons who are serving a life sentence should be prohibited from voting. It is not easy standing up for prisoners' rights. Indeed, any time a member does that in this place they are attacked by shock jocks and right-wing political players who say that we should ignore our international obligations and the High Court's rulings. They believe that we should treat prison as a punishment facility and ignore the fact that prisoners other than those serving a life sentence will come back into our society.

We have an obligation to rehabilitate prisoners. We should not accept the shallow rhetoric that all prisoners should be treated with contempt, that we should permit interpersonal violence in prisons, and that we should treat prisoners as a sub-human species whose rights can be ignored. They will become part of society again and we must get beyond the ugly and immature rhetoric that I am sure will follow in this debate when we seek to demonstrate at least a modicum of decency and understand that prisoners should have some rights. The question is where to draw the line—

Mr Justin Field: Point of order: Government members are constantly interjecting. I ask that you call them to order.

The ASSISTANT PRESIDENT (Reverend the Hon. Fred Nile): I uphold the point of order. Members will listen to the speech in silence.

Mr DAVID SHOEBRIDGE: It is a trite observation that everyone in prison has committed a crime, and The Greens acknowledge that in proposing this amendment. As I said, the New South Wales legislation provides that those prisoners serving a sentence of 12 months or less should have the vote; the South Australian legislation provides that all prisoners should have the vote; the Western Australian legislation provides that all prisoners serving a sentence of less than 12 months should have the vote; the Victorian legislation provides that prisoners serving less than five years should have the vote; and the Australian Capital Territory legislation provides that all prisoners should have the vote. The Greens amendment, which we believe is consistent with the High Court ruling in Roach and our international obligations, seeks to draw the line at an appropriate point; that is, all prisoners apart from those serving a life sentence should have the vote. The Greens have a strong belief in democracy.

To reiterate, The Greens will be moving two amendments. The first amendment will give the vote to young people aged 16 and 17. They are the future of our planet and our society and of course they should have the vote. The second amendment will not affect as many people in New South Wales, although it will affect more than 12,500. By and large, it proposes to restore the franchise to prisoners in this State. Apart from those two issues, this is a consensus bill. I commend the Government and all the other parties who engaged in the process to produce a bill that might otherwise have been fraught given that it is dealing with electoral law reform. I look forward to the debate in Committee.

The Hon. COURTNEY HOUSSOS (12:38): I speak in debate on the Electoral Bill 2017 as a member of the Joint Standing Committee on Electoral Matters. The Opposition supports the bill. Other members have noted that we are here under the auspices of the Parliamentary Elections Act 1912. I am a sentimentalist and I think that we all want to retain some things from the past. However, anyone who read that Act would realise that it is well overdue for revision. I will limit my contribution to addressing a couple of issues of concern that I have identified in the bill.

The first point relates to the issuing of penalty notices by Electoral Commission staff. In principle I support this move. The issuing of penalty notices is allowed under the Election Funding, Expenditure and Disclosures Act which governs elections, so it is only natural that those who contravene the electoral legislation should be able to be issued with a penalty notice. My concern is that as elections in New South Wales and Australia require a large number of staff on election day we must be careful that this power is not given to every staff member of the Electoral Commission. The Government has clarified that this provision will be limited to authorised officers at the Electoral Commission, and that is appropriate.

I welcome the provision that allows the Electoral Commission to conduct elections for other organisations for a fee. The Electoral Commission, using its amazing level of corporate knowledge and expertise, will be able to make money by conducting elections for other organisations. Another concern relates to proposed

new section 66 of the bill, which says that "an application may be made to the Electoral Commissioner (in the form and manner approved by the Electoral Commissioner) for the amendment of the particulars in the Register of Parties with respect to a registered party." I indicated initially that this should be a notification process because an amendment of the register also concerns matters that are and should be determined by the individual parties, such as a party's constitution and operation.

However, the Opposition will not move an amendment to this provision because the Electoral Commission is required, in the administration of the bill, to approve or disprove matters in order to confirm the particulars. The committee discussed this issue at length and resolved that the Electoral Commission, as an independent body, should not be dictating to political parties about their constitution and purpose or how they conduct their internal operations. We must be careful in giving such power to the Electoral Commission. Given the undertakings by the Government, we are satisfied on this issue. The final concern relates to the provision in the legislation that allows for additional data to be stored on the electoral roll. Individuals should be able to access the information that the Government will be accumulating. It is important that individuals are allowed to access the data that is being retained by the Government.

I welcome the increases in penalties for some electoral offences. The amendments to the bill that relate to the legal concept of enrolment and to clarify issues surrounding elections come out of the recommendations of the electoral matters committee. This legislation governs the way that members are elected to this place and the other place and it is important that it remains relevant and is kept up-to-date. The requirement in the original Act that nomination deposits for a candidate be paid in cash seems ridiculously outdated. The original legislation also includes the ability for the Electoral Commissioner, with the approval of the Secretary of the Department of Premier and Cabinet, to requisition the use of certain halls and rooms as voting centres at no cost. It seems ridiculous that existing government facilities that are not being utilised on election day cannot be used as polling places. That is one of the issues that are being tidied up in this bill. Simplifying and clarifying the requirements for registration of electoral material and removing the size restrictions, which were incredibly difficult to administer, are also good moves.

I welcome also the change that parties that are incorporated associations can now be prosecuted as incorporated associations. We do not want to impose the requirements of a corporation on political parties. Political parties are not corporations. Political parties have been around much longer than we have and, hopefully, will continue long into the future. The Labor Party is governed by principles that were formed over 100 years ago. It is appropriate that political parties, within broad parameters, are allowed to determine their own internal workings. However, it is important that those who do the wrong thing can be prosecuted.

This bill provides a deft way to do that. The committee talked about a deeming provision, and the Government has brought that into the legislation. The Greens have indicated that they will move an amendment that allows young people to participate. A Labor member in the other place, the member for Strathfield, has been a vocal supporter of this move. Of course, we will be supporting the amendment. I remember as a young person being outraged that I could not participate in the political process, although I appreciated that many of my peers did not want to be involved in the political process. I welcome that change.

The Hon. Ben Franklin: You've been outraged since you were five.

The Hon. COURTNEY HOUSSOS: Perhaps not five. A number of members in this place who have participated in the wonderful YMCA Youth Parliament program know that young people persistently raise this issue. Those who are politically interested and motivated want to have a say. I welcome the ability for them to be able to participate in the process. The Labor Opposition will be supporting the bill.

The Hon. JOHN GRAHAM (12:46): I want to talk to the Electoral Bill 2017 as it relates to the recommendations of the Joint Standing Committee on Electoral Matters. The iVote provision in clause 152 of the bill expands eligibility for electronic voting. The clause allows extra classes of voters to use iVote. It picks up silent voters, registered early voters and electors in by-elections who are not in the electoral district concerned during voting hours. I refer to the recommendations of the joint standing committee on this matter. Given New South Wales' experiences with the administration of iVote, particularly during the last election, I concur with the committee's cautious approach to this matter.

The committee commented, "In the committee's view, demand for iVote also needs to be balanced with concerns about possible security, verifiability and transparency issues." The committee and I were not satisfied with the performance of the system last time. The administration of iVote impacted on the electoral system's ability to transmit voter intention into votes at the ballot box. The Electoral Commission has given assurances that that will not be a problem in the future and has taken steps to address the issues that were identified. I hope that is the case, but again I recommend to the House the committee's view, which I thought was sensible.

I refer to the joint standing committee's recommendation 3, which has not been proceeded with in this bill—and I think that is a good thing. Recommendation 3, which considered requiring voters to provide proof of identity at the casting of the vote, has not been introduced by the Government. I recognise that good decision by the Government. We should not import United States-style arguments about whether voters should or should not vote under our system, which is compulsory voting. I was pleased to see the Government's decision in this regard. I thank those whom I describe as the senior members of the joint standing committee. The Hon. Dr Peter Phelps in the last debate we had on this issue made it clear that this was not a big issue one way or the other under compulsory voting. I agree with that view and with this good decision by the Government. I commend that aspect of the bill.

The bill does not deal with election funding. The Government signalled it would look at this issue but that it would not be part of this bill. Rather, it would be part of amendments to the Election Funding, Expenditure and Disclosure Act 1981. I ask the Parliamentary Secretary in his reply to indicate when that bill will be amended. The Opposition would appreciate the Government's response to that question. I make an observation about one aspect of election funding. It is not something that is being contemplated at the moment but it is something that the political system will have to grapple with in the future. When we look at election funding we should consider also the issue of election funding flowing not just to elections but also to community pre-selections—to the broader polls that have taken place within a number of parties within New South Wales. I know that the Parliamentary Secretary has been involved in driving a number of those discussions in his party. Certainly on the Labor side of politics we have investigated attempts to open up politics, to open up political parties and involve the community in those processes. There have been good and tentative steps in New South Wales—they have certainly worked elsewhere—but they are expensive steps.

It would be difficult to drive these changes through the political system in New South Wales without also looking at financial support from the State to ensure that the elections run smoothly because we will need a high degree of public confidence if we are to go down that path. I have raised this issue although it is not contemplated in the bill before the House. It may be contemplated in amendments to the Election Funding, Expenditure and Disclosures Act. It is a valid issue, given the developments—I see them as positive developments—in electoral practices by political parties within New South Wales. As I said, this is an issue that we should contemplate in the future. With those remarks, I commend the bill to the House.

The Hon. BEN FRANKLIN (12:53): On behalf of the Hon. Don Harwin: In reply: I thank all honourable members for their contributions to the debate: the Hon. Adam Searle, Mr David Shoebridge, the Hon. Courtney Houssos, and the Hon. John Graham. The Electoral Bill 2017 is a rewrite of the Parliamentary Electorates and Elections Act 1912 which provides a modernised legislative framework for the conduct of State parliamentary elections in this State. The bill implements many recommendations made by the Joint Standing Committee on Electoral Matters as well as proposals for reforms suggested by the Electoral Commissioner of New South Wales. It also benefits from a period of public consultation in August this year. I acknowledge the Leader of the Opposition for expressing the Labor Party's support for that process.

The bill will update and streamline the existing legislation for the benefit of all participants in the electoral process. A number of issues were raised during the debate, which I would like to respond to. The first was from the Leader of the Opposition and, subsequently, from the Hon. John Graham, regarding a new Election Funding, Expenditure and Disclosures Act and what the Government is considering in that respect. As honourable members would know, the Election Funding, Expenditure and Disclosures Act was the subject of a review in 2014 by an independent panel of experts led by Dr Kerry Schott and including Mr Andrew Tink and the Hon. John Watkins.

In response to that interim report put out by the expert panel the Government introduced measures, including increasing penalties for breaches of election funding laws and extending the limitation period for prosecuting offences from three years to 10 years. In 2015, the Government referred the expert panel's final report to the Joint Standing Committee on Electoral Matters for its consideration. In June 2016 the committee tabled its report, which supported, either in whole or in part, the majority of the panel's recommendations. In December 2016, the Government announced its support for all of the committee's recommendations. Consistent with the views of both the committee and the panel, the Government will continue its review of the State's election funding legislation in consultation with stakeholders. The Government intends that any new election funding laws will be in place well in advance of the 2019 State election.

Mr David Shoebridge raised a couple of issues which will be referred to in the Committee stage of this bill through amendments. The first is about the age at which a person should hold the right to vote. The Electoral Bill 2017 provides that a person is entitled to be enrolled if they have attained the age of 16 years, but it further provides that a person is not entitled to vote until that person is 18 years of age. This maintains the current position under the Parliamentary Electorates and Elections Act. Therefore the Government will not be supporting the foreshadowed amendments. I will give the reason in general terms. This bill seeks to implement the unanimous

recommendations of the bipartisan Joint Standing Committee on Electoral Matters arising out of its 2013 review of the State's electoral legislation and its reviews of the 2011 and 2015 State elections.

This issue was considered—not by the report into the 2015 election; I was a member of the electoral matters committee at that time—in 2013 and it was determined in that review that the age not be lowered. The Government is of the view that this bill is about enshrining in legislation those recommendations of the joint standing committee, which were overwhelmingly supported by the committee members. As the committee did not make a recommendation to lower the voting age in those reports the Government will not be supporting it.

Mr David Shoebridge also raised concerns about the rights of prisoners to vote. Clause 30 of part 4 of the bill provides that a person is not entitled to be enrolled if the person has been convicted of an offence, whether in New South Wales or elsewhere, has been sentenced in respect of that offence to imprisonment for 12 months or more and is in prison serving that sentence. That provision is consistent with section 25 of the current Act, the Parliamentary Electorates and Elections Act. The bill does not implement a change of policy in this regard. I note that the member did not suggest that it did, and I appreciate that fact.

In fact, the provision is consistent with longstanding policy in this State. The current limitation on the right of prisoners to vote has applied for many decades in New South Wales. In the case of *Roach v Electoral Commissioner*, which was referred to by Mr David Shoebridge, the High Court of Australia held that amendments made in 2006 to the Commonwealth Electoral Act to disqualify from voting a person serving any sentence were invalid. The High Court held that the 2006 Commonwealth amendments "did not reflect any assessment of any degree of culpability other than that which can be attributed to prisoners in general as a section of society". However, the High Court did not conclude that any restriction on the rights of prisoners to vote would be unconstitutional. The key concern of the High Court was that the 2006 Commonwealth amendment had no regard to culpability.

This bill does not prevent any prisoner from voting. It merely continues the position that has been in place in New South Wales for many years, before and after the High Court's decision in *Roach v Electoral Commissioner*. As I have mentioned, under the proposed Act a prisoner would be disqualified from entitlement to enrol only if he or she was sentenced to a period of imprisonment of 12 months or more and was serving that sentence at the relevant time. This is not a rule that would disqualify all prisoners. This restriction does have regard to culpability. We consider that, together with the Commonwealth provisions that preceded the 2006 amendments and were upheld by the High Court, the restriction on this bill distinguishes between "serious lawlessness and less serious but still reprehensible conduct". It is about getting the balance right. The Government believes that the bill does that. For those reasons, the Government will not support the amendments foreshadowed by Mr David Shoebridge.

The Hon. John Graham raised concerns about the iVote system. The Government sought to address those concerns in debate on this bill in the other place, but to reiterate some of those comments, the Government agrees that a balance must be struck between the convenience of iVoting and concerns about possible security, verifiability and transparency. The Government considers that at this time iVote should not be expanded beyond its existing role as "a tool for certain categories of voters". The Electoral Bill 2017 is consistent with this view. Under the proposed Act, technology assisted voting remains an option for certain specified categories of voters. It would not be made more generally available by the bill.

In updating the Parliamentary Electorates and Elections Act, the categories of voters who are eligible to vote by way of technology assisted voting, including the iVote system, have been reviewed. That has been done to make sure that the policy grounds for providing access to technology assisted voting are clear and consistent, and it is available to those who face barriers to voting in person. As a result of that review, the bill allows technology assisted voting to be used by additional classes of persons, including silent electors and registered early voters. It also enables technology assisted voting to be used at by-elections by electors who will not, throughout the hours of voting on the election day, be within the electoral district concerned.

I note that, in the Government's response to the Joint Standing Committee on Electoral Matters report on the 2015 election, the Government accepted in principle the committee's recommendation that an inquiry be conducted into iVote, in particular to consider security, auditing and scrutiny hearing issues. It is crucial to the integrity of the democratic process in this State that the iVote system is secure. The Government agrees that the importance of this issue warrants a detailed examination of the existing system and that the outcome of that review should help to determine the future use of iVote in New South Wales. To that end, the State Electoral Commission has been tasked with facilitating an inquiry to consider that issue.

I am advised that the commission has engaged Roger Wilkins, who is a former senior Australian public servant, to undertake the inquiry and that that inquiry has commenced. A report on the inquiry is expected to be provided in mid-2018—well in advance of the 2019 election. I trust that my reply will address the concerns

expressed by the Hon. John Graham. Having made those comments, the Government is pleased with the support of members on all sides of the House for the overwhelming thrust of the bill, and is grateful for that. I commend the bill to the House.

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

Motion agreed to.

In Committee

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

Mr DAVID SHOEBRIDGE (13:03): By leave: I move The Greens amendments Nos 1 to 3 on sheet C2017-116B in globo:

No. 1 Entitlement to enrol

Page 17, clause 30, line 37. Omit "12 months or more". Insert instead "life".

No. 2 Entitlement to enrol

Page 24, clause 42, lines 33 and 34. Omit "a term of imprisonment of 12 months or longer". Insert instead "imprisonment for life".

No. 3 Entitlement to enrol

Page 140, Schedule 8.16 [2], line 13. Omit "12 months or more". Insert instead "life".

I referred to the amendments during the second reading debate, so I will not speak to them at length in the Committee stage. The amendments will change the law that is in the current Act and that this bill purports to remake. The bill states that any prisoner serving a term of imprisonment of 12 months or longer is disqualified from the vote, and the amendments would substitute "any prisoner serving a life sentence". Acceptance of the amendments would make New South Wales law consistent with international human rights obligations, particularly Article 25 of the International Covenant on Civil and Political Rights. The Greens would say that the amendments will make New South Wales law consistent with the High Court's decision in *Roach v Electoral Commissioner*—a decision that made it clear that neither State nor Federal parliaments can place restrictions on the rights of prisoners to vote that go beyond what is reasonably appropriate and adapted to the maintenance of representative government. That is the implied constitutional limitation on restrictions of engagement in democratic government.

The Greens also contend that the amendments would take New South Wales much closer to the more progressive jurisdictions in this country, such as South Australia and the Australian Capital Territory, which have no restrictions on prisoners' rights to vote. The way in which the various States and Territories and the Commonwealth deal with prisoners' voting rights is a complete mess and utterly inconsistent. The Greens believe that the appropriate and consistent national standard is to give all prisoners, save for those serving a life sentence, the right to vote. Currently Commonwealth law states that prisoners who are sentenced to a term of imprisonment of more than three years are excluded from voting; New South Wales and Western Australia cite one year; Victoria cites five years; Queensland cites any prison sentence; and in the ACT and South Australia all prisoners have the right to vote. The Greens contend that the amendments get the balance right.

On the weekend I had the good fortune of seeing Paul Kelly in concert. I do not know whether anyone else in this Chamber went to the Opera House for that iconic moment. Paul Kelly has a song, *How to Make Gravy*, that speaks to the experience of prisoners when Christmas is approaching. I encourage any member to listen to that song because it makes us realise that prisoners are people too. They should have rights and we should respect their rights. The Greens believe that these amendments strike the right balance. I commend the amendments to the Committee.

The Hon. ADAM SEARLE (13:06): The Opposition will not support the amendments. We accept the desirability of consistency between State and Federal electoral laws. However, I am not certain whether the amendments would make New South Wales law consistent with the High Court ruling in *Roach* or indeed consistent with Commonwealth electoral law. That is a matter that would require closer examination. Even leaving aside those technical and neutral matters, because undoubtedly there is significant public interest in this matter and the amendments represent a substantial change to the law, that should not be embarked upon without first having proper community discussion. In those circumstances, the Opposition is unable to support the amendments.

The Hon. BEN FRANKLIN (13:07): As I foreshadowed in my reply to the second reading debate, the Government will not support the amendments. In respect of the ruling in *Roach*, clearly there was some focus,

Page 108, clause 253 (2) (c), line 7. Omit "18 years". Insert instead "16 years".

The Greens believe that young people should be respected and listen to and that they should have rights. When it comes to 16- and 17-year-olds, absolutely they should be given the right to vote. Indeed, 16- and 17-year-olds have the biggest stake in the decisions we are making because they will live with the rotten decisions of their parliaments for decades and decades longer than most of us who actually inhabit these parliaments. If you speak to 16- and 17-year-olds you will find that they are full of optimism and hope. They want to make the world a better place. They want to fix the environment, they want to deal with terrible things like global injustice and they want to end wars. They are the kinds of people we want voting to send members of Parliament into this Chamber and other parliaments to make the world a better place. We think that 16- and 17-year-olds should not only be listened to and respected—and I note the level of audible chatter in here, which is consistent with disrespecting the rights of 16- and 17-year-olds.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! There is too much audible chatter. The member will be heard in silence.

Mr DAVID SHOEBRIDGE: We think the rights of young people are important and that these are important amendments. We would hope that members would pay attention when we are saying, "Give young people the franchise." We would not insist upon them voting; there are many 16- and 17-year-olds who do not want to vote. However, there are plenty of them who are well-informed and well-intentioned and who therefore want to participate. We believe we should give them a vote, and these amendments will do it. They will not be fined if they do not vote—we say it is the choice of 16- and 17-year-olds. We commend the amendments.

The Hon. BEN FRANKLIN (13:17): As I expressed in my speech in reply, the Government does not support these amendments. This has been the consistent position of New South Wales parliaments for many years, and is consistent with the position under the Parliamentary Electorates and Elections Act. We have sought to have a bill that implements the unanimous recommendations of the Joint Standing Committee on Electoral Matters. There were inquiries in 2011 and 2015 into elections of those years and another inquiry in 2013. I note that the committee considered exactly this issue and determined not to proceed. Because there was no recommendation by the committee on those three occasions that the voting age be lowered, the Government does not support these amendments.

The Hon. ADAM SEARLE (13:18): The Opposition supports these amendments. We respectfully disagree with the findings of the Joint Standing Committee on Electoral Matters in that regard. Although we recognise that this is a substantial change to the law, we think there has been significant public discussion about this issue and that there would be widespread public support for allowing 16- and 17-year-olds to vote on a voluntary basis. For the reasons that have been discussed, particularly around the same-sex marriage postal survey, we note that there was a high level of engagement by the younger generation, who wanted their voice to be heard on a matter that was important to them. Notwithstanding that many of them had made application and were permitted to be enrolled when they turned 18, they were not given a survey form. This is just another example of when we should listen to the voice of the next generation and in this limited way give them a say in our shared future. The Opposition supports the amendments.

Mr JUSTIN FIELD (13:19): I support the comments of my colleague. I had the recent experience of participating in the NSW Youth Parliament. I encourage any members who have not participated in the Youth Parliament to do so. I had the opportunity to sit in the Speaker's chair and listen to the remarkable contributions of our young people, most of them not yet 16 years of age. If members have any questions about the capacity of young people to be engaged with, across and have an interest in issues about their future then they should have heard the remarkable contributions I heard, such as how we should be dealing with climate change, investment in education, and particularly protections for the environment. Those young people are engaged; they are connected. They should have the right to vote if they so choose. I commend the amendments moved by The Greens.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Mr David Shoebridge has moved The Greens amendments Nos 1 to 7 on sheet C2017-129. The question is that the amendments be agreed to.

The Committee divided.

Ayes 15
Noes 18
Majority.....3

AYES

Buckingham, Mr J
Field, Mr J
Mookhey, Mr D

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

Faruqi, Dr M
Houssos, Ms C
Pearson, Mr M

AYES

Primrose, Mr P
Shoebridge, Mr D

Searle, Mr A
Veitch, Mr M

Secord, Mr W
Walker, Ms D

NOES

Ajaka, Mr J
Clarke, Mr D
Farlow, Mr S
Harwin, Mr D
Maclaren-Jones, Ms N
(teller)
Phelps, Dr P

Amato, Mr L
Colless, Mr R
Franklin, Mr B (teller)
Khan, Mr T
Martin, Mr T

Taylor, Ms B

Blair, Mr N
Cusack, Ms C
Green, Mr P
MacDonald, Mr S
Nile, Reverend F

Ward, Ms P

PAIRS

Sharpe, Ms P
Voltz, Ms L
Wong, Mr E

Fang, Mr W
Mason-Cox, Mr M
Mitchell, Ms S

Amendments negatived.

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

Motion agreed to.

The Hon. BEN FRANKLIN: I move:

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

Motion agreed to.**Adoption of Report**

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

That the report be adopted.

Motion agreed to.**Third Reading**

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

That this bill be now read a third time.

Motion agreed to.

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

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

*Visitors***VISITORS**

The PRESIDENT: I welcome to the public gallery the Mayor of Orange, Councillor Reg Kidd, who is a guest of the Hon. Rick Colless. I also welcome as my guests Ms Jaynie Seal, a Sky News anchor and Channel Nine presenter; my wife, Mrs Mary Ajaka; and the member for Drummoyne's wife, Mrs Sandra Sidoti.

*Questions Without Notice***SHENHUA WATERMARK EXPLORATION LICENCE**

The Hon. ADAM SEARLE (14:30): My question without notice is directed to the Leader of the Government, the Minister for Resources, and Minister for Energy and Utilities. Given that in budget estimates the Minister described a statement by the parent company of Shenhua Watermark to the Hong Kong stock exchange

that it had an agreement with the New South Wales Government for the renewal of the remaining half of the Watermark exploration licence as "not correct", what steps has he taken in the intervening period to correct the record or otherwise satisfy himself on whether the company breached an applicable law or other regulatory requirement by making a false and/or misleading statement? Or is the statement by Shenhua Watermark now correct?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:31): The statement I made during budget estimates was correct. The exploration licence still has not been renewed. There is no question about the answer that I gave in budget estimates. Because this is an important matter involving some public controversy and because it is a matter that is market sensitive, the prudent thing for me to do would be to take the question on notice and give the honourable member a precise answer.

ENERGY POLICY

The Hon. DAVID CLARKE (14:33): My question is addressed to the Minister for Energy and Utilities. Will the Minister update the House on the year in energy in New South Wales?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:33): What a year it has been for energy policy in New South Wales and Australia. My top priorities have been the security and affordability of energy in New South Wales. Throughout 2017, the Government has worked with the other States and the Commonwealth through the Council of Australian Governments [COAG] Energy Council on reforms to the National Electricity Market [NEM]. From the Finkel review, 49 out of 50 recommendations were agreed to and are now underway. These include avoiding the sudden closure of old plants, improved security, and planning for new energy and transmission for the future. I look forward to implementing these with the COAG Energy Council. The Commonwealth has also come back with its proposed National Energy Guarantee. We will look into the recent information and modelling we have received, as further work is required.

Yesterday I updated the House on implementing the Energy Security Taskforce. This task force reports to me on the resilience of our energy system and our energy security readiness. The market needs to change, which is why we are jointly funding with the Australian Renewable Energy Agency a New South Wales-specific demand response program to reduce demand and boost security. We also have been working on encouraging greater investment. The House is no doubt aware of the huge pipeline of projects across New South Wales. Since February this year, 18 new solar farms have entered the planning system, six renewables projects have received planning approval and four projects have commenced construction. Rooftop solar continues to grow and a higher benchmark feed-in tariff for a fair price for solar has been achieved. We also are helping those who are hurting from higher power prices. The Premier, environment Minister, and I announced the energy bill relief package, which increased all energy rebates by 20 per cent.

Our commitment is that no eligible customer in New South Wales will miss out. We increased the Energy Accounts Payment Assistance [EAPA] scheme to help those most in need and at grave risk of disconnection. We made it easier to access the EAPA scheme by making vouchers digital. This is particularly helpful for customers in regional New South Wales, who no longer need to travel to their nearest provider. We are taking action to abolish excessive fees and charges, such as early termination and paper bill fees. Abolishing these fees will reduce an unnecessary cost burden, particularly on older residents of New South Wales. It also will help consumers switch to a better market offer to get the best deal. We are giving customers the best information to make decisions through initiatives such as the NSW Home Solar Battery Guide. The market needs national reform, and New South Wales is helping deliver that reform, deliver new supply, and help those in need.

SYDNEY OPERA HOUSE SECURITY

The Hon. WALT SECORD (14:37): My question without notice is directed to the Minister for the Arts. Following the 9 November protest where four people scaled the Sydney Opera House, what steps has the Government taken to investigate how the breach occurred and has the Government reviewed security at this national icon since the incident?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:37): On 9 November a small group of protestors did breach the Sydney Opera House sails. NSW Police officers were on site when the incident occurred and responded swiftly with the Opera House security team to safely resolve the situation. No-one was injured and the Opera House remained fully operational throughout the incident. The five people involved were arrested and charged with trespassing. I am assured by the Opera House that the security of patrons, staff and visitors is the highest priority. I am advised that the Opera House is working with NSW Police to review the security arrangements in place for these sails. I am waiting for a further report from the general manager of the Opera House.

The Hon. WALT SECORD (14:38): I ask a supplementary question. Will the Minister elucidate his answer in regard to the security review that he referred to? What is the timetable for that review and when will the details of that review be released?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:39): The Sydney Opera House Trust and the police are looking at the matters that I referred to in my earlier answer. When information is available I will be happy to update the House.

TERRANORA LAKES ENVIRONMENTAL PROTECTION

Mr JUSTIN FIELD (14:39): My question without notice is directed to the Minister for Primary Industries. My question relates to the ongoing disturbance and destruction of the yabby banks and seagrass in the Terranora Lakes system by local tourism operators. I understand that three written warnings have been issued by the Department of Primary Industries since July 2016. However, the community continues to observe breaches of the guidelines and ongoing damage to the yabby banks and seagrass. Given the failure of warnings to address these breaches, will the Government consider further restrictions to prevent tourist groups trampling these sensitive environments which are critical to local fisheries and the health of the Terranora Lakes system?

The Hon. NIAL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:39): I am advised that two charter boat operators have been carrying out land-based charter fishing activities and nipper pumping in the Terranora area on the Tweed River for the past 15 years. These platform vessels undertake a variety of nature tours, including one that provides clients with the experience of pulling up a recreational crab trap, fishing with a rod and reel and disembarking from the boat to catch nippers and experience the sandbank environment.

A couple of recreational fishing individuals have previously raised concerns about the impact of these land-based activities on the Terranora sandbank environment. I am advised by the Department of Primary Industries that site inspections have indicated that land-based charter operations are operating with limited impact. One sensitive habitat location with extensive seagrass beds, Togos Gutter, was identified, and operators have agreed to avoid that area. A code of practice for land-based charter fishing activities in the Tweed River was developed by the department in consultation with stakeholders, and has been accepted by the operators. The code implements additional controls and restrictions on these land-based charter activities to ensure that they are undertaken in an environmentally responsible manner.

I will give the House examples of these additional controls. There are approved areas where land-based fishing activities may be undertaken by these commercial tourism operators. All clients must remain within 50 metres of the boat or a specified point of origin at all other times. The total number of yabby pumps has been restricted to a maximum of 40 per cent of the total number of passengers on board the vessel, while the current recreational fishing rules permit one pump per person. Yabby-catching activities are restricted to a maximum of 20 minutes, with a maximum duration of 30 minutes that clients can be off the vessel. A maximum of 10 yabbies in total are allowed to be taken from the capture site. A New South Wales charter fishing business conducting land-based activities must be accredited for nature and/or ecotourism by a recognised body—for example, Ecotourism Australia. Outside of this code there is no requirement for charter fishing businesses to hold this accreditation.

I am advised also by my department that research was commenced on nippers in the Terranora area and other estuaries in 2015 as part of the New South Wales Bait Security research project. The research comprises three sampling components, including a large-scale nipper sampling regime comprising multiple sites throughout the Tweed River over a two-year period, with final sampling to finish early in 2018. Two short-term trampling experiments also are being undertaken and are designed to inform the large-scale program. The Department of Primary Industries is expecting the preliminary results of all three components of the research program to be available by mid-2018.

My department will then be in a position to present these results to charter operators and relevant recreational fishing stakeholders and to review the code to maintain the sustainability of the sandbank environment in the Tweed River, if needed. The Department of Primary Industries considers that the code of practice is effective in providing additional sandbank protection while the dedicated research is undertaken. It is important that the code provides adequate protection for our aquatic resources whilst still providing an opportunity for driving tourist activity in regional areas such as the Tweed coast.

REGIONAL WATER PROJECTS

The Hon. BRONNIE TAYLOR (14:43): My question is addressed to the Minister for Regional Water. Will the Minister outline some of the important regional water projects the Government has delivered this year?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:44): I am proud, as Minister, to have established the \$1 billion Safe and Secure Water program across regional New South Wales. Just because people live in a remote area does not mean that they cannot have access to an affordable, safe and reliable supply of water. The centrepiece of our \$1 billion commitment is the Murray River to Broken Hill pipeline. This game-changing piece of infrastructure will secure the Silver City's water supply once and for all. We are now shipping steel from the Illawarra to the spiritual home of BHP. For too long, Broken Hill's water supply from the Menindee Lakes has been unreliable, resulting in frequent water shortages and rationing for the 19,000-strong community and the mining and other industries that contribute over \$1.3 billion to the New South Wales economy. We know that Labor has called for a moratorium on the pipeline, but now they do not even know what they want. Labor's policy on Broken Hill's water supply is to pray for rain. We will have the pipeline built and—

The PRESIDENT: Order! The Clerk will stop the clock. Members will cease interjecting. The Minister has the call.

The Hon. NIALL BLAIR: We will have the pipeline built and delivering a safe and secure supply of water to the people of Broken Hill by the end of next year. The recent New South Wales budget outlined another eight projects which have been short-listed under the Safe and Secure Water program. Already two of these have been announced, including \$5.25 million for a treatment plant at Hay and \$4 million to replace the Junee treatment plant. I remind the House that Labor voted against the Restart NSW legislation which underpins Safe and Secure Water. We continue to implement the Murray-Darling Basin Plan to get the best possible deal for New South Wales communities while honouring the intention of the plan.

Water is the lifeblood for many of these river towns, and I will not see them sent to the wall by ideology or green zealotry. Irrigators and farmers understand the importance of a healthy river system. Those opposite would happily trade away more productive water so Federal Labor can see its basin plan met in full. But at what cost? At some point those opposite will have to confront that uncomfortable question. The work we will do to reconfigure the Menindee Lakes is the sort of clever thinking that meets our environmental goals through reduced evaporation without the need for lazy water buybacks. Will those opposite rule out further non-strategic water buybacks? Do they support the reduced water recovery target in the northern basin and the jobs that this will secure for farms and towns?

The issue of regional water has not been without its challenges, but there is no-one more eager than I am to ensure that water compliance in New South Wales is as robust and as transparent as it can be. That is why we already have legislation in the Parliament to implement the recommendations of the Matthews report. Water compliance in New South Wales will be the envy of the Murray-Darling Basin. Labor's contribution to this important policy debate is to demand that the regional water portfolio be removed from The Nationals. If we were to apply that leap of logic more broadly we would not trust Labor with anything.

HEALTHCARE PROFESSIONALS PROTECTION

The Hon. PAUL GREEN (14:48): My question without notice is directed to the Minister for Primary Industries, representing the Minister for Emergency Services. The *Lamp* magazine recently reported that emergency department violence against nurses is sparking community concern, especially in small rural facilities—for example, at places such as Nyngan—where police are not on duty 24/7 to protect them. Will the Minister advise the House what safety mechanisms are currently in place or are planned to ensure that our nurses and other healthcare professionals are protected, particularly in rural facilities which lack round-the-clock police protection and at Christmas time when there will be increased hospitalisations?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:49:1): I thank the Hon. Paul Green for his question and recognise his personal interest in the subject, given that before entering this Parliament he was a nurse who worked in many fields.

The Hon. Walt Secord: He did not run over to poor Wes yesterday. He and Bronwyn just sat there when poor old Wes was suffering.

The Hon. Don Harwin: Point of order—

The Hon. Walt Secord: Poor Wes was suffering and the two nurses just sat there.

The Hon. Don Harwin: The Minister is trying to give an answer to a very serious question. In an extremely loud and abusive manner, the Deputy Leader of the Opposition is making accusations, first, to the member who asked the question and, secondly, to another member. The accusations, to the best of my recollection, are completely untrue. Mr President, I ask that the member be called to order.

The Hon. Walt Secord: To the point of order: To assist the House, I was a very close witness and the two nurses in this Chamber sat quietly while poor old Wes suffered.

The Hon. NIALL BLAIR: To the point of order: The incident referred to by the Hon. Walt Secord showed the best of this House yesterday. I commend the Opposition on the way it addressed the issue. What we are seeing now is the worst of this House. Yesterday when a member was injured, the Labor Party saw the seriousness of it and did the right and respectful thing and paired the member. But what has occurred today for political gain off the back of that incident is an example of the worst of this House. The Hon. Walt Secord should be condemned for bringing the actions of this House and his own party into question and for questioning the motives of trained health professionals by suggesting that they would sit back and allow another member to suffer.

The Hon. Paul Green: To the point of order: I acknowledge that attack by the shadow Minister. As he well knows, first aid was offered to the member. It is good to see that members have first aid capability and can minister to injured persons. The system is working when we do not need a nurse on every corner of every street. Yesterday we had a plethora of people with first aid knowledge to assist the member. I encourage everyone to obtain a first aid certificate.

The PRESIDENT: I have heard enough.

The Hon. Walt Secord: This is ridiculous.

The PRESIDENT: Order! Members will not interject when I am speaking. I uphold the point of order. I call the Hon. Walt Secord to order for the first time. The Minister has the call.

The Hon. NIALL BLAIR: As I was saying, the Hon. Paul Green is a nurse from regional New South Wales and takes a personal interest in the issues he has raised. He asked the question of me as the Minister representing the Minister for Emergency Services because his question relates to police protection for nurses. I will also refer the question to the Minister for Health, and Minister for Medical Research, because the security and protection of nurses, particularly within hospitals, is a matter that more appropriately may be dealt with by the Minister for Health.

As I represent both the Minister for Health and the Minister for Police, and Minister for Emergency Services in this Chamber, I will take the question on notice and refer the question to the appropriate Minister and bring a response to the honourable member. The honourable member, prior to entering Parliament, worked in the honourable profession of nursing. He would never ever sit back and watch someone suffer. Like every other member of the House, when the incident occurred yesterday he was adhering to the principles and rules of the House. I pay my respect to the Hon. Lynda Voltz for her actions in response to the incident yesterday. I concur with the statement of the Hon. Paul Green that it is a blessing to have people with first aid training who can respond to incidents such as we saw yesterday and that more people should have first aid training. I commend the House on the manner in which the matter was dealt with yesterday. I thank the Hon. Paul Green for his question. I will obtain a detailed response from the relevant Minister and convey it to the Hon. Paul Green.

ELECTRICITY BILL FEES

The Hon. GREG DONNELLY (14:54): My question without notice is directed to the Minister for Energy and Utilities. Given on 12 September the Minister told *A Current Affair* that fees for paper electricity bills had been eliminated but on 10 October he said that both he and the Premier were "working on the regulations right now", and given it is now 71 days since the commitment was made, why are families still being forced to pay for paper electricity bills?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:55:16): The New South Wales Government announced a significant package of energy affordability measures to assist all energy customers with energy bills. The package is targeted. As mentioned by the Hon. Greg Donnelly, an important part of the package deals with the abolition of paper bill fees. As he correctly identified, some weeks ago I gave an answer in the House about the implementation of those measures, which require regulation. There is considerable history to the matter.

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

The Hon. DON HARWIN: The regulations for the change are being prepared and will be implemented at the start of calendar 2018.

ARTS AND CULTURAL DEVELOPMENT

The Hon. NATASHA MACLAREN-JONES (14:56:4): My question is addressed to the Minister for the Arts. Will the Minister update the House on arts, culture and screen in New South Wales during 2017?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:56:5): I thank the Hon. Natasha Maclaren-Jones for her question in what has been an exciting year in the Arts portfolio. Under this Government, we have seen a significant investment in our cultural infrastructure. Starting with what will be the jewel in the crown, I refer to funding of \$244 million over five years for the Sydney Modern Project at the Art Gallery of New South Wales. That will double the size of the hang space of the gallery. It is one of the most exciting arts and cultural projects this State has seen. The Government continues to invest in the Sydney Opera House's renewal as well, and that investment is worth more than \$200 million. This Government will ensure that one of our nation's most iconic landmarks continues to be at world-class standard, providing a unique experience for the eight million locals and tourists who visit each year. This year the Government provided a further \$68 million to redevelopment of the Walsh Bay Arts Precinct on top of the \$130 million already committed.

In Western Sydney, the Government is honouring its commitment to bring the Museum of Applied Arts and Sciences to Parramatta. The New South Wales Government has partnered with City of Parramatta Council for redevelopment of the Riverside Theatre at a cost of \$100 million. Those investments, along with the Parramatta council committing \$40 million to arts and culture in the region over the next 20 years, will ensure that Parramatta and Western Sydney will become a creative hub in our State. But it is not just infrastructure in which the Government is investing. Through the Arts and Cultural Development Program, the Government is investing in our most valuable resource—our people. The Government is investing in our writers, artists, filmmakers, performers and those involved in a wide variety of other creative pursuits. The investment is not just in Sydney but, rather, all over regional New South Wales. This year, with the Deputy Premier, I was thrilled to announce our \$100 million Regional Cultural Fund.

This Government will support and foster arts and culture across our regions because we will not leave them behind. I know that in regional communities in particular museums, libraries, art galleries and theatres play an important role in creating a vibrant community. The Regional Cultural Fund will support our arts, screen and culture sector in our regional communities, helping their tourist economies to grow and creating employment but, most importantly, helping the health and wellbeing of people in those communities.

In screen, we have been ensuring that New South Wales is number one again. The total pool of screen production finance has leveraged \$315 million in production expenditure in New South Wales and supported more than 7,600 New South Wales jobs in front of and behind the camera. We have brought large-scale international productions to the State, such as Animal Logics' *Peter Rabbit*, *Pacific Rim: Uprising* and the Sony Chinese television series *Chosen*, all of which were shot in Sydney.

We know that our State is more than just bricks and mortar, more than roads and rail. It is a living, vibrant, creative community, and that is why, whether it be in this city, in Western Sydney or across the breadth of regional New South Wales, we are absolutely committed to supporting our arts and our cultural sector. The reason we can support our arts and cultural sector is that our State is in great shape. We could not reinvest in our cultural infrastructure or have the Made in NSW Fund for Screen and the special incentives for filming in New South Wales if we had not put people first by managing the resources of our budget properly. [*Time expired.*]

NEWTOWN MURAL VANDALISM

Reverend the Hon. FRED NILE (15:01): My question without notice is directed to the Hon. Don Harwin, representing the Attorney General, the Hon. Mark Speakman. Is the Attorney General aware of the huge mural in Newtown which shows Cardinal Pell and former Prime Minister Tony Abbott in a sexually explicit pose? Are there laws against the depiction of sexually explicit conduct in public places? Why is legal action being contemplated against the Christians who covered up the mural and not against the so-called artist who painted it in the first place? What steps does the Attorney General propose to take to stop the impression that the authorities are acting in a highly biased manner?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:01): I have no doubt that honourable members like me have been following this story in the media, because it is one of some interest. However, Reverend the Hon. Fred Nile has probably been following the story far more closely than I have. I think the artwork was reproduced in the *Sydney Morning Herald*, which first ran the story, although I might be wrong. The artwork is certainly idiosyncratic and it might not be to some people's taste. No doubt some members of the community found it amusing, but for others, no doubt it was highly offensive and that is often the way with art. Art challenges people and sometimes it inspires people and delights people.

I do not know whether the artwork was done with the permission of the owner of the premises, and therefore I will not canvass some of the aspects of the question. I suspect the granting of permission may be highly relevant to some of the aspects the honourable member raises in his question, such as any possible action taken

against those persons who defaced the mural—and I use the word "deface" because those people are being charged with defacing the artwork. Since I do not know whether the artist was granted permission in the first place, I do not know whether it was in fact graffiti. It is best if I leave my answer there and, in the first instance, refer the honourable member's question to the Attorney General, who may or may not be the appropriate Minister to answer this question, and seek a response from him.

NARRABRI GAS PIPELINE

The Hon. DANIEL MOOKHEY (15:04): My question without notice is directed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts, in his own capacity and as Leader of the Government. Given that APA Group contractors were allegedly caught trespassing on a farm near Coonamble while inspecting locations for their proposed gas pipeline to Narrabri, what action is the Government taking to ensure that farmers' property rights are protected and respected?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:04): The proposed pipeline referred to in the question will carry natural gas from the proposed Santos Narrabri gas project to the Moomba to Sydney natural gas pipeline. The routes being investigated are west of the Great Dividing Range and avoid the Pilliga forest. I granted the authority to survey after careful consideration of submissions from affected landowners along the route. The authority includes a number of strict conditions that were imposed in response to these submissions. The conditions protect landowners' interests and include notification procedures, requirements preventing interference with livestock and crops, and make-good provisions for any damage to property, livestock or the environment. The authority gives the proponent the right to enter the nominated land and undertake surveys and take samples, and other investigative work required to finalise the route options for the pipeline.

I received correspondence from some landholders seeking to assess the potential impacts of the pipeline before granting the authority. I take note of the fact that the preparation of an environment impact statement is normally the time during which the potential impacts of a proposal can be presented, commented upon and considered. That is because any project is subject to planning approval under the relevant planning legislation. The planning approval process is a separate and independent process, which includes extensive consultation.

I am sure the House will be interested in matters to do with biosecurity, which is also very important. There are quite broad obligations on APA in its authority to survey. Before granting these conditions I sought feedback on the proposed conditions. Two of these are relevant. The first important condition is not to cause or aggravate soil erosion and to provide appropriate means to minimise or prevent soil erosion and the spread of weeds and disease. The second condition is to make such provisions for sanitation as may be necessary including provision for the disposal of any refuse. Those are the two key obligations that I placed on APA's authority to survey. I believe that these obligations mean that APA has to provide appropriate means to address such concerns. Obviously, if there are suggestions of APA contractors inspecting land without lawful authority to survey, that would be of some concern to me and I would invite those who are concerned to make contact.

The Hon. DANIEL MOOKHEY (15:08): I ask a supplementary question. Will the Minister elucidate his answer in respect to the strict conditions he imposed? What conditions for notification did he impose? What actions has he taken to ensure that these conditions are being followed?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:08): I think I gave an answer to the question in the previous answer I have given the House. It is fairly clear in the authority survey and the material that was sent to the landholders what those conditions were. I should make the point that the landholders, owners or occupiers of the land on which APA wished to conduct surveys were given at least five days prior written notice advising of the times when the surveys would be undertaken. There was contact with the owners or occupiers of the lands on which they wished to conduct surveys asking them to provide verbal or written details of any reasonable requirements that they had concerning the conduct of the surveys under the authority.

RECREATIONAL FISHING

The Hon. TAYLOR MARTIN (15:10): My question is addressed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Will the Minister update the House on what the Government is doing to improve fishing opportunities across New South Wales?

The Hon. NIAL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:10): I thank the honourable member for his very important question. We have almost one million recreational fishers in New South Wales.

The Hon. Greg Donnelly: Name them.

The Hon. NIALL BLAIR: I could name some in this Chamber who are recreational fishers but I will not. If those opposite bothered to get out more and do some recreational fishing, they would see that we have some of the best fishing in the world. The beauty is that in New South Wales one does not need a fully equipped boat to access fishing—whether it is the beach, a river, a creek, a wharf or a jetty, the opportunities are boundless. This year the Government has been increasing those opportunities everywhere. We already had four great artificial reefs along the New South Wales coastline but in 2017 the Government announced five more. These reefs are as keenly sought by locals and tourism operators as they are by the fish. Whether it is snapper or kingfish, trevally or bream, salmon or tailor, these reefs are a winner.

The Hon. Mick Veitch: That is why he asked the question.

The Hon. NIALL BLAIR: We got Taylor to ask a question about tailor; that is fantastic. Coupled with the fish aggregating devices that I talked about earlier this week, we are seeing record levels of investment through the money raised by recreational fishing licences. And there is no catch to this—100 per cent of the money raised is thrown back to improve recreational fishing. We all know the cultural importance of fishing to Indigenous Australians and we have recognised that with the establishment of the Aboriginal Fishing Trust. The money from this trust will help create fishing opportunities for Indigenous communities across New South Wales and the first round of grants will open up early next year.

We have worked closely with the National Parks and Wildlife Service to open up disused buildings to create new eco-huts, offering accommodation close to the best fishing spots. We are also working to make them accessible for people with disabilities. Fishing is a sport that can be enjoyed by all and the Government wants to ensure that as many people as possible are getting hooked. It is incredible to think that as I speak people around Sydney Harbour are catching a huge array of fish species, with the emerald city as a backdrop. Where in the world could one find an experience like that? That is why it was crucial that we developed the first ever 10-year draft Marine Estate Strategy.

One of our goals in the coming year will be to ensure that our iconic marine estate is healthy and robust for the future. I want future generations to be able to enjoy what we take for granted. We are incredibly lucky to have such a diverse environment and whether it is coastal fishing or inland, Department of Primary Industries staff are hard at work trying to maximise the fishing experience. For me there is nothing like getting away with loved ones for a few hours in a small Hobie far from the rat race, dare I say, far from this place to enjoy one of the many opportunities I have spoken about. It is an incredible privilege and one I am determined to safeguard and enhance. I encourage everyone in the House and around the State to take a moment over the Christmas period to enjoy what our great State has to offer with recreational fishing. It is a wonderful resource we have right here in New South Wales—go out, get some fishing gear and a licence and get into it.

WILD GOAT MUSTERING

The Hon. MARK PEARSON (15:14): My question is directed to the Minister for Primary Industries. The Minister is aware that the mustering of wild goats for commercial sale and slaughter has become a lucrative sideline business for landholders in the Far West of New South Wales. ABC *Landline* interviewed the Mannion family who were mustering wild goats on four properties near Broken Hill. The male goats are sent to slaughter and some females are kept for breeding, which the Mannion's describe as a "semi-managed herd". Given that landholders have claimed a vested interest in avoiding husbandry costs and keeping wild goat numbers high and available for commercial exploitation, what is his department's policy regarding animal welfare management of so-called "semi-wild" goats where the Prevention of Cruelty to Animals Act requires that a person in charge of an animal must exercise reasonable care, control and supervision, including provision of adequate food, water and veterinary care?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:15): I thank the honourable member for his question, a question that was timed within two seconds of the time left to ask such a long question, so it was very well timed. The honourable member makes some interesting observations about the goat industry we have now in New South Wales, particularly in western New South Wales. Where once we had feral goats, we now have rangeland goats in this State because they are now worth quite a dollar, particularly to those in western New South Wales who have the ability to muster these rangeland goats and put them into the market. Indeed, members will know that last week we included a definition of those goats into the rural crimes legislation that passed through the Chamber.

It is of great importance and many in far western New South Wales will say that if it were not for the goat industry, particularly over some of the drier periods we have had in recent years, some of our landholders in that part of the State probably would not have been able to ride out that particularly dry period. It is an emerging and important industry here in New South Wales. The member has asked some very specific details about how

the goat industry is intersecting with the animal welfare legislation in New South Wales. I am more than happy to take the question on notice and come back to the member with a detailed response in a timely manner.

COAL INDUSTRY WORKERS COMPENSATION

The Hon. ADAM SEARLE (15:17): My question without notice is directed to the Leader for the Government and Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. Earlier this year the Opposition asked about the impact on workers compensation insurance arrangements in the New South Wales coalmining industry of the Supreme Court decision of *Kuypers v Ashton Coal Operations*. Given his deferred answer of 8 August, 106 days ago, when will the Government develop what he described as an "appropriate response to maintain suitable workers compensation arrangements and a health and safety scheme that protects workers"?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:18): I thank the honourable member for his question. I certainly have not forgotten the answer that I gave or the issue, which is an important one. The ongoing arrangements for workers whose coverage under current legislation is affected by that particular decision is a very significant issue indeed. For the information of the House, Coal Services is an industry-owned organisation that has statutory functions, as outlined within the New South Wales Coal Industry Act 2001. These functions include, but are not limited to, providing workers compensation, occupational health and rehabilitation services, collecting statistics and providing mine rescue emergency services and training to the New South Wales coal industry.

Section 31 of the Coal Industry Act 2001 allows Coal Services to require an employer in the coal industry to effect workers compensation for its employees through Coal Mines Insurance. Coal Services and Coal Mines Insurance have submitted a proposal to consider amendments to the Coal Industry Act 2001 to further clarify the definition of an employer in the coal industry. Coal Services has raised concerns about the definition of an employer in the coal industry following the decision of the court in the case of *Kuypers v Ashton Coal Operations Pty Ltd*—referred to by the Hon. Adam Searle in his question—where the definition was specifically considered. I have asked the department to progress consideration of the policy and legal implications of the Coal Services proposal. They are at an advanced stage and I am hoping to make an announcement shortly.

MINERAL AND MINING INDUSTRY

The Hon. BEN FRANKLIN (15:20): My question is addressed to the Minister for Resources. Will the Minister update the House on the resources sector in New South Wales during 2017?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:20): I thank the Hon. Ben Franklin for his question and I know he has a great interest in the natural resources of our State. This has been an important year for the resources sector in New South Wales. Best practice processes in mining is an important focus of our activities.

The Hon. Niall Blair: Point of order: As talented as they are, it is a challenge for Hansard to record speeches due to the multiple interjections while the Minister is trying to give his answer. It is impossible for me to hear the answer—let alone others in the Chamber whose hearing may not be as good as mine—due to the interjections coming from those opposite.

The PRESIDENT: Order! I uphold the point of order. I call the Hon. Greg Donnelly to order for the first time. I call the Hon. Penny Sharpe to order for the second time. I call the Hon. Trevor Khan to order for the first time. The Minister has the call. I order the Hon. Shaoquett Moselmane to order for the first time.

The Hon. DON HARWIN: Earlier this year the Government passed the ancillary mining activities bill which created an innovative regulatory instrument that addressed the concerns of key stakeholders and delivered improved outcomes. We reduced red tape by creating a fit-for-purpose framework while guaranteeing world-leading environmental and landholder protection. In June we also announced that we were implementing the Strategic Release Framework to increase conventional gas exploration in the Far West of the State. This was under the supervision of the NSW Chief Scientist and Engineer, Professor Mary O'Kane, who originally recommended this step under the NSW Gas Plan implemented by this Government. We also reached an agreement, as we canvassed earlier in question time, with Shenhua Watermark to buy back part of the exploration licence to protect the flat, fertile, agricultural lands of the Liverpool Plains. This meant that any future mining could only occur on the ridge lands.

The Government also enacted special legislation to ensure that the Springvale Mine could continue to operate. I thank members of the House for their support. This ensured a supply of coal to the Mount Piper Power Station which supplies 12 per cent of power to this State. I have also seen steps taken towards mining other strategic minerals across the state, such as zirconium, cobalt and scandium. The New South Wales scandium belt

looks like making New South Wales the key source for scandium across the world. Our cobalt resources in New South Wales are preparing us for a high-tech future. As I have detailed to the House many times in the last year, we have also taken steps through the resource regulator to improve work health and safety on our mining sites. Programs such as the targeted assessment program are making our mining sites safer places to work. The New South Wales Government has also introduced practicing certificates to ensure that our miners are competent in safety-critical functions. This Government wants to ensure that all mining workers get home safely.

Members would also be aware of the Government's support for fossicking. We are committed to working with our fossickers to help grow this important part of the regional tourism sector across New South Wales. This year eight local government areas have been declared fossicking districts: Bega Valley Shire Council, Bland Shire Council, Blayney Shire Council, Eurobodalla Shire Council, Snowy Valleys Council, Mid-Western Regional Council, Cabonne Council and Goulburn Mulwaree Council. Whether it be the single fossicker panning for gold, the explorers of our high-tech minerals preparing us for the future economy, or the largest mine providing coal to our power stations, the resources sector has the support of the New South Wales Government.

CROWN LAND TRANSFERS

Mr DAVID SHOEBRIDGE (15:25): My question is directed to the Minister for Primary Industries, representing the Minister for Lands and Forestry. What, if any, Crown land has been transferred to local councils under the reformed Crown Lands Act and in which councils?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:25): I thank Mr David Shoebridge for his question and his ongoing interest in the issue of Crown lands. We regularly engaged in discussions when I was previously the Minister responsible for Crown lands. The question requires information that I do not have to hand as I am no longer the Minister responsible. However, as I am representing the Minister responsible for Crown lands I am happy to take the question on notice, refer it to the Hon. Paul Toole for an answer and come back to the member in a timely fashion.

Mr DAVID SHOEBRIDGE (15:26): I thank the Minister for his ongoing interest. Noting that the Minister is not aware of what land has currently been transferred, would the Minister also ask the Minister for Lands and Forestry what, if any, land is on the proposed list for transfers?

The Hon. Scott Farlow: Point of order: Mr David Shoebridge was seeking a supplementary question. He needs to seek an elucidation of the Minister's response. The Minister took the question on notice. It was a new question and it has been held by previous Presidents that on taking a question on notice no supplementary question can follow.

The PRESIDENT: Order! I uphold the point of order.

WILLIAMTOWN LAND CONTAMINATION

The Hon. PENNY SHARPE (15:27): My question is directed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. In light of the expansion of the Williamtown contamination red zone to 250 more households, when will these families be connected to town water and will the Minister guarantee the costs will not be passed on to those households?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:27): On Sunday 19 November 2017 the New South Wales Government Chief Scientist and Engineer, Professor Mary O'Kane, and Environment Protection Agency chair and chief executive officer Barry Buffier met with key members of the Williamtown community to brief them on new advice regarding polyfluoroalkyl contamination in relation to the Commonwealth Department of Defence Royal Australian Air Force Williamtown base. On the basis of new data in the Department of Defence's updated human health risk assessment, the boundaries of the investigation area have changed. There has been a reduction in some areas and an expansion in other areas to include Fullerton Cove and additional streets in Saltash. The New South Wales Environment Protection Authority is leading the State's involvement in this matter. Questions regarding the investigation should be directed to the Minister for the Environment. I note that the Hon. Penny Sharpe's question has a different focus which relates to my responsibility as Minister for Energy and Utilities.

The PRESIDENT: Order! There is far too much conversation in the Chamber.

The Hon. DON HARWIN: However, I am pleased to note that Hunter Water has already commenced planning work to deliver town drinking water to properties in the expanded management areas. This work builds on Hunter Water's initial Williamtown reticulation project, which was completed on time in June 2017, to deliver reliable water connections to the 165 properties within the original investigation area. That project included new water mains and private plumbing connections. The project was initiated by the New South Wales Government

through Hunter Water in response to Commonwealth Department of Defence findings, and the department ultimately funded the project. Similar arrangements are anticipated for approximately 250 properties affected in the recently announced expanded management areas. In a statement released on Sunday 19 November, the Department of Defence indicated that it intended to continue its collaboration with Hunter Water to connect residents to the town drinking water network within the newly defined management areas where it is feasible to do so.

The Hon. PENNY SHARPE (15:30): I ask a supplementary question. Will the Minister elucidate the time frame for the connection of the 250 households?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:30): I will ask Hunter Water for an updated timetable and provide it to the member on notice.

The time for questions has expired. If members have further questions I suggest they place them on notice.

Deferred Answers

GRAHAMSTOWN DAM WATER QUALITY

In reply to **the Hon. LYNDIA VOLTZ** (18 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:

Since December 2015 Hunter Water has voluntarily published comprehensive monthly water quality results on its website which include summary sampling results for per- and poly-fluoroalkyl substances [PFAS] collected from sampling locations across Hunter Water's area of operations. The existence of these monthly reports has been advertised extensively including in Hunter Water's customer newsletter, on the homepage of Hunter Water's website, in media releases and advertisements placed in the *Newcastle Herald*.

All detections in drinking water have been of trace concentrations, below the adopted Food Standards Australia New Zealand [FSANZ] guidelines for PFAS in drinking water, and do not pose a risk to residents of the Lower Hunter.

Hunter Water has routinely provided me and my office with updates relating to the RAAF Base Williamtown contamination, including advances in PFAS detection technology, on updates to Health standards, and on trace detections within Hunter Water's catchments and networks.

AMBULANCE AND PARAMEDIC STAFFING LEVELS

In reply to **the Hon. PAUL GREEN** (18 October 2017).

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

NSW Ambulance undertakes comprehensive analysis to inform paramedic staffing numbers and ambulance station locations.

Since 2011 there are now 350 additional paramedics.

The New South Wales Government has provided budgetary enhancements over the 2015-16 (\$1.5 million), 2016-17 (\$17.9 million) and 2017-18 (\$7.5 million) financial years to provide an additional 170 paramedics throughout New South Wales. These have been fully recruited.

MINING INDUSTRY

In reply to **Reverend the Hon. FRED NILE** (18 October 2017).

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

The New South Wales mining industry contributes to the State's economic growth and jobs, especially in regional areas. Based on Australian Bureau of Statistics figures, minerals exploration expenditure in New South Wales increased by 23 per cent in the June 2017 quarter to \$45.3 million (from \$36.7 million in the March quarter).

There are nearly 50 major mining project proposals in New South Wales at various stages of planning and approval, promising investment of nearly \$13 billion in new capital expenditure and the potential to create nearly 8,000 new jobs. The New South Wales Government supports growing a diverse mix of energy sources and recognises that both the renewable and non-renewable energy sectors offer opportunities for jobs and economic growth.

The Federal Government has proposed a reliability and emissions guarantee [the National Energy Guarantee]. The details of this proposal are still being developed, with further modelling about the impacts expected soon.

WILLIAMTOWN LAND CONTAMINATION

In reply to **the Hon. MARK PEARSON** (18 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:

The Commonwealth Department of Health confirms that there is no risk to the health of the general population from exposure to PFAS. The 24th Australian Total Diet Study found dietary exposure to PFAS from the general food supply is likely to be low, with the majority of food sampled in studies in Australia not detecting these chemicals. Food Standards Australia New Zealand (2017) consider it would be extremely unlikely that a consumer would always source a specific food near a contaminated site. There is no indication that there are public health and safety issues for consumers outside contaminated sites. The NSW Food Authority supports this advice.

The Government is taking a precautionary approach in providing advice on this issue to residents living in affected areas because they have greater exposure than the wider community.

SNOWY SCIENTIFIC ADVISORY COMMITTEE

In reply to **the Hon. COURTNEY HOUSSOS** (18 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:

A review to improve the governance arrangements for the \$1.2 billion Snowy Water initiative resulted in the termination of the Snowy Scientific Committee. Shortly thereafter, in 2014, section 57 of the Snowy Hydro Corporatisation Act 1997 was amended to allow for the establishment of the new Snowy Advisory Committee.

It was intended that the new committee would be more representative and provide contemporary governance arrangements for water management in the Snowy Mountains, and be more responsive to the needs of both the community and government.

The amending Act is yet to commence; however, the New South Wales Government is progressing the necessary measures for it to commence and to establish the Snowy Advisory Committee as soon as possible.

In the absence of an advisory committee, specialist eco-hydrologists have designed release patterns from Jindabyne Dam to mimic the natural flows observed in similar adjacent catchments, thereby providing a flow regime conducive to natural riverine processes and ecosystem development and optimising environmental outcomes.

Business of the House

SUSPENSION OF STANDING AND SESSIONAL ORDERS: ORDER OF BUSINESS

Mr DAVID SHOEBRIDGE (15:31): I move:

That standing and sessional orders be suspended to allow Private Members' Business item No. 1788 outside the Order of Precedence relating to the Workers Compensation Amendment (Continuation of Weekly Compensation for Permanent Impairment) Bill 2017 to be called on forthwith.

We are entitled to bring on these matters only if they are urgent. Nothing could be more urgent than the potential wave of misery that is about to wash across New South Wales.

The Hon. Rick Colless: Oh my goodness!

Mr DAVID SHOEBRIDGE: I acknowledge the interjection from the Hon. Rick Colless. On the day after Christmas, on Boxing Day this year, 1,700 injured workers will have their workers compensation benefits terminated. On average, their age is 55 and they have been receiving workers compensation benefits for between 10 and 15 years. Their benefits will be terminated and they will have nothing coming in from Boxing Day this year. If there is any more urgent business for this House to deal with, I would like members to tell me what it is. This House cannot sit idle while 1,700 injured workers have not only their Christmas but also their house and potentially their relationships taken from them. They have been under great stress for many years because they have been on workers compensation. They will watch their families fall apart and their marriage and connections with their loved ones fail because they will be thrown into poverty if we do nothing. If members oppose this motion and sit on their hands doing nothing, these people will be poverty-stricken.

I am talking about not only the 1,700 workers whose benefits will be terminated the day after Christmas but also up to 6,000 injured workers who will have their benefits terminated between Christmas and 30 June 2018. As I said, on average they are 55 years old. These are workers whom the scheme has fully accepted have been injured at work. Often they have serious back injuries, lower leg injuries, and substantial psychological injuries. After having them assessed by doctor after doctor, the system has agreed that they cannot return to work. Their injuries are real and valid.

This House made changes in 2012—which The Greens and the Labor Opposition opposed—knowing full well that five years later thousands of seriously injured workers would have their benefits cut. That is despite their disabling injury and despite the fact that they have not recovered, that they have been permanently impaired, and that they cannot return to work. When this House made those changes in 2012 it was aware of what it was doing. Now the reality is kicking in; it is not on the distant horizon. This will happen the day after Christmas. What is the Government doing? The State Insurance Regulatory Agency website provides these injured workers

with contacts at Centrelink. Many of them will be ineligible for Centrelink benefits because, for example, their partner might have a part-time job. In that case they will get nothing. The agency is referring them to Centrelink knowing full well many of them will get nothing or a fraction of what they are getting in workers compensation. They are also being referred to Housing Pathways, which is a homelessness—

The Hon. Trevor Khan: Point or order: The member should be speaking to the issue of urgency rather than the substantive issue.

The PRESIDENT (15:36): I uphold the point of order. I remind Mr David Shoebridge of a past ruling made by President Primrose that arguing the importance of the matter is not the same as arguing its urgency. The member should limit his argument to urgency.

Mr DAVID SHOEBRIDGE: This matter is urgent because the Government knows that come Christmas these workers will be homeless. That is why they are being referred to Housing Pathways. If injured workers becoming homeless as a result of changes made by this House does not make the matter urgent, I do not know what will. This matter is urgent because the Government is referring these workers to Lifeline, which provides support to those contemplating suicide.

The Hon. Trevor Khan: Point of order: My understanding is that the member should be demonstrating why this matter is more urgent than others. Simply adding the word "urgent" to his contribution does not make the matter urgent.

The PRESIDENT: Order! I uphold the point of order.

Mr David Shoebridge: This Government knows that these changes will cost lives. [*Time expired.*]

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:37): The Government opposes the suspension of standing orders in respect of this matter, and it does so for two reasons. First, the burden clearly has not been discharged. Mr David Shoebridge has not demonstrated why this issue is more urgent than the other matters on the *Notice Paper*. Secondly, despite what the member has said, attempting to second read a bill on the second last sitting day demonstrates that the matter is not urgent simply because it is not possible to conclude the debate before the end of the sitting year.

The two items of business on the *Notice Paper* to be dealt with today—the final sitting day for dealing with Government business—before the House adjourns are the Terrorism (High Risk Offenders) Bill 2017 and the Building Products (Safety) Bill 2017. For the member to discharge the burden that he should discharge in convincing the House, he must explain why his matter is more urgent than those two matters. The Terrorism (High Risk Offenders) Bill deals with the serious matter of high-risk offenders and terrorists. The House has already declared the bill an urgent bill as it deals with one of the most serious problems facing Australia and the world. It is an important matter.

The Building Products (Safety) Bill—the other matter on the *Notice Paper* for today—arose as a result of the tragic Grenfell Tower fire in London. The bill is designed to prevent the unsafe use of building products in buildings by giving the Commissioner for Fair Trading the power to prohibit the use of a building product in a building if the secretary is satisfied on reasonable grounds that its use is unsafe. This is a critical matter that deals with a serious problem. It is necessary for both matters to be dealt with before the end of the year, yet Mr David Shoebridge is suggesting that his matter, which has been extensively canvassed in the House and looked at closely by parliamentary committees, is more urgent. I suggest that he is wrong.

If the member is successful in suspending standing orders he may try to get his bill declared urgent. There are only 1½ sitting days left for the year and we have several other matters to deal with. If the proper processes of the House were followed, after Mr David Shoebridge made his second reading speech the debate would be adjourned for five calendar days. In that time the House would have adjourned for the summer recess. Under the normal procedures that apply to the consideration of legislation, it is not possible to deal with this matter before the House adjourns for the summer recess. It is a little disingenuous to say that this matter is urgent because in the normal course of events it could not be dealt with in any case. The burden has not been discharged and there is no reason to suspend standing orders. Two matters must be dealt with before the House adjourns tonight—the Terrorism (High Risk Offenders) Bill and the Building Products (Safety) Bill. As these matters are more urgent the House should oppose Mr David Shoebridge's motion.

The Hon. ADAM SEARLE (15:42): The Opposition supports this motion because anyone who knows anything about workers compensation in this State and the terrible effects of the Government's 2012 reforms will know that immediate remedial action to secure workers rights is well and truly overdue. The Leader of the Government is disingenuous in setting a false standard. Mr David Shoebridge does not need to satisfy the House that his bill is more urgent than the other two that remain to be dealt with because, as the Leader of the Government

indicated, Mr David Shoebridge is simply seeking to complete his second reading speech. What happens to his bill thereafter does not need to preclude the consideration of the other two bills that have been declared urgent.

The Opposition will be supporting the terrorism and building bills so there is no question about those two important pieces of legislation passing through the Parliament before the rising of the House. It is a falsehood to suggest that consideration of this workers compensation measure will somehow jeopardise the passage of the other two bills. This House will have an opportunity to consider all these matters. Although this Government has never used the reserve week in its six or more years in office we are obliged to keep that week in our diaries.

The Hon. Walt Secord: We are ready.

The Hon. ADAM SEARLE: I acknowledge that interjection. This House can deal with all the matters that are before it and deal with Mr David Shoebridge's bill. The false threshold suggested by the Leader of the Government is not an obstacle to the consideration of this urgent matter.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): The question is that the motion be agreed to.

The House divided.

Ayes 16
Noes 17
Majority..... 1

AYES

Borsak, Mr R
Donnelly, Mr G (teller)
Graham, Mr J

Brown, Mr R
Faruqi, Dr M
Moselmane, Mr S
(teller)

Buckingham, Mr J
Field, Mr J
Pearson, Mr M

Primrose, Mr P
Shoebridge, Mr D
Wong, Mr E

Searle, Mr A
Veitch, Mr M

Secord, Mr W
Walker, Ms D

NOES

Amato, Mr L
Colless, Mr R
Franklin, Mr B (teller)
Khan, Mr T

Blair, Mr N
Cusack, Ms C
Green, Mr P
MacDonald, Mr S

Clarke, Mr D
Farlow, Mr S
Harwin, Mr D
Maclaren-Jones, Ms N
(teller)

Mallard, Mr S
Taylor, Ms B

Martin, Mr T
Ward, Ms P

Nile, Reverend F

PAIRS

Houssos, Ms C
Mookhey, Mr D
Sharpe, Ms P
Voltz, Ms L

Fang, Mr W
Mason-Cox, Mr M
Mitchell, Ms S
Phelps, Dr P

Motion negatived.

Bills

STATE REVENUE LEGISLATION AMENDMENT (SURCHARGE) BILL 2017

Second Reading Debate

Debate resumed from 15 November 2017.

The Hon. PETER PRIMROSE (15:52): By leave: I lead for the New South Wales Labor Opposition in debate on the State Revenue Legislation Amendment (Surcharge) Bill. While there are some worthwhile parts to this bill, unfortunately they are caught up in a series of other completely unacceptable elements. The object of

this bill is to make amendments to the Duties Act 1997, the Land Tax Act 1956 and the Land Tax Management Act 1956 for the following purposes:

- (a) to provide for exemption from and refunds of surcharge purchaser duty and surcharge land tax payable in respect of residential land by a foreign person that is an Australian corporation when the land is used for the construction of new homes or is subdivided and sold for the purposes of the construction of new homes;
- (b) to provide that the small business declaration required for the purposes of the small business exemption from duty on an insurance policy is to be provided in a manner approved by the Chief Commissioner—replacing the current requirement that it be provided in writing; and
- (c) to enact consequential savings and transitional provisions.

The Opposition will move amendments that, in essence, will seek to save the Government from itself—from a mess such as the one created by the fire and emergency services levy. Ironically, our amendments will propose that the Government stick with the foreign investor surcharge policy that it introduced under Treasurer Berejiklian. Let us be clear on that point. The Opposition wants the Government to adopt the policy that the current Premier implemented when she was Treasurer. That is the choice that Government members will make today. If Government members do not support our amendments they will, in essence, be undermining their Premier in her time as Treasurer. They would be suggesting that when she made that principled decision about foreign investment surcharges she was somehow wrong or incorrect.

Let me tell members of another way we are trying to save the Government from itself. Recently Premier Berejiklian told a room full of business elites that the days of backflips were over and that she would start to stick to her decisions. Here we are, less than one week later, contemplating yet another backflip. We will try to save the Government from itself. There are three key elements to this bill, the first of which the Opposition rejects, the second of which it supports, and the third of which it rejects as it is consequential on the first.

To understand the debate today—and to understand the bill and its place in history—we must reflect a little on the context so I will go through some of the history. In June 2016 Treasurer Berejiklian announced that the Government would introduce a foreign investor surcharge—a key piece of the 2016 budget for her. It was meant to be a means to collect revenue and to discourage foreign investment in the hope that it would cool demand in the housing market and, consequentially, make housing more affordable for the residents of New South Wales. I am speaking primarily about the Sydney housing market.

The Hon. Greg Donnelly: Point of order: My point of order relates to the level of noise in the Chamber.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): Order! Members will cease interjecting.

The Hon. PETER PRIMROSE: At the time of introducing her new foreign investor surcharge reform Treasurer Berejiklian determined that the surcharge should be applied to all foreign investment—be that for purchasing housing stock as a buyer, or investing in property development and the creation of housing stock. Under the 2016 Berejiklian model everybody would pay and this would create much-needed revenue. In her Budget Speech delivered to Parliament on 21 June 2016 Treasurer Berejiklian said:

The surcharges are expected to generate around \$1 billion in revenue over four years that will be invested into vital services such as health and education.

So what has changed? Are we no longer in need of investment in health and education? In June this year, in the New South Wales budget, Treasurer Perrottet, presumably with the endorsement of Premier Berejiklian, quietly snuck through a significant amendment to the foreign investor surcharge. Strangely, Treasurer Perrottet in his Budget Speech did not talk about changes to the foreign investor surcharge. In essence, the changes made in the 2017 budget were significant increases to the tax rate paid by foreign investors in the New South Wales property market. But there was no mention of it by the Treasurer.

It is interesting that the Treasurer did not mention the change to the surcharge or tax rate in his speech, given that the Government was set to capture an additional \$893 million over the forward four years for the State. The Treasurer did not mention those tax increases in his speech, even though the Treasurer and the Premier had gone to great lengths to do media on this issue three weeks prior to the budget being delivered and proclaim the benefits of the additional \$893 million in revenue. This new revenue, which was to be achieved by increasing the rate applied to foreign investor surcharges, was to be used to offset the cost of changes to transfer duties for first home buyers, which will cost the State some \$1.1 billion over the next four years. If anyone is concerned about those figures, I refer them to Budget Paper No. 1, pages 5-3 and 5-4.

As I noted a few moments ago, in his speech the Treasurer did not talk about the foreign investor surcharge increases. The Treasurer wanted to paint an image of a government cutting taxes whereas the opposite was true. The Treasurer made the claim in his speech that, "good Liberal budgets do not increase tax, they decrease it". But at the very same time in the very same budget, the Treasurer was increasing the tax on foreign investment

by \$893 million. Which of those comments is true? The Treasurer introduced increased taxes on foreign investors in his budget and did not mention them, despite previously doing media about it. Clearly, in the 12 months since then, when Treasurer Berejiklian first introduced the Foreign Investor Scheme, the developer lobby groups had been active in the various ministerial offices.

Apparently, so we are led to believe, then Treasurer Berejiklian had created a messy and expensive problem for developers and now Treasurer Perrottet is trying to clean up this perceived mess—not to mention other messes. But Treasurer Perrottet's June budget attempt to clean up the Berejiklian mess did not go far enough for the developer industry. They did not want a refund; they wanted an exemption. Not only that, they did not want a five-year limit on their development opportunity; they wanted 10 years. Interestingly, Treasurer Perrottet told us in documents tabled in the Legislative Council that the five-year limit he was imposing would prevent land banking.

With the legislation containing the changes that Treasurer Perrottet was putting forward having passed through the Parliament in June this year, the Government was lampooned with amendments that did not get the developers off its back. The Government sat on its approved June 2017 legislation and has not enacted it. Here we are again with the Government seeking to make changes to the Berejiklian bill of 2016, although this time the Liberals and The Nationals are going the whole hog for the foreign developers. They are cashing in all of their chips in this one last effort to appease the property developer industry.

Under the bill proposed by the Government, a foreign developer could buy property today and not develop it until 2027. Today is lottery day for foreign developers. Under this Government with this bill, foreign investors who build houses will be showered with the riches of exemptions, but foreign investors who buy the housing will be taxed at will. What about our hospitals and schools and our first home buyers? In simple terms, if a government will collect less income from the foreign investor taxes or surcharges by creating a special exemption classification for developers, then that certainly will mean that there will be less to spend on those intended purposes.

I reiterate that the Government had said that the money was for hospitals, schools and first home buyers. If less money is collected up-front, logically there is less to spend at the other end. If a government wants to spend the same amount of money at the other end, then it has to take it from somewhere else. From which of the essential services being provided across the State does the Government plan to take it? How much in taxes, fees and charges are being imposed on foreign developers, and how much money potentially will be forgone if exemptions apply?

The shadow Minister for Finance in the other place sought a number of details from Treasury. He asked about the number of foreign investors, the size and scale of their involvement in the market, which part of the market they were involved in, and how much of their supply was sold within the New South Wales market as opposed to off the plan in a foreign country. He asked what impact the changes imposed in this bill ultimately would have on the budget. I think the House would agree that they are fair and reasonable questions.

In trying to land on a position in dealing with this bill, having the budget impact information is a reasonable request. But Treasury could not say for sure what the impact would be. That is not a slur on Treasury. In fact, there is a very reasonable and sensible explanation for why Treasury could not give the detail. The fact is that prior to 2016 we had never ever needed to capture the detail of who were foreign investors, who were foreign developers, how much money they were putting in and what stock they were bringing to market. We had never needed to do that.

It is impossible for Treasury to do reasonable modelling on this—by which I mean provide a figure that is accurate within a broad ballpark. In reality, in dealing with this bill today it is literally impossible for us to know how much money we are talking about. It is a blank cheque. If we believe then Treasurer Berejiklian and now Treasurer Perrottet, the money that will be forgone will be taken from schools, hospitals and first home buyers. Not knowing the budget impact is one thing, but making a decision that will impact the budget while not knowing how much is involved will be quite another. That is the position we are being asked to accept today.

To find evidence of just how big or small the blank cheque might be, the shadow Treasurer went through the Treasury papers. As members of this House would be aware, when a budget is delivered, under Standing Order 52 papers are requested and made available to this House. There are thousands of pages in dozens of boxes. The shadow Treasurer spent many hours going through them. He eventually found on two separate pieces of paper in one box an estimated impact on the budget of \$34 million over the forward four years as a result of those changes. In context, \$34 million would build at least one if not two schools or provide for a significant upgrade to a regional hospital or for a stamp duty exemption for 100 or more first home buyers.

The shadow Treasurer then spoke to the stakeholders from the development industry and asked them for a gauge of the size and impact of the bill in their view. They had a significantly different view from Treasury. In

lobbying for its constituency, the housing industry has proffered that the actual size of the impact would be easily in the tens of millions of dollars each year. The gap between those figures is striking. The Treasury figure suggests \$34 million over four years while developers say it could be tens of millions of dollars each and every year. Today members of this House are being asked to vote for a blank cheque. Hundreds and millions of dollars in revenue could be at stake. The Opposition will not vote for an unknown and unknowable budget impact.

Mr JUSTIN FIELD (16:07): On behalf of The Greens I participate in debate on the State Revenue Legislation Amendment (Surcharge) Bill 2017. There are two elements to this bill: first, to allow the Chief Commissioner to approve the manner in which a small business declaration is submitted for the purpose of accessing the small business insurance stamp duty exemption; and, secondly, to provide for refunds and exemptions to the foreign investor surcharge on stamp duty and land tax. The first element of the bill relates to insurances, such as commercial vehicle insurance, insurance for vehicles primarily used for a small business, occupational indemnity insurance, product and public liability insurance for personal injury or property damage and commercial aviation insurance.

The Hon. Greg Donnelly: Point of order: My point of order relates to the use of a telephone inside the House. An honourable member is using a telephone. He knows that is not permitted.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): The Hon. Greg Donnelly has raised use of telephones in the House. I draw that to the attention of the honourable member.

Mr JUSTIN FIELD: The Greens support providing small businesses with flexibility when it comes to accessing this exemption. That makes sense. I indicate that the remainder of my contribution to this debate will relate to the second element of the bill. The Greens do not support providing refunds and blanket exemptions to the foreign investor surcharges on stamp duty and land tax, regardless of whether or not foreign investors own businesses based in Australia. We did not support it as a measure in the budget and we do not support it now that it is being enacted through this bill, or the extension of refund exemptions.

Make no mistake: This is the Berejiklian Government's Christmas gift to the property development lobby. Tens of millions of dollars at least will be gifted to foreign-owned property developers at the expense of the New South Wales taxpayer. I will come to the question of the total amount we are talking about later. This shortfall means the budget is limited in its funding for community services, such as schools, hospitals and public transport. What is particularly galling is that in this instance it is being done in the guise of housing affordability, although it will take money directly out of the budget and therefore affect the budget's capacity to fund genuine housing affordability measures, in particular measures to fund public housing, of which there is a shortfall. I will turn to that also later in my contribution.

The bill goes some way to invalidating the entire intention behind the surcharges announced in the 2016 budget. It is another backflip by the Government, reversing part of its own policy, and again it is a backflip that is driven by vested interests—this time, the interests of the building industry lobby. This Premier is now undoing part of the very thing she sought to put in place as Treasurer. The housing policy of this Government and its obsession with supply over other measures to address housing affordability is being dictated by the building lobby. Meanwhile, the public endures increasingly unaffordable housing, mortgage stress, exorbitant rental prices and an endless queue for public housing. This Premier and this Treasurer announced housing affordability as the Government's number one priority, and on this measure they are clearly failing. We need affordable housing policy that puts the interests of the public ahead of property developers.

I will reflect briefly on how this bill came about because how we got to where we are is relevant to this debate, and it shows the absurdity of the changes and the continual stepping back from the original announcement in 2016. In that budget the Government made the decision to raise revenue from foreign property developers. A 4 per cent surcharge on stamp duty and 0.7 per cent surcharge on land tax were introduced for foreign investors purchasing new residential real estate. In the 2017-18 budget those surcharges were increased, but refunds would be available for Australian-based foreign-owned developers. This refund provision has not yet commenced. This bill enacts the refund provision but also provides a greater gift to foreign-owned property developers to allow broad exemptions to both types of surcharge. It will apply to subdivisions and will extend the time from five years to 10 years for a developer to make a refund claim to commence building.

The Chief Commissioner is yet to develop guidelines that will set out the criteria for the exemptions, so for now this House and the public are left with some uncertainty as to how the provisions will be implemented and just how many developers will be able to obtain exemptions. I ask the Government to put on the record in reply how much it expects will be refunded in surcharges or avoided as a result of these changes. Without the guidelines yet in place and knowing what we know about how businesses and individuals arrange their affairs to avoid taxes, what steps will be taken to avoid these provisions not being used as a loophole for a wider range of non-Australian investors in the property market?

Regardless of the details of this bill, the Government's obsession with supply as the solution to housing affordability is doing a disservice to the New South Wales public. The Government said that increased supply is an integral component of its housing affordability strategy, but The Greens know that supply is not the answer. My colleague in the other place Jenny Leong, the member for Newtown, has been campaigning for equitable and affordable access to housing, and we know that a surplus of houses does not necessarily result in lower prices. We just need to look at the volume of vacant housing in Sydney to recognise that fact. This week The Greens' arguments were backed by more research, this time from the Australian National University. The ANU report found that:

While increasing housing supply has "some benefits" it is "unlikely in isolation to create affordable housing" in Australia.

The study found that inner-Sydney had a "significant surplus" of almost 6,000 dwellings, which was the largest oversupply of all the regions in the study. The report also found that inner-north, inner-west and inner-south of Sydney had housing surpluses. Evidently, supply is not working in Sydney in the way the New South Wales Government continues to claim it is working when talking about housing affordability. The Greens maintain that supply is not the answer. We need strong action on homelessness, social housing, and an affordable rental market. We need sensible conversations on transitioning from stamp duty to land tax as well as reining in capital gains tax exemptions and negative gearing at a Federal level.

It will be through advocacy of the States that pressure will be brought to bear on all sides of politics for the Federal level to get on board with the two fundamental tax measures that are the biggest contributors to housing unaffordability in this country. These are the actions that have broad support by economists, and housing and homelessness groups who understand the challenges that unaffordable housing presents to the broader economy and society. This Government's obsession with supply is putting more money into the pockets of property developers while the public continues to suffer. The Government has created a credible revenue stream through these stamp duty and land tax surcharges, which we acknowledge, but is now undermining that and gifting it back to certain property developers' vested interests.

Media reports by Fairfax estimate that the refunds are worth tens of millions of dollars per year. The real impact remains to be seen, but regardless The Greens believe available revenue from the surcharge should be directed into public housing. As my colleague Jenny Leong stated in the other place, there are some 60,000 individual applications, potentially representing 100,000 people, who have been approved for public housing and yet are unable to access public housing due to a lack of stock. The tens of millions of dollars per year in revenue that will be forgone as a result of this bill would go some way to housing those people and getting their lives back on track. This Government should listen to the people across the State looking to put a roof over their family's heads rather than quivering at the concerns of the building industry lobby. We need a government that thinks about people, not property developers. For these reasons, The Greens oppose this bill.

The Hon. ERNEST WONG (16:16): I join my colleagues to debate the State Revenue Legislation Amendment (Surcharge) Bill 2017 and to support the amendments proposed by Labor. Seriously, this is a bill that does need some amendment. While there are some worthwhile aspects of the aims of the bill, these are contradicted by unnecessary or even outright confused additions, which need addressing. It is for the sake of the worthwhile parts of this bill that Labor has moved sensible amendments rather than outright not supporting the bill. Other speakers have canvassed those aspects in some detail, so I will be brief and I thank my colleagues, especially the member for Cessnock, Clayton Barr, in the other place, for their diligence in studying this bill.

Labor's amendments will in essence seek to save the Government from itself. As others have noted, Labor's amendments will help to defend the Government's own foreign investor surcharge, a policy introduced by then Treasurer and now Premier Berejiklian. One would have thought that the Premier would be alert to her own policy legacies, but perhaps she is distracted by counter-intuitive tolling regimes, so Labor might be able to assist here. We want the Government to adopt the policy that the current Premier had when she was Treasurer. We want those opposite to defend a Berejiklian legacy. If they do not, what would that say about the Premier and her record as Treasurer? Perhaps it would say that she was wrong in 2016 and that putting the people of New South Wales ahead of foreign developers was a mistake. I cannot wait to see the vote on Labor's amendments, as it will be most interesting. At the time of introducing her new foreign investor surcharge reform, Treasurer Berejiklian announced a model to help to balance the playing field in the New South Wales property market and create much-needed revenue. She told this Parliament:

The surcharges are expected to generate around \$1 billion in revenue over four years, that will be invested into vital services, such as health and education.

This is a noble aim, but what happened to that nobility? As others have already outlined, the then Treasurer's initiative has been quietly modified, watered down and vulgarised until it no longer serves its purpose. What could be the reason for all this quiet unwinding?

Clearly developer lobby groups had been active in the Liberal ministerial offices of the Premier and Treasurer. Clearly in a Coalition Government their needs trump those of the roads, schools, hospitals or first home buyers that the Premier crowed about. Today is a red letter day for foreign developers, but what about our hospitals and schools? What about our first home buyers? If the Government is going to collect less income from the foreign investor taxes by creating a special exempt classification for developers, then this will certainly mean that there is less to spend on those purposes. The choice before us is therefore simple: either support this revenue stream for our hospitals, schools and first home buyers or support profits of the foreign developers. That, in essence, is why the New South Wales Labor Party will not support this bill in its current form.

We will not affect investment in hospitals, schools and first home owners, especially when, as has been noted, that impact is yet to be defined. Accordingly, Labor has put forward amendments that will remove any option of a refund or exemption for foreign property developers. Labor is seeking to hold the Government to account for its own policies and its own promises to the people of New South Wales. Labor is taking a position of financial security for infrastructure for everyday communities and priority allocation of revenue. We will not support what is effectively a blank cheque bonus for foreign developers at the expense of health, education and first home buyers in New South Wales. I support the Labor amendments as outlined and thank members for their attention.

Mr SCOT MacDONALD (16:20): On behalf of the Hon. Don Harwin: In reply: I thank the Hon. Paul Green, the Hon. Peter Primrose—who was so good he spoke twice—the Hon. John Graham, Mr Justin Field and the Hon. Ernest Wong for their contributions to the debate. The reforms in the State Revenue Legislation Amendment (Surcharge) Bill 2017 enhance important concessions in respect of the surcharge taxes in the Duties Act 1997, the Land Tax Act 1956 and the Land Tax Management Act 1956.

The surcharge purchaser duty and surcharge land tax introduced in the 2016 budget were clearly stated to be intended to apply to foreign purchasers and investors of residential real estate. They are not intended to apply to property developers but to foreign investors who purchase residential property. Important reforms to the surcharge taxes were introduced in the 2017 budget to address a potential unintended liability on Australian-based developers. The bill complements those changes following consultation with the property industry. Sadly, there have been some attempts to misrepresent the effect of the changes. The amendments are not about providing a tax break for developers but about maintaining the supply and affordability of new housing for New South Wales residents.

If the amendments proposed in this bill are not implemented, some New South Wales residents who purchase residential property could end up bearing the cost of the surcharge taxes that otherwise would be payable by some property developers. Clearly that is not a desirable result. The refinements to the provisions allowing foreign-owned Australian corporations to obtain surcharge relief will help to ensure that such organisations are not placed at a competitive disadvantage to their Australian-owned counterparts. This will help those organisations to invest in new housing projects so the supply of new homes is as strong as possible. The bill also extends the time frame in which a development must be completed to be eligible for the refund or exemption from five years to 10 years.

Concerns have been raised from those opposite that this extension is unnecessary. This will not facilitate land banking by developers, but it is a realistic maximum period during which developers can acquire, consolidate, plan, build and sell large residential developments. As outlined in its Housing Affordability Strategy, the Government is committed to doing what it can to make buying and owning a home a realistic proposition for as many hardworking people as possible. A strong supply of new housing is an essential component of this strategy and having listened to industry we believe the proposed refinements are justified.

At the same time I cannot emphasise enough that the concessions we are providing to industry come with obligations. No developer will be able to take for granted an exemption from surcharge. The reforms contain important accountability measures to help to ensure the goals of the Housing Affordability Strategy are met. In particular, the Chief Commissioner of State Revenue has the power to revoke approval and to assess a developer to surcharge purchaser duty or surcharge land tax at any time if the developer is not meeting the conditions of approval. Therefore, I commend to members the amendments contained in this bill as necessary and appropriate.

Those amendments are: to allow developers to receive an up-front exemption as an alternative to refunds to help in mitigating the up-front costs faced by developers; to extend eligibility for surcharge taxes relief to developers who subdivide land, install infrastructure and sell that land to homebuyers, and who engage with other parties to build homes, which is an important part of the development of the supply of new housing; and to remove the requirement for a small business declaration to be made in writing to provide the insurance industry with greater flexibility in taking and recording declarations made for the purposes of obtaining an exemption from insurance duty. I commend the bill to the House.

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

Motion agreed to.

In Committee

The TEMPORARY CHAIR (The Hon. Shayne Mallard): There being no objection, the Committee will deal with the bill as a whole, with the exception of schedules 1 to 3. There is one set of Opposition amendments on sheet C2017-121.

The Hon. PETER PRIMROSE (16:27): On advice from the Clerk I will not move Opposition amendment No. 1. As indicated, the Committee will consider schedules 1 to 3 separately and we will vote accordingly. We have sought to vote against the bill. To have the matter proceed and actually be considered in Committee, it was proposed that we move a simple procedural matter that the Act commence on the date of assent.

We have been advised subsequently by the Clerk that it was not necessary to remove that procedural matter and I did not proceed to move the amendment. I have requested that schedules 1, 2 and 3 be voted on and we will be voting on them in globo. The Opposition will be voting against all three schedules. The Opposition believes it is inappropriate to proceed with this bill for the reasons that I outlined in my speech in the second reading debate and the reasons expressed by the Hon. John Graham, the Hon. Ernest Wong and others in relation to Australian-based developers that are foreign persons. We will be voting no to the question that the schedules as read stand part of the bill. This legislation has no certainty in terms of budget impact and it risks becoming another fire and emergency services levy debacle.

Mr SCOT MacDONALD (16:30): I take on board everything the member has said. As a point of clarification, in not proceeding with Opposition amendment No. 1, does the amendment have to be withdrawn?

The TEMPORARY CHAIR (The Hon. Shayne Mallard): No.

Mr SCOT MacDONALD (16:30): The Government proceeds with schedules 1, 2 and 3. The removal of those schedules effectively would neuter the legislation and we urge the House to support the bill as it is.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The question is that schedules 1, 2 and 3 as read be agreed to.

Motion agreed to.

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

Motion agreed to.

Mr SCOT MacDONALD: I move:

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

Motion agreed to.

Adoption of Report

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

That the report be adopted.

Motion agreed to.

Third Reading

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

That this bill be now read a third time.

Motion agreed to.

BUILDING PRODUCTS (SAFETY) BILL 2017

First Reading

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. David Clarke, on behalf of the Hon. Sarah Mitchell.

The Hon. DAVID CLARKE: According to sessional order, I declare the bill to be an urgent bill.

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

Declaration of urgency agreed to.

The Hon. DAVID CLARKE: I move:

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

Motion agreed to.

TERRORISM (HIGH RISK OFFENDERS) BILL 2017

Second Reading Speech

Debate resumed from 21 November 2017.

The Hon. DAVID CLARKE (16:33): On behalf of the Hon. Don Harwin: I move:

That this bill be now read a second time.

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

Leave granted.

The Government is pleased to introduce the Terrorism (High Risk Offenders) Bill 2017. This bill introduces important reforms to protect the community from offenders who have reached the end of their prison sentence and pose an unacceptable risk of committing a future serious terrorism offence at the end of their sentence. It is a sad reality that terrorism continues to present an ongoing threat to the safety and security of New South Wales and the nation. Australia's National Terrorism Threat Level remains probable, which means that:

Credible intelligence, assessed by our security agencies, indicates that individuals or groups continue to possess the intent and capability to conduct a terrorist attack in Australia.

Unfortunately, the people of New South Wales are all too familiar with the terrible impact caused when the threat of terror manifests itself. Monday 15 December 2014 will forever be etched into the collective memory of the nation as the day in which terror struck in the heart of Sydney. This was the day that Man Monis, an armed terrorist sympathetic to the Islamic State terrorist group, took 18 people hostage in the Lindt Café in Martin Place. Ultimately, the lives of two innocent people—Tori Johnson and Katrina Dawson—were lost as a result of the terrorist's actions that day and the early hours of the following morning.

New South Wales has been subject to numerous terrorism plots that, thankfully, have been prevented due to the efforts of the NSW Police Force and other law enforcement and intelligence agencies. One only needs to imagine the carnage that would have been caused if the plot to detonate explosives smuggled onto a passenger plane in a meat grinder had not been foiled by the authorities. This plot, and all of the other plots that have been prevented, show how important it is to be vigilant and address new challenges as they arise. This means ensuring that the authorities have effective powers and legal frameworks aimed at combating terrorism and protecting the public. This bill aims to do just that.

The bill creates a post-sentence supervision and detention scheme covering New South Wales offenders serving a sentence of imprisonment for an indictable offence. The bill will enable the Supreme Court to impose extended supervision orders or continuing detention orders on offenders who pose an unacceptable risk of committing a future serious terrorism offence at the completion of their sentence. The New South Wales post-sentence supervision and detention scheme will complement the Commonwealth's post-sentence detention scheme for Commonwealth offenders and builds on structures in place for the New South Wales post-sentence supervision and detention framework for serious sex and violence offenders. That scheme covers quite a small number of high-risk offenders who require incarceration or intensive supervision after their sentence has ended.

The bill also makes the necessary amendments to the Crimes (Administration of Sentences) Act 1999 and its regulations to ensure offenders subject to the Commonwealth post-sentence detention scheme are able to be housed and managed in New South Wales correctional centres. The bill also implements recommendation 12 from the Martin Place Siege Joint Commonwealth—New South Wales review and recommendation 42 from the New South Wales Coroner's inquest into the deaths arising from the Lindt Café siege. It does so by amending the Privacy and Personal Information Protection Act 1998 to allow New South Wales public sector agencies to disclose personal information they hold to the Australian Security Intelligence Organisation [ASIO] where ASIO requests that information and certifies that it is reasonably necessary for ASIO to fulfil its statutory functions.

There is no doubt that laws to keep offenders behind bars or under supervision after they have completed their sentences are tough laws. The New South Wales Government makes no apologies for this. The bill adds to the already strong arsenal of laws aimed at disrupting terrorism and keeping the community safe. The post-sentence supervision and detention scheme is not intended to operate indefinitely for each individual offender subject to the scheme. The scheme will provide a real opportunity for an offender to utilise the extensive rehabilitation and countering violent extremism services offered by the New South Wales Government. If an offender undergoes rehabilitation and no longer poses an unacceptable risk of committing a future serious terrorism offence, they will no longer be subject to the extended supervision or continuing detention.

I now turn to the detail of the bill. Part 1 of the bill contains the objects of the bill, contains the definitions used throughout the bill and explains the application of the bill, including the bill's relationship with other Acts. Division 1.3 of part 1 provides the key concepts used throughout the bill. Division 1.3 provides that an "eligible offender" is a person who is 18 years of age or older and who is serving a sentence of imprisonment for a New South Wales indictable offence. This also includes a person who is continuing to be supervised or detained after serving a term of imprisonment for a New South Wales indictable offence.

An eligible offender is considered to be a "convicted NSW terrorist offender" if the offender is serving, or is continuing to be supervised or detained under this Act after serving, a sentence of imprisonment for an offence against section 310J of the Crimes Act 1900; or the offender has previously served a sentence of imprisonment for an offence against section 310J of the Crimes Act

1900 and is serving, or is continuing to be supervised or detained under this Act after serving, a sentence of imprisonment for any other New South Wales indictable offence.

An eligible offender is considered to be a "convicted NSW underlying terrorism offender" if the offender is serving, or is continuing to be supervised or detained under the Act after serving, a sentence of imprisonment for a New South Wales indictable offence; and the offender's offence is a serious offence; and the offender's offence occurred in a terrorism context. Clause 9 (2) outlines the types of offences—for example, a firearms offence—that are considered to be serious offences for the purposes of the definition of "convicted NSW underlying terrorism offender". Clause 9 (3) outlines how an offence is taken to have occurred in a terrorism context for the purposes of the definition of "convicted NSW underlying terrorism offender".

Clause 10 outlines how an eligible offender is considered a "convicted NSW terrorism activity offender". An eligible offender is a convicted New South Wales terrorism activity offender if the offender is serving, or is continuing to be supervised or detained under the Act after serving, a sentence of imprisonment for a New South Wales indictable offence, and either the offender has at any time been subject to a control order; or the offender has at any time been a member of a terrorist organisation; or the offender has made statements or engaged in other conduct involving advocating support for engaging in any terrorist acts, or is associated or otherwise affiliated with other persons or with organisations advocating support for engaging in any terrorist acts. The Supreme Court is responsible for determining whether an eligible offender is a convicted New South Wales terrorist offender, convicted New South Wales underlying terrorism offender or convicted New South Wales terrorism activity offender. Clauses 11 and 12 of the bill outline the procedural requirements for making an application for one of these determinations and also the factors the Supreme Court may take into account when determining an application.

Part 2 of the bill allows the State to apply to the Supreme Court for an extended supervision order for an eligible offender. The court can make an extended supervision order if the offender is in custody or under supervision either while serving a sentence of imprisonment for a New South Wales indictable offence; or under an existing interim supervision order, extended supervision order, interim detention order or continuing detention order. In determining whether to make an extended supervision order, the court must be satisfied that the eligible offender is a convicted New South Wales terrorist offender, a convicted New South Wales underlying terrorism offender, or a convicted New South Wales terrorism activity offender. The court must also be satisfied to a high degree of probability that the offender poses an unacceptable risk of committing a serious terrorism offence if not kept under supervision under the order. The court can also dismiss an application for an extended supervision order.

Division 2.3 provides the application process for the State to apply to the Supreme Court for an extended supervision order. An application can be made only in respect of an eligible offender who is in custody or under supervision while serving a sentence of imprisonment for a New South Wales indictable offence, or under an existing interim supervision order, extended supervision order, interim detention order or continuing detention order. An application for an extended supervision order cannot be made until the last 12 months of the eligible offender's current term of custody or supervision. It must be supported by documentation that addresses the list of factors in clause 25 (3) that the court must have regard to when determining an application as well as a report, prepared by a qualified psychiatrist, registered psychologist, registered medical practitioner or other relevant expert, that assesses the likelihood of the eligible offender committing a serious terrorism offence. The maximum term for an extended supervision order is three years. The order commences either when the order is made or when the eligible offender's current custody or supervision expires, whichever is later.

Clause 27 allows the court to make an interim extended supervision order if it appears that the offender's current custody or supervision will expire before the proceedings are determined, and that the matters alleged in the supporting documentation would, if proved, justify the making of an extended supervision order. The maximum term for an interim order is 28 days. An interim supervision order can be renewed for a total period that does not exceed three months. An extended supervision order and an interim supervision order can include any conditions the Supreme Court considers appropriate. Clause 29 of the bill outlines some of the possible conditions the court might consider. This includes a requirement to wear electronic monitoring equipment and to participate in intervention programs or initiatives. The maximum penalty for a breach of an extended supervision order or an interim supervision order is 500 penalty units—which is currently \$55,000—five years imprisonment, or both.

Part 3 of the bill allows the State to apply to the Supreme Court for a continuing detention order. The court can order the continuing detention of an eligible offender if the offender is a detained offender or a supervised offender. A detained offender is a person who is in custody either while serving a sentence of imprisonment for a New South Wales indictable offence, or under an existing continuing detention order, emergency detention order or interim detention order. A supervised offender is a person who is in custody or under supervision either under an extended supervision order or an interim supervision order, or whose obligations under an extended supervision order or an interim supervision order have been suspended or under an interim detention order. In determining whether to make a continuing detention order, the Supreme Court must be satisfied that the offender is a convicted New South Wales terrorism offender, a convicted New South Wales underlying terrorism offender or a convicted New South Wales terrorism activity offender. The court must also be satisfied to a high degree of probability that the offender poses an unacceptable risk of committing a serious terrorism offence if not kept in detention under the order.

Division 3.3 provides the application process for the State to apply to the Supreme Court for a continuing detention order. An application can be made only in respect of a detained offender or a supervised offender, and cannot be made more than 12 months before the end of the offender's total sentence or the expiry of an existing continuing detention order. An application must be supported by documentation that addresses the list of factors in clause 39 that the court must have regard to when determining an application as well as a report—prepared by a qualified psychiatrist, registered psychologist, registered medical practitioner or other relevant expert—that assesses the likelihood of the eligible offender committing a serious terrorism offence. The Supreme Court can determine an application for a continuing detention order by making a continuing detention order, making an extended supervision order instead of the detention order, or by dismissing the application. The maximum term for an extended supervision order is three years. The order commences when the order is made or when the eligible offender's current custody expires, whichever is later.

Division 3.5 of the bill allows the court to make an interim detention order. An interim detention order can be made if it appears that the offender's current custody will expire before the proceedings are determined, and that the matters alleged in the supporting documentation would, if proved, justify the making of an interim detention order. The maximum term for an interim order is 28 days. An interim order can be renewed for a total period that does not exceed three months. Division 3.6 of the bill provides for emergency detention orders. An emergency detention order can be made by the court, on application by the State, in respect of an eligible offender who is the subject of an extended supervision order or an interim supervision order and who, because of altered

circumstances, poses an unacceptable and imminent risk of committing a serious terrorism offence if the emergency detention order is not made. The term of an emergency detention order cannot exceed 120 hours.

Part 4 of the bill provides that all proceedings under the proposed Act are civil proceedings and, to the extent to which the Act does not provide for their conduct, are to be conducted in accordance with the law relating to civil proceedings, including the Rules of Evidence. This does not impact on the weight the Supreme Court gives to information admitted under the Act. Clause 51 provides for registered victims to be notified of certain applications under the proposed Act. Registered victims are also given an opportunity to make a statement setting out the person's views about a proposed order and any conditions to which the order may be subject. A victim's statement must not be disclosed to the eligible offender unless the victim consents to the disclosure. Clause 52 enables prescribed terrorism intelligence authorities to also make submissions to the court. Clause 53 provides that an appeal can be made to the Court of Appeal against a determination by the Supreme Court to make or to refuse to make one of the orders specified in this clause.

Part 5 enables the Attorney General, in circumstances prescribed by the regulations, to require any person to provide "offender information" of a kind prescribed by the regulations. "Offender information" is defined to mean any document, report or other information that relates to the behaviour, beliefs, financial circumstances, or physical or mental condition of any eligible offender. This information may include terrorism intelligence. Failing to comply with a requirement to provide information will incur a maximum penalty of 100 penalty units for a corporation and 100 penalty units or imprisonment for two years or both in other cases. Any document or report so provided will be admissible in proceedings under the proposed Act despite any Act or law to the contrary. As noted earlier, while a document may be admissible in proceedings, this does not impact on the weight the Supreme Court applies to that information.

Clause 60 enables the Attorney General or a prescribed terrorism intelligence authority to apply to the Supreme Court to request that information be dealt with as terrorism intelligence. The Supreme Court must take steps to maintain the confidentiality of terrorism intelligence, including hearing evidence about the intelligence in private or restricting access to the terrorism intelligence. Despite this, the Supreme Court must provide either the offender or the offender's legal representative, or both, access to or a copy of the terrorism intelligence. A person who fails to comply with the Supreme Court's orders is subject to a maximum penalty of 100 penalty units or imprisonment for two years or both for an individual or 100 penalty units for a corporation. This provision also provides for an aggravated offence carrying a seven-year maximum penalty. This applies where a person fails to comply with the Supreme Court's orders and intends to endanger the health or safety of any person or prejudice an investigation into a relevant indictable offence, or is reckless in doing so. Part 6 confers functions under the proposed Act on the High Risk Offenders Assessment Committee. This committee was established under the Crimes (High Risk Offenders) Act 2006 and will exercise functions including:

- first, reviewing risk assessments of eligible offenders and making recommendations about what action could be taken in respect of those offenders;
- secondly, facilitating cooperation and coordination between relevant agencies in connection with any functions relating to the risk assessment and management of eligible offenders; and
- thirdly, facilitating information sharing between relevant agencies in connection with the exercise of their high-risk terrorism offender functions.

Part 7 of the bill contains a number of miscellaneous provisions. This part provides that the Attorney General, or any other person prescribed by the regulations, is entitled to act on behalf of the State for the purposes of applications made under this Act. The Attorney General may also enter into arrangements, on behalf of the State, with one or more other Australian jurisdictions, or one or more of their agencies, for the exchange or sharing of information that the parties hold about terrorism activities or suspected terrorism activities.

I now turn to how the bill will amend other legislation. On 1 December 2016, the Commonwealth Parliament passed the Criminal Code Amendment (High Risk Terrorist Offenders) Act 2016, which enables the post-sentence detention, but not supervision, of Commonwealth terrorist offenders who pose an unacceptable risk of committing a future serious terrorism offence. Schedule 2 to the bill makes amendments to other legislation necessary to implement the Commonwealth's post-sentence scheme. Schedule 2 also amends the necessary legislation to ensure that offenders subject to both the New South Wales scheme and the Commonwealth's post-sentence detention scheme can be housed and managed in the New South Wales corrections system.

Schedule 2.10 addresses a gap in the Local Court's capacity to punish longer term inmates effectively for possession of prison contraband. The existing framework prevents the Local Court from imposing a new sentence to be served consecutively, or partly concurrently and partly consecutively, on an offender who is already serving a prison sentence, if the new sentence would end more than five years after the existing sentence began. The amendment will address this gap and is limited to four prison contraband offences to maintain the important balance of authority between the Local Court and the District Court. Schedule 2.14 amends the Privacy and Personal Information Protection Act 1998 to allow public sector agencies to disclose certain personal information to ASIO. This was a recommendation arising from the Lindt cafe siege.

I thank the following people who have worked hard to deliver this reform: from our New South Wales government agencies, Anna Read, Daniel Noll, David Spackman and Paul McKnight from the Department of Justice; Kara Lawrence from Corrective Services NSW; Jennifer Hastings from the Office for Police; Bernhard Ripperger from the Office of the General Counsel; Assistant Commissioner Michael Willing and Duane Carey from the NSW Police Force; Michelle Micalief from Corrective Services NSW; Mark Follett and Lucian Tan from the Department of Premier and Cabinet; and especially Andreas Heger from the Department of Justice. I also thank the following staff from ministerial offices: Tom Payten, Greg Dezman, Katherine Danks, Julian Whealing, Monica Tudehope, Ed Clapin, Mitchell Clout, Bran Black, and especially Clare Wesley.

The protection of the community from the ongoing threat of terrorism is of paramount importance to the New South Wales Government. We will do whatever we can to ensure law enforcement authorities have at their disposal effective powers to keep the community safe. Through this bill, the Government is delivering on that commitment and ensuring that the counter-terrorism measures in New South Wales are some of the strongest in the country. We do not take this legislation lightly. It is unfortunate that we have to introduce these laws. But what would be more unfortunate—what would be unforgivable for a government—is if someone who we knew posed an unacceptable risk of committing a serious terrorism offence in custody was then released into the community and committed an atrocity. I commend the bill to the House.

Second Reading Debate

The Hon. ADAM SEARLE (16:35): I lead for the Opposition in debate on the Terrorism (High Risk Offenders) Bill 2017. The Opposition does not oppose the bill. Our view of the bill is contrary to the Government's rhetoric. The Attorney General admitted to other audiences outside of the Parliament that most terrorist offenders already will be subject to the currently existing post-sentence detention and supervision scheme. To put it simply, the current scheme applies to high-risk violent offenders. Given that by definition terrorists use or threaten violence, it is obvious why they would be covered by the current regime. To most people it is hard to pursue an argument that terrorist offenders are not associated with violence. We concede that there are gaps in the present structure but they are not as wide or important as government rhetoric would suggest.

It is perhaps for that reason that when the Government was talking up the legislation the Commissioner for Corrective Services, Peter Severin, could not identify anyone to whom it might apply. Bearing in mind it can apply only to people imprisoned previously, if there were any, one would expect the Commissioner for Corrective Services would know. Interestingly, security authorities would probably prefer to rely on the existing regime, which has a maximum detention and supervision period of five years, rather than the present bill in which the maximum period is three years.

The primary object of the bill is to provide the Supreme Court with the power to order the detention or supervision of certain offenders after they have served their sentence of imprisonment, provided the court is satisfied the offender poses an unacceptable risk of committing serious terrorism offences if not detained or supervised. This is presented as an extension of the already existing scheme that was introduced by the previous Labor Government for high-risk sex offenders, and extended in 2013 by the current government to high-risk violent offenders in legislation which the Labor Opposition did not oppose. I note that further amendments were made recently following a statutory review of the legislation.

The bill is modelled upon the Crimes (High Risk Offenders) Act which is the legislation governing the current regime. Many of the provisions of this bill are identical to that Act. One option might have been to amend that Act rather than establish a completely new piece of legislation. Perhaps it is cynical of me to note that it is probably a bigger media story if the Government can say it is introducing a whole new piece of legislation to deal with this issue rather than amending and building on a previously developed foundation. Part 2 of the bill deals with the extended supervision orders, and part 3 with continuing detention orders.

Applications are made to the Supreme Court. The test for the court is that it is to be satisfied to a high degree of probability that the offender poses an unacceptable risk of committing a serious terrorism offence if the order sought is not made. There are provisions for interim supervision orders and interim detention orders. There are also provisions for emergency detention orders. As with the Crimes (High Risk Offenders) Act, there are provisions that proceedings are in accordance with the law relating to civil proceedings and provisions concerning victims and victim impact statements, appeals to the Court of Appeal and a prohibition on costs orders against offenders. Likewise, conditions are set out that can be part of an extended supervision order [ESO], provisions for information to be sought by the Attorney General, and warnings to be given to the offender about the Act.

The most complex components of the bill are contained in part 1, division 1.3, entitled "Key Concepts". This is a series of definitional provisions setting out who is caught by the regime of the Act. An eligible offender is someone aged 18 years or older who is serving or being supervised or detained after serving imprisonment for a New South Wales indictable offence. This means the bill does not apply in respect of Commonwealth laws. This also, self-evidently, excludes juveniles. The court can make orders against eligible offenders who are convicted New South Wales terrorist offenders, or a convicted New South Wales underlying terrorism offender, or a convicted New South Wales terrorism activity offender. The first of these broadly relates to people imprisoned under section 310J of the Crimes Act, being a member of a terrorist organisation. There are not many people in that category. An email dated 21 November that was sent to the Parliamentary Research Service from the NSW Bureau of Crime Statistics and Research states:

According to the latest publicly available NSW Criminal Courts data from BOCSAR ending June 2017, there have been no finalised charges under section 310J of the NSW Crimes Act 1900 since the section's commencement.

A convicted New South Wales underlying terrorism offender is someone serving a sentence or being supervised or detained for a New South Wales indictable offence which is serious and which occurred in a terrorism context. Proposed section 9 (2) provides a definition of "serious", and proposed section 9 (3) deals with the terrorism context. A convicted New South Wales terrorism activity offender is someone serving imprisonment or being supervised or detained for an indictable offence and the offender has been subject to a control order, has been a member of a terrorist organisation, has made statements or engaged in conduct advocating support for engaging in any terrorist act, or is associated or otherwise affiliated with other persons or with organisations advocating support for engaging in any terrorist acts.

Proposed section 11 provides a list of indicia to assist a court in determining whether someone is a convicted New South Wales underlying terrorism offender. Some provisions in this bill are different from the Crimes (High Risk Offenders) legislation. Proposed section 52 provides that a court may allow a prescribed terrorism intelligence authority to make submissions to the court if the court thinks it would assist its determination. Proposed section 60 deals with the use of offenders' information involving terrorism intelligence. An application can be made that particular information be dealt with as terrorism intelligence. The court must take steps to maintain the confidentiality of such information, including receiving and hearing argument about it in private. The court must allow a form of access to the intelligence information. The most restrictive provision is clause 60 (4) (e), which allows the party's legal representative to view but not have a copy of the intelligence, but denies the party any form of access to that intelligence. The court has given explicit power to make orders to prohibit or restrict access to, or the disclosure or publication of, terrorism intelligence.

One interesting variance between this bill and the existing continuing detention order [CDO] and ESO regime relates to the maximum length of detention and supervision orders. Proposed section 26 (6) provides a maximum period for an ESO of three years. Proposed section 40 (1) provides the maximum term for a CDO of three years. That is in clear contrast to the current regime. Section 10 of the Crimes (High Risk Offenders) Act provides a maximum period for an ESO of five years. Section 18 of that Act provides a maximum period for CDOs also of five years. The current regime has a maximum term of five years. This bill has maximum terms of only three years. That strikes the Opposition as a curious anomaly given the Government's rhetoric associated with the legislation. Of course, the Government has marketed it as a tough new anti-terrorism law. I can see that because one can make an application to extend existing orders the same result can be achieved under this bill. However, it seems odd and makes the Government's supporting rhetoric sound a little hypocritical or perhaps a little overblown, which is not entirely unknown in the world of political discourse.

I ask the Government—perhaps rhetorically—to explain this discrepancy between five years in the existing legislation and three years in this bill. What are the different considerations that lead this bill to have lesser maximum penalties? I will be interested to know. What makes this issue even more significant is the element involved of misleading the people of this State. The Government not only said it was introducing new, tough anti-terror laws but it was more specific. In the midst of the media announcement, according to James Robertson of the *Sydney Morning Herald*, on 4 October the Premier said explicitly that the maximum period of supervision and detention would be five years. Perhaps she had not read the legislation. That is entirely wrong; the bill states three years. The Premier is not entirely across her brief and does not know one of the primary aspects of the legislation she is talking up. In the Opposition's view, what is worse is that her Government has sought to mislead the people of this State about what it intended to legislate. The incompetence is bad. Misleading the community is worse.

While I am talking about the way the Government has presented this issue to the public, I note the seriousness it has invested in the topic. A post-sentence preventative detention scheme was first raised at the Council of Australian Governments [COAG] two years ago, which was clear in the communiqué from 11 December 2015. It was raised again at COAG on 1 April 2016. If this issue is as urgent as the Government claims, it is astonishing that it has taken two years to develop, unless almost everyone liable to be subject to the bill is already covered under the existing schemes. Some might think that is just as well because under the existing scheme they would be caught by the five-year maximum rather than the three-year maximum proposed in this bill. That is not to say there are no people who, theoretically, are not caught under the current regime and would be caught under this bill. I note that the statutory review of the Crimes (High Risk Offenders) Act states at page 64 that certain New South Wales offenders would come within the existing High Risk Offenders Scheme, and there was a Commonwealth scheme that covers Commonwealth offences under December 2016 legislation. The report goes on to say:

However there may be high risk offenders with a high risk of committing a future serious terrorist offence who would not come within either scheme. These offenders would not meet the Commonwealth threshold of having committed a Commonwealth terrorist index offence. For example, if an offender is found guilty of the NSW offence of supply of a firearm which is used to kill a person as part of a terrorist act, this offender would not come within the NSW scheme and would only come within the proposed Commonwealth scheme if there were also relevant Commonwealth terrorism offences for which the offender was imprisoned.

The other scenario of someone currently not caught presented by the report is someone imprisoned for a non-terrorism, non-violent offence—for example, fraud—who is radicalised in prison. Currently, there must be a link between the offender's previous offence and future offences. That report is now quite dated. If the Government thought this was an urgent issue, why is it being dealt with on the second last day of the sitting year? I again ask the Parliamentary Secretary to give the House an insight into the Government's timing.

Schedule 2 to the bill deals with changes to other legislation. Schedule 2.14 amends the Privacy and Personal Information Protection Act effectively to provide exemption for the Australian Security Intelligence Organisation and public sector agencies dealing with ASIO from various provisions of the Privacy and Personal

Information Protection Act. Recommendation 12 of the joint Commonwealth and New South Wales review arising from the Martin Place siege deals with that, as does recommendation 42 of the Coroner's inquest into the deaths arising from the Lindt cafe siege. I note the Coroner's recommendation refers to the Health Records and Information Privacy Act, which interestingly is not caught within this amendment. I again ask the Parliamentary Secretary to explain why that is the case. I also note the entirely unrelated amendments dealing with the Local Court's capacity to deal with longer-term inmates possessing prison contraband. As I indicated, the Opposition does not oppose the bill.

Mr DAVID SHOEBRIDGE (16:48): The Greens oppose the Terrorism (High Risk Offenders) Bill 2017. The Greens are opposed in principle to keeping people in jail for what are called "future crimes". We are talking about people having their term in prison extended by three years for crimes they have not committed on the guesstimate of a judge and based on often secret evidence that the defendant cannot see, and on a test that is not a criminal test but a civil test with a series of qualifications. That is offensive to our criminal justice system and to our concept of liberty.

Changing our society in this way and tearing down the fundamental freedoms of our criminal justice system and our defence of liberty does the work of terrorists for them. We are surrendering our liberties and freedoms by the mere threat of terrorism. It is an ugly capitulation by the Government and the Opposition to push this law without any adequate scrutiny or consideration of the damage it does to our free society. This law is seen as offensive not only by The Greens. It is opposed also by the New South Wales Bar Association, which stated that: "The New South Wales Bar Association has consistently opposed the statutory High Risk Offenders regime. The amendments proposed will extend the cohort of offenders caught by the Act, remove safeguards and are contrary to established sentencing principles." We join with the Bar Association in its condemnation of this bill.

The NSW Council for Civil Liberties also opposes the bill. The council said that it "strongly opposes post-sentence continuing imprisonment of persons on the basis of a risk assessment that they may commit a future crime. No new crime has been committed, no trial held." It said also that "this raises serious issues in relation to the fundamental right to freedom from arbitrary detention and long established common law understandings relating to the right to a fair trial and the role of the judiciary in our justice system." The council noted also that "this a dangerous trend" and referenced the observations of former Justice Michael Kirby in his High Court dissent in the 2004 *Fardon v Attorney-General* decision when he said, "As framed, the Act is invalid. It sets a very bad example, which, unless stopped in its tracks, will expand to endanger freedoms protected by the Constitution." That is exactly what this bill would do and Kirby's comments are as relevant to this Act as they were to the Queensland Act that survived by reason of a majority decision. To give this bill at least some scrutiny by a Parliament that is seemingly unwilling to scrutinise any terror laws, I seek to amend the motion. I move:

That the question be amended by omitting the words "be now read a second time" and inserting instead "be referred to the Standing Committee on Law and Justice for inquiry and report by 15 February 2018".

Time after time, the Government, when it feels it is in a political mess, reaches into the bottom drawer and pulls out yet another law and order bill. Right now the Government is languishing in the polls, it has no obvious agenda, and it does not know what it is doing in relation to the basic issues affecting the people of New South Wales. One can almost track it. The Berejiklian Government is sinking lower and lower in the polls and is losing public support, so it has reached for another piece of ugly law and order politics and has introduced another terrorism bill. That is exactly what this is. The Leader of the Opposition in this House wonders why this was introduced on the second to last day. That is why. It was introduced because the Government is floundering in the polls. It has pulled out another terrorism bill in the hope that it will show it is a working government. The Greens believe that it shows that it is a government with no positive ideas. It is a government that is willing to attack our fundamental freedoms and tear down the basic criminal principles that have kept us as one of the most free societies for centuries—all because it is floundering in the polls. It is ugly stuff.

The bill puts in place continuing detention powers and extended supervision powers where persons who are suspected of potentially having a future interest in committing terrorism are able to be either kept indefinitely in jail on rolling three-year terms or put on rolling three-year extended supervision orders. The law penalises future crime rather than any actual offences committed by a person. This bill carries on a trend of laws that this Government and the former Labor Government have passed through this House which do far more damage to our civil liberties than they do to protect public safety. The Greens believe that keeping people in jail for a crime they have not committed is an extremely dangerous erosion of our civil liberties. Continuing to impose punishment after the full extent of any period of incarceration ordered by a judge has been completed is wrong in principle. The bill allows the Supreme Court to impose continuing detention orders for offenders who pose an unacceptable risk of committing a future serious terrorism offence at the completion of their sentence.

A serious terrorism offence includes any support, membership or participation in the list of terrorist organisations. The bill applies to offenders 18 years or older who are currently serving a prison sentence for an

indictable offence. The offence that they are serving does not have to be terrorism related. Part 1 of the bill creates three types of so-called "eligible terrorism offenders". The first of the three groups of eligible terrorism offenders includes people who have been found by the courts to be terrorists. That is one tick at least. The first category is for people who are convicted New South Wales terrorist offenders and who have been committed under section 310J of the Crimes Act for being a member or supporter of a terrorism organisation. However, the net gets much broader than that. The net also covers what is called an "underlying terrorism offender". This is a new term that anybody with an interest in civil liberties should be offended by.

An underlying terrorism offender is an individual who committed an indictable offence within what is described as a "terrorism context". It is not a terrorism offence; it can be an offence against the Firearms Act; an offence that causes grievous bodily harm, serious physical harm or death to a person; or an offence that seriously interferes with, disrupts or destroys an electronic system, including an IT system, a telecommunication system, a financial system, a system used for the delivery of essential services, a system used by or for an essential public utility, or a system used by or for a transport system, such as the Opal system. The term also includes an offence that causes serious damage to property. It is unclear what "serious damage to property" means. Destroying a mural with paint would count as serious damage to property.

If someone destroyed a mural with paint with the intention of advancing a political, religious or ideological cause, such as opposition to same-sex marriage, and the intention of coercing or influencing by intimidation the government of an Australian jurisdiction, they are an "underlying terrorism offender". Somebody protesting against the imposition of unfair road tolls who launches denial of services attacks against the Transport for NSW website or who stands outside the front of a State Government building and breaks a window comes within the scope of the terrorism laws. I am not supporting that kind of criminal damage, but those people should not then come within the scope of the terrorism laws.

The Government says that the person has to be coercing or influencing by intimidation an Australian Government. But "intimidation" is not defined in the bill. Further, it is not the criminal offence of intimidation that is required; it is just the ordinary meaning of the term "intimidation". It is not defined in this bill, so the courts will go to the dictionary meaning, which is "to make timid, or inspire with fear; overawe; cow." Therefore, putting pressure on a government through public displays of opposition, such as throwing paint at a government facility, bus or mural, are all designed to make a government timid, to overawe it, cower it, and to change its laws. I am not condoning those crimes but they are actions that happen in the course of political opposition. Suddenly those people fall within the scope of this law because they are now defined as "underlying terrorism offenders".

That is the second class of underlying terrorism offender. If members want to know why The Greens are offended by this law I urge them to read it. They should read it before they support it. The scope of that definition of "underlying terrorism offender" should disturb anybody who believes in a free society. The fact that it received no scrutiny in the lower House and received bugger-all scrutiny during the second reading speech delivered by the Parliamentary Secretary or by Opposition members during the second reading debate is a troubling matter for liberty in this State.

The other category is a "convicted New South Wales terrorism activity offender"—that is another eligible terrorism offender, another person who can be caught up by these laws. A person becomes a "convicted terrorism activity offender if he or she is an individual who is serving imprisonment for an indictable offence"—it does not have to be terrorism related; any indictable offence will do—"and is associated or affiliated with persons or organisations that support terrorist acts. What does "associated or affiliated with" mean? It means that the person is related to those persons or organisations, is part of the same social circles, or is a member of the same cricket club or church. That is how an individual can become associated with or affiliated to an organisation. That represents another massive grab because it causes another whole group of people to be roped into these dangerous anti-liberty laws. No wonder the New South Wales Bar Association, the New South Wales Council for Civil Liberties and The Greens oppose it. One has to wonder why an overwhelming majority of members in this Chamber will just wave it through as though it were a good thing.

The Supreme Court will determine whether or not someone is an eligible offender, often based upon secret evidence that the defendant will not see. It includes the so-called evidence that is the sentencing remarks of a judge. That is not actual evidence; it has never been tested in court. The court will make a determination based on intelligence reports from prison officers. Again, that is not normally considered evidence in the criminal justice system. Then the Supreme Court, on the balance of probabilities—not on the criminal test—will determine whether or not a citizen is an eligible terrorism offender and whether the next steps can be taken. That happens based on rumour and innuendo and with secret evidence not seen by the citizen who becomes an eligible terrorism offender.

The court then has to determine whether a continuing detention order or an extension supervision order should be made. What is the test that the court applies when making a determination? The Supreme Court has to

be satisfied to a high degree of probability. We know from case law that a high degree of probability is a lower test than is the ordinary civil standard—even less than the balance of probabilities test and far less than the criminal standard. It is a new lower standard than this Parliament has set in previous legislation. The Supreme Court can make an extended supervision order if it is satisfied to a high degree of probability that the offender poses an "unacceptable risk". What is an unacceptable risk? Heaven knows! It will depend on whatever the judge had for breakfast that morning. That is what the case law says. The Supreme Court can make an order if:

- (d) the Supreme Court is satisfied to a high degree of probability that the offender poses an unacceptable risk of committing a serious terrorism offence if not kept under supervision under the order.

So there is a high degree of probability of an unacceptable risk. It is determined on a standard that is lower than even the ordinary civil standard. As if that is not enough, the test is lowered even further in clause 35, and repeated again later in the bill:

For the purposes of this Part, the Supreme Court is not required to determine that the risk of an eligible offender committing a serious terrorism offence is more likely than not in order to determine that there is an unacceptable risk of the offender committing such an offence.

It is not even based on the balance of probabilities that an offence may occur in the future. It is a standard lower than the civil standard—a guess—based upon rumour, innuendo and secret evidence, which, in most cases, the defendant never gets to see. On this basis the Parliament wants to see people kept in jail, at the end of their sentences, on rolling three-year terms that may go on and on in the style of the Guantanamo Bay detention centre, where people are just locked in prison. In large part the Government says that it needs to bring these laws to Parliament because people who are jailed but are not terrorists are being radicalised in jail. The Government says, "Our prison system is failing. Our observation and supervision of prisoners is failing. We are allowing prisoners to be radicalised." Because of those failures in the prison system the response of the Government is to not fix the prison system and to stop people being radicalised.

Because the prison system is so rotten and is failing so comprehensively the Government will keep people in the prison system forever. Let us be clear about this. When the Obama administration tried to shut down Guantanamo Bay—Obama made a commitment to close it down because it is so offensive to almost any person who cares about civil liberties—a couple of hundred people had been brutalised by the system and kept in seemingly endless detention. By the time the administration realised the problem it had created, and how keeping people in jail forever further radicalises them, the situation had become impossible. The failings of Guantanamo Bay had further radicalised people. The regime that was meant to protect people made the inmates in Guantanamo Bay even more radical and almost impossible to release.

We will be implementing the same offensive process in New South Wales if, rather than trying to rehabilitate people and rather than allowing the police and intelligence services to do their jobs, we keep them in prison. If someone is released and it looks as though he or she has been radicalised and might be planning a terrorism offence, he or she should be arrested. That is the way the law is meant to work. If there is any evidence that someone who has been released is going to commit a terrorism offence he or she should be arrested, brought before a court and tried in accordance with the ordinary criminal justice system. That system has worked to protect liberties in our society for centuries, but we have just thrown it out. Instead, we will keep people in jail indefinitely after they have finished their sentences, and hope that some future government down the track will magically sort it out.

When the first three-year term expires the Government is anticipating that it will roll on to the next three years and then the next three years. At some point there will be a bunch of highly radicalised people in our prison system, created by the system itself and furthered by laws such as this, and there will be nothing that we can do with them. Nobody is considering the future with this bill. This Government is trying to get itself out of a political hole by introducing another piece of terrorism legislation with all its flaws and all the dangers it holds for civil liberties. If I did not make it clear enough in my earlier observations I say now that The Greens do not support this bill. Pretty much anybody who knows how the criminal justice system in this State operates does not support this bill and there is no reason for the majority of members to vote for it.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): I ask Government members on the backbench to keep their conversation to a less audible level.

The Hon. TREVOR KHAN (17:07): The contribution of Mr David Shoebridge to this debate was one of the most offensive pieces of rubbish I have heard in a long time. Just ask the families of those who were lost in Bali in 2002 whether that load of rubbish means anything more than offensive pap. Just ask those who have been subjected to terrorist attacks around the world whether what we heard is anything more than spewed rubbish. It was appalling. Mr David Shoebridge came into the Chamber thinking he could make a name for himself. I do not know with whom he thinks he can make a name for himself, but obviously it is some socialist Left ratbag group.

We are dealing with serious problems that, unfortunately, are occurring too often on our streets. Enormous amounts of money are being spent by our intelligence services and by police to deal with this serious problem. Radicalisation of a small group of people is occurring not only in our community but also in our jails. It is extraordinarily complex and difficult to work out why and how that radicalisation is occurring and to identify the people who are involved, but it is happening. For example, it is a simple fact that people have left our jails and disappeared, having travelled to Syria and Iraq.

The suggestion by Mr David Shoebridge that this bill is some sort of political fix is one of the most offensive utterances in this Chamber of the entire year. Contrary to what has been said by Mr David Shoebridge, this legislation is not a waving-through process. Many members of this House consider this matter to be very serious indeed. Clearly it is a departure from the old common law systems and practices, but this State previously has not faced these problems at any stage in our history. We previously have not faced the radicalisation that is occurring in our jails. We previously have not faced at any phase in our history terrorist attacks that are occurring in our community.

A couple of years ago I visited Pakistan to deliver advice on the operation of parliaments to members of the Parliament of Pakistan. One of the members to whom I spoke is a very senior member of the Senate of Pakistan who had been jailed under the regime of Musharraf. He was a barrister and he had been jailed for a considerable period. In other words, he suffered under a military court system, but because of the rise of terrorism in Pakistan he conceded that the only way they could proceed was with a system of military courts. He did not like it, but the reality was that it was the only way possible to proceed.

Mr David Shoebridge: Are you seriously comparing Sydney to Pakistan? You talk about being offensive.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! Mr David Shoebridge was listened to in silence. I ask him to extend the same courtesy to the Hon. Trevor Khan. If he does not I will have to name him.

Mr David Shoebridge: Go ahead.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! I call Mr David Shoebridge to order for the first time. I name Mr David Shoebridge.

The Hon. TREVOR KHAN: In those circumstances, military laws, which in a sense had resulted in his jailing, had to be maintained. While I was in Pakistan, a terrorist attack on a bus occurred in Karachi. I cannot remember how many people were killed—I think it was mainly women and children and approximately 20 of them—and blood ran out the door of the bus. An appalling situation existed in Pakistan and it required tough action. We know that a variety of attempted terrorist attacks have occurred in Australia. We know that prisoners have been radicalised. It would seem that Mr David Shoebridge's response to that is to say—

Mr David Shoebridge: "You have existing criminal laws to deal with it"?

The Hon. TREVOR KHAN: No, "We will just let those people wander out onto the streets and maybe, once they have committed a further offence, we will use our existing criminal laws to deal with it." Mr David Shoebridge should tell that to the families who already have suffered and suggest that that is a suitable response. They will tell him that he is living in some type of fantasyland. Tell families who are still grieving that to do nothing is a suitable response and their response will be that that represents an abject failure by the New South Wales Parliament to do its job of keeping the people of New South Wales safe. That is the primary responsibility of members of Parliament. We are in difficult circumstances and that requires us to make difficult decisions—not by waving something through and not by ignoring the realities of what we have to do.

Mr David Shoebridge: Great analysis of the bill, Trevor. Have you read the bill?

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I warn Mr David Shoebridge that I will call him to order for the second time if he continues to interject. After that, he will be on a last call to order.

The Hon. TREVOR KHAN: We cannot wave something through; rather, we are obliged to make a considered judgement in relation to the action we must take. Having practised far more extensively in the criminal law than has Mr David Shoebridge, I acknowledge that this Parliament is making compromises. But if we are to keep the people of New South Wales and people in other parts in Australia safe, they are compromises we will make. We must ensure that radicalised individuals who are in our prison system understand that if that is how they wish to behave, there are consequences for their actions. They will not be allowed to reach the end of their sentence and simply wander out onto the streets to threaten the public of Australia. If the outcome of this debate is that we do not take appropriate action to ensure that the people of this country are safe, I would not be able to live with myself. I support the bill.

Reverend the Hon. FRED NILE (17:14): On behalf of the Christian Democratic Party, I express support for the Terrorism (High Risk Offenders) Bill 2017, which primarily creates a post-sentence supervision and detention framework for offenders who pose an unacceptable risk of committing a serious terrorism offence at the completion of their sentence of imprisonment. As members know from what has been said by Mr David Shoebridge, he is very upset about this bill. However, he seems to have failed to recognise the changed conditions and situation we now face in Australia. It is regrettable that we must respond with this type of legislation, but I believe that the Government, the Parliament and we as members of Parliament have no choice. Terrorists and future terrorists have given us no option.

On 1 December 2016, the Commonwealth Parliament passed the Criminal Code Amendment (High Risk Terrorist Offenders) Act 2016, to which I will refer as the Commonwealth Act, that enables post-sentence detention of Commonwealth terrorist offenders who pose an unacceptable risk of committing a future terrorism offence. It should be noted that that legislation has been passed by the Commonwealth Parliament, which is constituted by representatives of all political parties. I do not have information on how the vote on that bill played out; suffice it to say that the bill was passed by the Commonwealth Parliament. There may be New South Wales offenders who pose a significant risk of committing terrorism offences after the expiry of their sentence but who cannot be detained post sentence under the Commonwealth Act or the existing scheme for supervision and detention of high risk sex and violent offenders. Consequently, on 4 October the Premier of New South Wales announced reforms to the New South Wales post-sentence framework to close the gaps. In other words, the Government is responding to the problem. It would be neglectful if it did not seek to close the gaps that remain in legislation.

The benefits of those reforms are that they will enable the Supreme Court to impose extended supervision orders or continuing detention orders on New South Wales offenders who, at the completion of their sentence, pose an unacceptable risk of committing a future serious terrorism offence. The bill supports the operation of the Commonwealth post-sentence detention scheme and provides for sentencing options for serious prison contraband offences. On previous occasions members of this House have pointed out the necessity for us to try to pass legislation that covers the whole of Australia—the States as well as the Commonwealth—so that we have uniform laws that will benefit all Australian citizens. The bill before the House will amend the Crimes (Administration of Sentences) Act 1999 to permit persons detained under the Commonwealth Act to be housed and managed in the New South Wales correctional system.

The bill will ensure that offenders are better deterred from committing prison contraband offences for which currently there is no punishment available through the Local Court, which is another gap that this legislation will close. It also implements coronial recommendations from the Lindt cafe siege, which happened almost in the shadow of Parliament House. This bill implements a recommendation of the Coroner following his inquest into the Lindt cafe siege by creating an exemption to the Privacy and Personal Information Protection Act 1998 to enable New South Wales public sector agencies to disclose personal information to the Australian Security Intelligence Organisation known as ASIO.

These reforms will create a New South Wales post-sentence supervision and detention scheme covering four categories of New South Wales offenders serving a sentence of imprisonment who pose an unacceptable risk of committing a future terrorism offence at the completion of their sentence. The four categories are offenders who have previously served a sentence of imprisonment for a New South Wales terrorism offence and are serving a sentence of imprisonment for another indictable offence, are currently serving a sentence of imprisonment for a New South Wales terrorism offence, are currently serving a sentence of imprisonment for a New South Wales indictable non-terrorism offence, such as an underlying connection to terrorism, and are currently serving a sentence of imprisonment for a New South Wales indictable non-terrorism offence with no underlying terrorism elements when the offender is radicalised in custody.

The extended supervision orders and the continuing detention orders can be made for a maximum of three years. They can be remade on expiry, if necessary. They provide for the protection of terrorism intelligence used in applications for those orders by allowing the Supreme Court to make any necessary orders and by the creation of offences for disclosing protected information. This bill also will amend the Crimes (Administration of Sentences) Act 1999 and its regulations to implement the Commonwealth Act, which will lead to a uniform approach across Australia, by ensuring that offenders subject to the Commonwealth high-risk terrorism offenders scheme can be housed and managed in New South Wales correctional centres.

Finally, the bill creates an exemption to the Privacy and Personal Information Protection Act 1998 to enable New South Wales public sector agencies to disclose to ASIO personal information they hold, including sensitive personal information, to help ASIO in its prime function of identifying terrorism suspects, and providing information on them to Federal and State police services so they can act against the suspects. The Christian

Democratic Party supports the Terrorism (High Risk Offenders) Bill 2017 and thanks the Government for introducing it.

The Hon. DAVID CLARKE (17:22): On behalf of the Hon. Don Harwin: In reply: I thank those members who contributed to debate on the Terrorism (High Risk Offenders) Bill 2017. The amendments in the bill will strengthen the New South Wales comprehensive counterterrorism framework to protect the community from potential terrorists who pose an unacceptable risk at the completion of their prison sentence. The amendments will enable the State to take preventative action, including continued detention or extended supervision, against offenders who pose a terror risk at the completion of their sentence of imprisonment. Mr David Shoebridge questioned the principle of preventative detention. This legislation is based on preventative detention legislation that has been in operation in several Australian jurisdictions for well over a decade and that has been approved in principle by the High Court. The bill complements the scheme enacted by the Commonwealth last year. Mr David Shoebridge suggested that orders could be arbitrarily applied. This is untrue. Safeguards are in place to ensure that the measures are used appropriately.

The decision to impose an extended supervision order and a continuing detention order is a significant decision. This is why the decision must be made by the State's highest court, the Supreme Court. After careful consideration of all the evidence and information provided, the Supreme Court must be satisfied to a high degree of probability that the offender poses an unacceptable risk of committing a serious terrorism offence. The reforms include a safeguard relating to emergency detention orders. Under the amendments there will be a provision requiring immediate notification to Legal Aid NSW that an emergency detention order application has been filed or is likely to be filed. Orders are subject to regular review. Under the bill the Commissioner of Corrective Services must provide the Attorney General with a report on the eligible offender at intervals of not more than 12 months. This report is for the purposes of ascertaining whether to make an application to vary or revoke the order.

The bill also enables offenders to appeal any declaration that they are a convicted New South Wales terrorist offender, a convicted underlying terrorism offender or a convicted New South Wales terrorism offender, or an extended supervision order [ESO], a continuing detention order [CDO] or an emergency detention order. The bill provides an extensive list of elements that applications for ESOs and CDOs must include. The Supreme Court is required to consider each of those elements. Mr David Shoebridge said that these matters do not meet the criminal standard. A court must be satisfied to a high degree of probability that the offender poses an unacceptable risk. This has been held to mean a standard beyond more probably than not. Case law indicates that a high degree of probability is higher than the civil standard but lower than the criminal standard.

Mr David Shoebridge asked whether a person who had defaced a mural could be considered a convicted New South Wales underlying terrorism offender. The offender would come within this definition only if he or she was serving a sentence for a serious offence that was committed in a terrorism context. Even if such an offender had committed the offence in a terrorism context, no application would be made in relation to that person unless a view had been formed there was an unacceptable risk of him or her committing a Commonwealth terrorism offence. Further, the court would need to be satisfied to a high degree of probability that the offender posed an unacceptable risk before making the order.

Mr David Shoebridge said that the rules of evidence do not apply to sentencing procedures, so section 25K and section 39K enable the Supreme Court to have access to innuendo and rumour. The Government disagrees. A sentencing court can make findings adverse to the offender only if the finding has been made beyond reasonable doubt. Part 4 of the bill provides that all proceedings under the proposed Act are civil proceedings and, to the extent to which the Act does not provide for their conduct, are to be conducted in accordance with the law relating to civil proceedings including the rules of evidence. This does not impact on the weight the Supreme Court gives to information and that has been admitted under the Act—that is, while a document may be admissible in proceedings, the Supreme Court retains full discretion as to the weight it applies to that information. 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, to which Mr David Shoebridge has moved an amendment. The question is that the amendment of Mr David Shoebridge be agreed to.

The House divided.

Ayes5
Noes30
Majority.....25

AYES

Buckingham, Mr J
(teller)
Shoebridge, Mr D

Faruqi, Dr M
Walker, Ms D (teller)

Field, Mr J

NOES

Amato, Mr L
Clarke, Mr D
Donnelly, Mr G
Graham, Mr J
Khan, Mr T

Blair, Mr N
Colless, Mr R
Farlow, Mr S
Green, Mr P
MacDonald, Mr S

Brown, Mr R
Cusack, Ms C
Franklin, Mr B (teller)
Harwin, Mr D
Maclaren-Jones, Ms N
(teller)
Mookhey, Mr D
Pearson, Mr M
Secord, Mr W
Veitch, Mr M
Wong, Mr E

Mallard, Mr S
Moselmane, Mr S
Primrose, Mr P
Sharpe, Ms P
Voltz, Ms L

Martin, Mr T
Nile, Reverend F
Searle, Mr A
Taylor, Ms B
Ward, Ms P

Amendment negatived.

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

The House divided.

[In division]

The PRESIDENT (17:36): The requirement for members to be seated when a division is called is when I give the call as to what side of the Chamber the ayes will pass and what side of the Chamber the noes will pass. Until that moment members are permitted to take their seats.

Ayes30
Noes5
Majority.....25

AYES

Amato, Mr L
Clarke, Mr D
Donnelly, Mr G
Graham, Mr J
Khan, Mr T

Blair, Mr N
Colless, Mr R
Farlow, Mr S
Green, Mr P
MacDonald, Mr S

Brown, Mr R
Cusack, Ms C
Franklin, Mr B (teller)
Harwin, Mr D
Maclaren-Jones, Ms N
(teller)
Mookhey, Mr D
Pearson, Mr M
Secord, Mr W
Veitch, Mr M
Wong, Mr E

Mallard, Mr S
Moselmane, Mr S
Primrose, Mr P
Sharpe, Ms P
Voltz, Ms L

Martin, Mr T
Nile, Reverend F
Searle, Mr A
Taylor, Ms B
Ward, Ms P

NOES

Buckingham, Mr J
(teller)
Shoebridge, Mr D

Faruqi, Dr M
Walker, Ms D (teller)

Field, Mr J

Motion agreed to.**Third Reading**

The Hon. DAVID CLARKE: On behalf of the Hon. Don Harwin: I move:

That this bill be now read a third time.

Motion agreed to.**BUILDING PRODUCTS (SAFETY) BILL 2017****Second Reading Speech****Debate resumed from an earlier hour.**

The Hon. SCOTT FARLOW (17:41): On behalf of the Hon. Sarah Mitchell I move:

That this bill be now read a second time.

On behalf of the Government I introduce the Building Products (Safety) Bill 2017. This bill delivers on the New South Wales Government's commitment to put consumers first and make families across New South Wales safer in their homes as part of the Government's 10-point plan for fire safety. The bill has been expedited in response to the Grenfell Tower fire in London where the external cladding attached to the building is believed to have accelerated and spread the fire in the building. The potential health and safety risks from the misuse of building products also were seen in the 2014 Lacrosse incident in Melbourne.

The passage of the bill will ensure this new and improved legislative framework becomes operational as soon as possible to stop future safety risks and the use of unsafe building products that may give rise to similar incidents. It is essential that consumers, home owners, builders and the public are adequately protected from the risks associated with building products being used in an unsafe manner. The bill closes the legislative gaps that exist as a result of the incomplete coverage of the Australian Consumer Law and other legislation when it comes to building products used in commercial, residential and industrial sites. As recent events have shown, there is a need for the safety of the community to be prioritised and for the Government to be empowered to identify, ban and rectify unsafe cladding that is used on buildings. I seek leave have the remainder of the second reading speech incorporated in *Hansard*.

Leave granted.

This bill comes at an important time as the building and construction industry is growing. According to the Australia Bureau of Statistics, \$38.3 billion worth of building and engineering work has been completed throughout the State this year, up a whopping 13.6 per cent compared to the same period last year.

In this environment where the amount of construction work is rising, the bill has been developed as a forward-thinking piece of legislation to account for safety risks that arise from the unsafe use and misuse of building products in buildings both now and in the future. The demand for speed and cost-efficiency in modern construction has seen the rise of building products that are cheaply made and are unsuitable for certain uses. The use of these products has the potential to expose individuals to serious safety risks in buildings such as office towers, high-rise residential buildings, individual homes and shopping complexes. The bill links the use of a building product with any safety risk that may arise from that use. A safety risk is posed by a building product if its use causes, or is likely to cause, death or serious injury to a person who occupies the building.

Further, the bill provides that a safety risk exists even if the risk will arise only in certain circumstances or if some other event occurs, such as fire. These important concepts target the application of the bill so that the provisions apply only where the use of a building product poses a serious safety risk. It is in these situations that the New South Wales Government must have the necessary mechanisms and powers in place to take action to prevent people from getting hurt or killed as a result of the use of unsafe building products. Currently, there is no fast and efficient way for the New South Wales Government to stop people using building products in an unsafe way, or misusing products that are safe for a particular use only. The bill draws upon similar provisions of the Australian Consumer Law that have been nationally tried and tested to establish a mechanism that the Commissioner can use to ban the use of building products in the marketplace. The Commissioner will be able to prohibit specified uses of a building product by issuing a building product use ban where the Commissioner is satisfied on reasonable grounds that the use is unsafe.

The bill allows a building product use ban to be applied to a particular use only, to any building or a class of buildings or for use by certain persons or classes of persons. A building product use ban also may apply subject to specific exemptions, conditions or any other way authorised by the regulations, depending on the circumstances. To ensure that persons affected by a ban and the community understand why a building product use ban is imposed, the Commissioner will be required to specify the reasons for the ban. The Commissioner also, if practicable, must give notice to the manufacturer of the building product of the intention to make a building product use ban. Notice must be given at least 48 hours before the ban is published on the internet. The notice requirements will depend on the circumstances, and no prior notice will be required in situations where the safety risk posed by the use of the building product is so serious that it is in the public interest that the ban is not delayed. This will ensure the Government can act immediately and restrict the use of building products that can cause serious injury or death.

Where appropriate, the Commissioner also may call for public submissions on the question of whether a building product use ban is warranted and the proposed terms of the ban. The bill is drafted so that, if the Commissioner is unable to call for public submissions before a use ban, she will be able call for submissions after it has been made. This mechanism means that the usual requirement to afford procedural fairness will be able to be satisfied even where a fair hearing cannot be afforded prior to a decision being made because safety considerations require a swift decision.

I should also add that the purpose of the notice requirements in the bill is to exhaustively set out the secretary's obligation to give notice to affected persons. Where products are used widely in the industry, it will be impractical to give personal notice to all interested persons. The notice requirements here ensure that such persons will be able to make submissions, through the public submission process, before or after a ban is made, whilst also providing a clear and unambiguous mechanism for the secretary to follow in order to ensure that her decisions are not rendered invalid for a failure to afford affected persons a fair hearing. Ensuring that there is certainty as to the effect of bans is an object of the scheme provided by this bill.

On the issue of certainty, it is appropriate to say that the uses to which building products may be put change all the time and there may be subtle variations to the ways in which building products may be used from one to design to another. Now the Commissioner of Fair Trading will have to issue use bans quickly for public safety reasons, and she will of course try to make those as targeted as possible. However, the drafter of these bans will not be able to foresee every possible variation in the ways products can be used. We cannot have use bans being rendered invalid because of these sorts of issues.

The purpose of clause 9 (4) of the bill is to deal with this problem. While the common law already implies a broad discretion, the purpose clause 9 (4) is to expand on that. It is designed to ensure that, where bans are reasonably and appropriately adapted to stopping a building product being used in an unsafe way, they are not rendered invalid because the ban happens to cover a safe use, which was not and could not reasonably have been foreseen at the time. In those circumstances, interested persons should apply to have the ban amended in light of this new information. As I say, ensuring that there is certainty regarding the effect of bans was an important consideration in developing this bill.

Once a building product use ban is in force, it will be an offence to continue to cause the use of the product, or represent the product is suitable for a use, that is in contravention of the ban. A person is taken to use a building product where they do the building work to which the product relates. Contravention of a building product use ban will be an offence with a maximum penalty of \$1.1 million for a corporation, or \$220,000 or two years imprisonment, or both, for an individual. The size of these penalties reflects the seriousness of this offence and will ensure that banned building products are not used in New South Wales. Where a person continues to contravene a building product use ban the bill also provides for continuing offences where a further penalty can be applied for each day the offence continues. In the case of a corporation a further \$110,000 can be applied for each day the offence continues while for an individual a further \$44,000 can be applied for each day the offence continues.

These powers provided to the Commissioner will act as a key source of information and guidance for all members of the community and will enable immediate response to building products unfit for distribution in the marketplace. Of course, while a building product ban will be applied only in specific circumstances where a genuine safety risk is identified, procedural fairness provisions exist to ensure that any bans are duly made and are warranted. The power to ban unsafe building products and the misuse of compliant building products will provide much-needed certainty about the types of products that are being used in buildings to ensure that safety risks are minimised and all steps are taken to increase safety across New South Wales.

Part 4 of the bill deals with the identification and rectification of affected buildings. These provisions will empower the Government to address affected buildings, which are those that are made unsafe by the use of products that are subject to a ban either generally or for a particular use. The Commissioner will have the power to issue an affected building notice to alert the owner, the relevant council, the relevant enforcement authority if the council is not the relevant authority, and the Commissioner of Fire and Rescue NSW where there is a fire safety risk. The Commissioner also will be able to issue a general warning notice to a class of buildings that are identified as affected buildings. This notice will identify the safety risk that arises from the use of a banned building product in a building.

A general warning notice also can be given to any or all councils, and to the Commissioner of Fire and Rescue NSW where the risk relates to fire safety. Both warnings will be used to alert individuals and the relevant enforcement authority of the risks to personal safety and to property, to ensure that work is rectified and risks are minimised or eliminated. The Commissioner may also require the council to report back on the steps it has taken relating to the contents of the notice and the affected building. The council will be required to outline in the report whether it has issued a rectification order, the progress or compliance with any order, or any additional steps taken by the council to ensure that the identified building is made safe.

Powers also will exist to allow relevant enforcement agencies to take their own steps to rectify work. This will enable greater oversight of affected buildings and ensure that the appropriate authority can act as soon as possible to eliminate or minimise any safety risks. A relevant enforcement agency always will be able to make a building product rectification order relating to an affected building notice or a general warning notice, or where no notice has been given, so long as the agency is satisfied that the building is an affected building.

Importantly, building product rectification orders will be taken to be development control orders under the Environmental Planning and Assessment Act 1979 [EP and A Act]. This means any person issued with a building product rectification order will be provided with the same procedural fairness as outlined in the EP and A Act and applicable to any other development control order. Changes resulting from the Environmental Planning and Assessment Amendment Act 2017 have been accounted for in the bill, with consequential amendments outlined in schedule 2 that will ensure these provisions continue to align with the intent following the commencement of that Act. Although agencies that are currently authorised to issue section 121B orders have a wide range of powers, building product rectification orders are specific to building products and link safety to the use of such products in any affected buildings.

Building rectification orders are also distinct from development control orders in that they apply only to affected buildings where a ban must be in place that prohibits a building product for a specific use or all of its uses, tying in to the product's ability to cause serious injury or death in any identified building. Not only will consumers will be protected by the issue of a rectification order, but also purchasers and successors in title will be alerted to any outstanding rectification orders held against the title of land.

A number of consequential amendments will be made to ensure that full disclosure is given to any purchaser of land. The Strata Schemes Management Regulation 2016 will alert potential purchasers of a strata scheme on the strata information certificate to any outstanding rectification orders put in place by a relevant council. As an additional disclosure mechanism, planning certificates will include any outstanding affected building notices or building product rectification orders, or any notice of intention to make a building product rectification order that the council may be aware of. The building product rectification order also will be captured under the prescribed warranties in the contract for sale of land, and any adverse affectations, including an outstanding order, will need to be disclosed. Rectification orders of buildings will provide the Government with the ability to effectively identify, target and rectify buildings and respond immediately to safety risks posed by unsafe products or products used unsafely.

To ensure the provisions of the bill can be enforced and implemented, all necessary powers required by the Commissioner for Fair Trading are established as part of the bill. Part 5 of the bill allows the commissioner to accept a written undertaking from a person who has contravened a building product use ban. This encourages compliance and aims to discourage first-time offenders and ensure repeat offenders are closely monitored. Contravention of a building product undertaking will be penalised with a maximum penalty of \$1.1 million in the case of a corporation, or \$220,000 in any other case. These offences are also continuing offences,

with a further \$110,000 for each day the offence continues for a corporation, or a further \$44,000 for each day the offence continues in any other case.

Part 6 of the bill confers the investigation and enforcement powers of the commissioner. The commissioner will be able to authorise an investigation into a building product to determine whether any safety risks are posed by the use of a building product, to determine whether a building product is unsafe or to determine the location of any building in which a product has been used that may be unsafe. An investigation will provide necessary information which can be used to inform the commissioner's decision to impose a ban, or to amend or revoke the prohibitions contained in a ban already in existence. Powers of authorised officers to gather information will work alongside a building product investigation, where officers can use their existing powers to assist in any component of the investigation. Principles of procedural fairness will be adhered to and the commissioner must, if practicable, give the manufacturer notice of the building product investigation and an opportunity to make submissions in relation to the investigation. When appropriate, the commissioner will be able to assess building products to determine whether a safety risk exists.

Clause 39 of the bill enables the commissioner to require a manufacturer or supplier of a building product to conduct a product assessment and to provide the commissioner with a product assessment report outlining any findings. As part of any requirement for a product assessment, the commissioner will be able to specify the tests or inspections that must be conducted, or any qualifications or experience that is required in order to perform those tests. This will enable the building product to be properly assessed by the most appropriately qualified individual to produce a result that indicates the actual safety of a product in relation to any or all of its uses. To ensure product assessments are always performed, the commissioner will have the power to perform an assessment where the manufacturer or supplier fails to do so. Any costs incurred by the commissioner in respect of the product assessment will be recoverable from the manufacturer or supplier. The bill provides the appropriate appeal mechanisms where a manufacturer or supplier disagrees with a decision of the commissioner. Part 7 covers the investigation powers of authorised officers.

There is currently no system in place that monitors the use of building products which are unsafe to use. The bill gives authorised officers a range of powers that will allow them to assess any safety risks, determine whether a product is safe or unsafe, as well as ascertain the location of a possibly unsafe product in a building. To support the objectives of the bill, authorised officers will be able to require a person to obtain and provide information. This will enable an officer to gather information, to assess or ascertain the use or misuse of a building product and determine any safety risks. Officers will have powers that will require answers from any individual to questions for an authorised purpose. Similar powers exist in other legislation that NSW Fair Trading administers and officers are careful and experienced in their application.

It is proposed that officers will be provided with the powers to enter and inspect any premises, but only if it is necessary to do so, or to urgently gain entry or obtain evidence when there is a safety risk at the premises. Although safety of a person or a building is always the greatest priority, authorised officers will require a search warrant or permission of the occupant to enter residential premises. To make sure that the powers of the bill are utilised in their greatest capacity, an authorised officer will have additional powers, such as the power to examine or inspect anything, make inquiries or tests, or take and remove samples of a thing. Where the commissioner requires records or information or questions to be answered, information or answers will not be admissible in certain circumstances if an objection is made. Of course, protections will be available for those who are affected by the operation of the bill. A range of remedies will be established for contravention. Proceedings for an offence under the bill or regulations will be dealt with through the Local Court or the District Court in its summary jurisdiction. Proceedings can be commenced up to two years after evidence of an alleged offence first came to the attention of an authorised officer. This time period allows offenders to be appropriately monitored and prosecuted, and encourages people who engage in building work to comply with the law.

To respond to situations of imminent danger or prevent repeat offenders, the Supreme Court will be able to grant an injunction on application by the commissioner made with the consent of the Minister. The bill also provides for the sharing of information about the safety of building products with any relevant agency. Relevant agencies include an agency of the State, Commonwealth, another State or Territory or an overseas jurisdiction that exercises functions related to fair trading or consumer protection, or functions relating to residential building work or plumbing and drainage work. A council or other law enforcement agency is also considered a relevant agency for the purposes of the information sharing provisions of the bill. These provisions are important to ensure regulators from across Australia are able to continue to collaborate effectively with each other to minimise consumer detriment caused by the use of unsafe building products.

The bill provides avenues for an individual to appeal any decision or order made by the commissioner under the provisions of the bill. Any person who is aggrieved by prescribed decisions of the commissioner can apply to the NSW Civil and Administrative Tribunal to seek review of that decision within 28 days of the notice of the decision being first published on the internet or served on the person. To support this, a reasonable excuse defence will exist where a person did not know an order was in place. This is a common provision in legislation that NSW Fair Trading administers and provides a person with the opportunity to review decisions of the commissioner.

I am pleased to introduce this bill and look forward to the valuable protections it will bring to the building and construction industry and the public. This bill is about putting consumers and residents first in this State. It will do that by banning unsafe uses of building products and by ensuring instances of unsafe uses can be dealt with. I commend the bill to the House.

Second Reading Debate

The Hon. PETER PRIMROSE (17:42): I lead for the Opposition in debate on the Building Products (Safety) Bill 2017. One of the central roles of any government is to do its utmost to protect and enhance the lives and property of its citizens. The tragic events of the Grenfell Tower fire in London showed the community what happens when you do not have adequate building regulations in place to protect the community. Regrettably, this was illustrated on 14 June 2017 with the deaths of 71 people when London experienced firsthand the devastation and human cost when we get the regulatory settings wrong. I could understand if the Government had been working furiously over the past six months since the Grenfell Tower tragedy to get us to where we are today. Incredulously, the Government has known about these potential dangers of aluminium cladding and other nonconforming products since at least the middle of 2015.

This came to the attention of the Government in the aftermath of the fire at Melbourne's Lacrosse building in late 2014—more than three years ago. For three years the New South Wales Government has known of this emerging problem. Its response to date has been woefully inadequate and, frankly, borders on negligence—something that I have reiterated in this House on a number of occasions. For more than two years the Government has been aware of the increasing emergence of dodgy cladding being applied on buildings across the State. How do we know this? Because for more than two years we have been asking questions about the Government's response to this issue. As early as mid-2015 I asked questions in this House of the former Minister about dodgy cladding. What we uncovered then was that a circular had been prepared by the Department of Planning and Environment and sent to local councils. We also discovered that in late 2015, one year after the Lacrosse fire, the Government was still deliberating on "whether further action is required by the New South Wales Government on this issue".

The Opposition did not settle for this attempted fob off and sought relevant documents under freedom of information laws in an attempt to hold the Government accountable. What we found was a Pythonesque state of affairs that exhibited a toxic combination of regulatory inertia, buck-passing and a dangerous preference for letting the market dictate business while consciously ensuring minimal interference from red tape. It is shocking that, despite important interests of safety, this Government's obsession with cutting red tape appears to place less regulation over the lives and property of the people of New South Wales. The Government Information (Public Access) Act was truly astounding where the Minister was advised in mid-2015 that although unsafe building products were being extensively used, "Calls for any greater intervention need to be balanced against the regulatory burden and supply chain disruption that could result as well as the potential stifling of positive innovation." Let us all reflect on that statement.

We have the pertinent issue of flammable building products and the devastating example of a Melbourne building engulfed in flames and a coronial inquiry in Melbourne that found how dangerous these products were. It was well advertised through the media and all governments were advised because it resulted in deaths. Ironically, we have the New South Wales Minister for Innovation and Better Regulation, at that stage, receiving advice that he needs to be careful about adding red tape because it may stifle innovation! With all this in mind it is hardly surprising that over the course of the preceding two years next to nothing was done to address this looming and in many ways inevitable crisis. Further alarms were triggered when, despite Labor's best attempts to ascertain additional insights during ministerial addresses with the release of the ministerial estimates during 2016, Labor was offered little more than puzzling looks and a collective shrug of the shoulders by Government representatives.

Disgustingly, it took the sickening events of the Grenfell building for the new Minister to leap into action with yet another 10-point plan. The notable problem is that two months after Minister Kean announced his plan and erected a task force, the Minister neglected to proactively seek a progress report. He was astonishing in estimates, unaware whether the task force he personally had set up months before had even commenced work. I add, as the person asking the Minister the questions, he indicated he had not even attended the task force meetings. The response of the Government on this issue to date has been simply to try to cover its tracks.

Despite the negligence and general incompetency displayed by the Government on dangerous cladding, this bill presented the Government with a great opportunity to make things right. It provided the Government with an opportune chance to set up a legislative framework that would promote a modern and proactive approach to finally address the dodgy and noncompliant material frequently being used on our buildings. Yet, unfortunately, the Government has squandered this opportunity. Instead, what we have been provided with is effectively a hollow bill that dances around issues and fails to provide a comprehensive framework to prevent the scourge of dodgy building products, and provide regulators with the means of identifying and preventing nonconforming and noncompliant building products. It is the bare minimum, reactive and limited in scope. The overview of the bill reveals how limited it is in its scope.

What does the bill do? First, it gives the Secretary for Finance, Service and Innovation or the Commissioner for Fair Trading the power to prohibit the use of a building product in a building if they are satisfied on reasonable grounds that the use is unsafe. Secondly, it enables the secretary to identify buildings in which building products have been used in a way that is prohibited, including buildings in which the products were used before the prohibition was imposed. Thirdly, it enables councils or other relevant enforcement authorities to require the use of the unsafe building products in the building being rectified. Finally, it confers other powers in connection with the investigation and assessment of building products so that unsafe uses of building products can be identified and prevented. That is it. That is the bill.

The Opposition is urgently seeking further amendments from Parliamentary Counsel that will reinstate a number of important provisions in this bill. The Opposition has been given a ridiculously short amount of time to draft appropriate instructions to Parliamentary Counsel that mirror the Government's initial bill that it provided to

and consulted on with industry. In effect, the Opposition is rebuilding the bill to make homes safer and the legislation better. We are talking about people's lives. That is a significant: The Opposition is trying to amend the bill potentially to save lives and to avoid exorbitant costs for home owners to rectify and/or remove dodgy products. We know there are proposed sections of this bill now sitting on the cutting room floor, so to speak. The Opposition is seeking to restore them to the legislation.

If this Government had any decency, it would reinstate those proposed sections and present a consistent, comprehensive and fair bill that would protect home owners, be supported by industry and most certainly enjoy bipartisan support. I again urge the Minister to intervene and to afford this important piece of legislation the urgency it deserves. We want the bill to deliver what everyone in New South Wales hopes and expects it to deliver. I will now set out what needs to be reinstated in the bill. As I said, if the Government were serious about this matter it would have worked cohesively with all parties involved to ensure that it delivered what it should deliver. As it stands, this bill has lost the confidence of the industry and it will expose the people of New South Wales to risk to both person and property. This is now a poor piece of legislation.

Amazingly, there is no regard for principles such as the chain of responsibility. That is a critical issue if we are adequately and fairly to address the noncompliant and nonconforming building products. The purpose of a chain of responsibility is critical. On 16 February 2016 at a meeting of the Building Ministers' Forum, the New South Wales Government, along with all other State and Territory governments, agreed to work towards a new regulatory framework to enhance the powers of the building regulators. At the heart of this lay the principle of the chain of responsibility. It is a fundamental policy concept that lies at the heart of other successful regulatory frameworks—such as the New South Wales Food Act, which was introduced by the Labor Government.

Every stakeholder has their part to play. Everyone is responsible. Everyone in the building industry supply chain has a duty of care. A chain of responsibility would create a legally enforceable regime of responsibility for compliance across this industry. It would be fair and transparent, and it would underpin the safety of the community. However, astoundingly the Government has consciously removed this key concept. Not only has it outraged the industry and created additional confusion but it has also fundamentally laid the cost of rectifying unsafe work at the feet of families—innocent homeowners who are now fearful not only of discovering their homes are unsafe but also that they may also have to foot the bill for the rectification work. In presenting this bill, the Minister has gone back on his word. In July this year, the Minister is reported in the *Sydney Morning Herald* proudly claiming:

"We'll be hitting every aspect of the supply chain," Mr Kean said. "We'll be removing all unsafe building [materials] from the marketplace."

The bill does not mention the chain of responsibility. This is an appalling decision made by an incompetent Government that is out of touch, lazy and apparently uninterested in the safety and wellbeing of millions of homeowners across this State. Apart from the genuine threat to life and property, the cost of rectification is immense. I note that the owners of the Lacrosse building in Melbourne Docklands are currently in court, arguing about who will pay the \$15 million repair bill. This lies at the heart of the deficiencies of this mutilated piece of legislation. A letter from one of the many aggrieved stakeholders, the Building Products Innovation Council, advised:

With the introduction of the watered-down Building Products (Safety) Bill 2017, all chain of responsibility measures have been removed, and the Bill will continue to prop up the same ineffective inspection regime that led to the Lacrosse apartment fire in Victoria and the Grenfell Apartment fire in London ...

Accordingly, the Opposition will move amendments to promptly reinstate in the bill the key concepts of a chain of responsibility. I will now address some other deficiencies in this bill. Because there are so many problems, I will limit my comments to setting out the general principles at stake. An obvious deficiency is the absence of the key concepts surrounding nonconforming and noncompliant products. This bill makes no attempt to refer to or to define nonconforming and noncompliant building products or works. Instead, it merely relies on the underwhelming concept of "unsafe". Notably, the key concepts of nonconforming and noncompliant products are not mentioned in this bill. That is sensationally extraordinary. The Government has elected simply to grant powers to the secretary or to the commissioner to issue a warning about unsafe products. I am advised that significant sections of the bill detailing the ability to ban the supply of noncomplying and nonconforming building products were removed.

This bill has no powers to intervene in the supply chain to prevent instances of product misrepresentation unless the product is deemed to be unsafe. The Opposition will move amendments to reinstate these provisions. A fundamental cornerstone of consumer protection law is the ability of the Minister or his representative to issue recalls on dodgy products. I am sure the Minister will provide advice within a few weeks about the dangerous Christmas toys that must be taken off the shelves. The ability to recall dangerous and faulty products is central to the role of consumer protection. It is also fundamental to building regulation, yet this bill is silent on recalls. The

Opposition will move amendments to allow the secretary or the commissioner to recall dangerous building products.

The next deficiency in the bill is the absence of remediation orders. This is a basic requirement. The Government should have the ability to demand and force those found guilty to make amends and to clean up their mess. Those who have caused loss or damage through the supply or use of nonconforming building products or noncompliant building work should be held accountable and forced to remediate their work. The absence of those principles again demonstrates that this Government is more than happy to leave responsibility to those at the end of the chain—the mums and dads and other homeowners caught out and exposed to the dangers and risk of non-conforming, unsafe building products.

Although the Minister labours under the frankly ridiculous title of Minister for Innovation and Better Regulation, one of his core responsibilities is to protect consumers and uphold consumer protection law. I am advised the draft bill was linked with New South Wales consumer protection law and safeguards and, importantly, contained provisions that would have allowed those adversely affected by defective building working to seek civil justice. I understand this was part of the draft bill that impressed industry and demonstrated the Minister's willingness to do the right thing. One would have thought this would have been one of the enshrining principles of the Act, with the Minister proudly declaring to all that he believes in and follows through on the right of consumers to justice.

That does not happen under the Liberal-Nationals of New South Wales. Once again we have key consumer protection elements left out of the bill that allowed innocent parties to seek prompt and fair resolution of their defect issues. I will be interested to hear the Minister's explanation as to why this part of the draft bill was removed. As part of the process of imposing a duty of care on everyone involved in the building supply chain, from manufacturers through to installers, the Government should have the power to issue directions to those in the chain about how a product should or should not be used. This is particularly important if there is a risk to public safety and there is potential loss or damage to property arising from the use of a product. Again, Labor seeks to move amendments to reinstate the provisions removed by the Government that would have done this.

This bill is a fundamentally reactionary bill. Due to a heady mixture of incompetence, ideological arrogance and laziness, this Government has been on the back foot for the last three years on this matter. Surely the Minister would have heeded the lessons of his experience on this policy issue over the past few months—when he was smashed in budget estimates and pummelled in media conferences—and would have tried to get on the front foot. Audits, not a revolutionary innovation even for this Government, should have been included in this bill. The current bill allows the Government to act only once a dodgy product and a risk are identified. It does not allow it to proactively seek out and prevent the incidence of non-conforming products and non-compliant work. The Opposition will be seeking amendments to empower the secretary to get on the front foot and root out these potential threats to life and property in the community.

Similar to recalls, product seizures are a fundamental part of the business of the old consumer affairs department. The draft bill contained provisions that would have granted the secretary the power to seize suspect products and materials from a building site or throughout the supply chain to test the products and determine whether they conform. The draft bill set out in some detail robust provisions defining the seizure and testing process, what materials and documentation could be seized, and under what circumstances. Labor will seek to reinstate these provisions into the bill. Industry is appalled that the Government removed the ability to prohibit a recalcitrant participant in the supply chain from trading. In certain instances, government needs the ability to intervene after a product direction or even a product recall has not proven to be totally effective. This can be the case when someone is engaged in ongoing and intentional misconduct through actions such as product misrepresentation or falsified product certification.

The draft bill contained clearly defined offences and other proceedings for unlawful conduct and activity by people in the building supply chain. It is an important backstop to have reserve powers to intervene when a participant simply refuses to follow directions and continues to break the law. Labor urges the Government to reconsider this matter and reinstate this important series of clauses back into the bill. There are a small number of amendments that the Opposition will move to improve the rigour and effectiveness of the bill. There are a number of instances where the secretary or the commissioner has the discretion whether or not to act. Whilst discretionary clauses are appropriate in certain cases, when a building has been identified as unsafe it is not appropriate for the secretary to decide whether or not a notice is issued; it should be mandatory. I point out section 18 in part 4 as an example. Given the history of dithering, delay and reluctant action under this Government in regard to dodgy building products, removing any ability to act one way or the other is particularly important.

Finally, during estimates, the Minister failed to answer why it was appropriate that not all residents in an affected building have the right to be directly notified. He again refuses to address this in this bill. Labor believes that all affected residents should be directly notified of a problem that may affect them physically or financially.

To leave it to owners' corporations to advise owners, who then may or may not advise tenants, is simply wrong given the stakes involved in this matter. That is why Labor will move amendments to force the Government to notify all affected parties. It is simply incredible that we are debating this hollowed-out bill. Today was the chance for the Government to put aside its incompetent and secretive handling of non-conforming and non-compliant building products and present to the House a bill that would enjoy the support of all sides of politics, backed by industry, and to send a signal to the community that the Government is serious about stamping out dodgy building products like flammable aluminium cladding. In recent days, all members have been bombarded with letters and emails from a range of respected industry groups who are appalled at what the Minister has done. I seek leave to have the remainder of my speech incorporated in *Hansard*.

Leave granted

I want to take this opportunity to acknowledge organisations and key stakeholders who seek to reinstate these initial industry-supported provisions.

- Australian Glass and Glazing Association
- Australian Industry Group
- Australian Institute of Architects
- Australian Institute of Quantity Surveyors
- Australian Steel Institute
- Australian Window Association
- Building Products Innovation Council
- Cement, Concrete & Aggregates Australia
- Concrete Masonry Association of Australia
- Engineered Wood Products Association of Australasia
- Engineers Australia
- Fire Protection Association Australia
- Gypsum Board Manufacturers of Australasia
- Housing Industry Association
- Insulated Panel Council Australasia
- Insulation Council of Australia and New Zealand
- Master Builders Association
- National Manufacturers Council
- Owners Corporation Network
- Property Council Australia
- Roofing Tile Association of Australia
- Steel Reinforcement Institute of Australia
- Strata Choice
- Strata Community Australia
- Think Brick

The collective judgement of these 25 key stakeholders and operators in the business of building in New South Wales does not count for much. Excellent reviews like the Lambert review are largely ignored and kicked into the long grass. The Government has the audacity, or the stupidity, to show industry a draft bill that incorporates the wide range of issues around non-conforming and non-compliant products, only to take it away, gut it, and replace it with what is really a token effort. It is enough to get out a media release, but nothing more. But we should not be surprised. This is a government that, under the banner of cutting red tape, has allowed a cowboy culture to prosper in New South Wales—a state of affairs that many in the community will be paying for in years to come.

The experience and expertise of stakeholders are treated with contempt by this Government. One of these stakeholders who was shown a copy of the draft bill wrote to me despairingly that "The NSW Government introduced a heavily edited version of the bill to parliament that is incapable of delivering on the Government's commitments to the Building Minister's Forum, to the industry, and incredibly, to its own 10-point plan." These are not light words. I will give the Minister some benefit of doubt, as I genuinely believe he understands the issues and the grave risks at play here if we do not get it right. I believe the Minister has been nobbled by his senior Ministers, particularly the Premier, the Treasurer, and the planning Minister, who perhaps should know better. But, then again, they are so removed from reality, it is hardly surprising. This is the crony Premier who has prevailed over a series of amateurish disasters since coming to power. Look at the disaster of the Fire and Emergency Services Levy [FESL] and, dare I say

it, the forced council mergers. This is a Treasurer more suited to an Institute of Public Affairs picnic than dealing with the economic challenges of New South Wales. And this is a planning Minister who puts the interests of his developer mates in front of families and young people struggling to put a roof over their heads.

These three are the ones who should have guided and assisted the Minister through this issue, but by all accounts they have abused their power and gutted this bill, which, at the end of the day, is about the safety of our citizens, the ongoing confidence in the building industry, and allocating liability according to blame. If there is a tragic fire in New South Wales and homeowners are economically ruined through the cost of rectification, my view is that there is an argument that this should lay at the feet of these three C-grade flunkies who show how paltry the Liberal Party stocks in New South Wales are right now. The Minister rashly promised a legislative response by the end of the year. I guess what he did not promise was fair and effective legislation supported by industry. Labor will be moving a series of amendments to restore the many provisions of the bill removed by the New South Wales Government.

In the dying days of the parliamentary year, we are debating this important bill just a matter of days after it was introduced. The Government has dithered and delayed on this issue for three years. Now it expects Parliament to consider the bill in less than a week. If the Minister is serious about his commission he should stand up to his Cabinet colleagues and stand up for the rights and interests of consumers. The Minister should be backing the people of New South Wales rather than his out-of-touch colleagues and should back these changes in. And if anyone on the other side who could be bothered or who wants to be able to go back to their electorate and say that they supported better, safer homes where everyone has a duty of care to do the right thing, they will also support Labor's amendments.

As I said, despite the failure to respond appropriately and in a timely fashion to the potential catastrophic risks of dodgy building products over the last few years, this bill represented an opportunity to turn a page, put in place legislation that reflected what other States such as Queensland and Victoria were doing, and introduce a regulatory framework that would underpin the safety and economic interests of New South Wales. The fact this Government has failed to take up this opportunity goes to the heart of its incompetence, its corruption, and its arrogance. The Minister should be embarrassed, and this rest of his Government should be ashamed. This bill takes an opportunity to put things right and fails miserably. Because the bill improves the status quo ever so slightly, we will not oppose it, but we will seek amendments that will restore those parts aimed at truly protecting the people of New South Wales and build in more confidence and responsibility in the building supply chain.

Debate adjourned.

Members

INAUGURAL SPEECH

The PRESIDENT: Before I call the Hon. Natalie Ward to make her first speech, I welcome into my gallery members of the Hon. Natalie Ward's family. They include her husband, David Begg, and their two children, Madeleine and Fergus. I also welcome her mother, Dianne Ward, and her brother and sister-in-law, Tony and Adrienne Ward, who have travelled from Queensland to be here. I also welcome Eileen Begg, Kristy Begg and Grahame Barker, along with the Hon. Greg Pearce and his wife, Shauna Jarrett. I also welcome many of our Federal and State parliamentary colleagues to the public gallery. I welcome the Federal member for North Sydney, Trent Zimmerman; the Federal member for Mackellar, Jason Falinski; a former Federal member for Lindsay, Fiona Scott; a former member of the Legislative Council, Patricia Forsythe; a former member of the Legislative Council and Minister, Robyn Parker; a former State member and Minister, George Souris; a former State member and Minister, Michael Photios; and the President of the Liberal Party New South Wales division, Kent Johns.

I remind all members that the Hon. Natalie Ward is about to make her first speech in this place. I ask members to extend to her the usual courtesies.

The Hon. NATALIE WARD (18:08): It is an honour to be in this place and a privilege to speak for the first time. I am humbled to have the opportunity to serve as a member of the Legislative Council. I will serve with humility and courage. I cannot claim to arrive here from a disadvantaged background. I was blessed with a loving, stable, happy family home. My parents worked hard to provide me with an excellent education. It was strong family values and love that allowed me to develop my faith, my work ethic, and a strong desire to serve. I would like to thank my parents, Dianne and David Ward, for igniting my passion to serve. My work as a lawyer and political adviser later exposed me to the reality of the hardships faced by people from many different cultural and social backgrounds. That experience has only further ignited my desire to change things for the better. Many an inaugural speech has contained a moving quote by a revered member of this planet, and I am not going to disrupt the status quo—well, not tonight. It was Martin Luther King who said:

Life's most persistent question is, "What are you doing for others?"

More exciting than that statement was the resulting holiday in honour of King—a day of service where everyone stops to do something for someone else. King was right when he acknowledged that service makes the world a better place. I acknowledge the volunteers in this State. I acknowledge those in the Rural Fire Service and Rotary clubs, on Parents and Citizens boards, lifesavers on patrol, and volunteers at local Shute Shield Rugby clubs—those who passionately commit themselves to their communities. Your roles are important and your service is valued.

Despite the cynicism, and perhaps even contempt, that people often hold for politicians, I still believe that entering public office is an important calling. The opportunity to direct your intellect and energy toward the betterment of your State is one of the greatest contributions you can make. And, so, as you are my witnesses, I declare I am here, in the words of the Wenona School motto, "Ut Prosim"—that I may serve. There are many lawyers in this place and I am glad to be joining them. A good and noble lawyer is respected by her opponent. So let the record show that I will endeavour to be a noble and respected opponent to my honourable colleagues in this House. To those lawyers I have had the privilege of working with, whose work changes lives, rights wrongs and finds peace in resolution, thank you for all you do. I will both defend and champion your work in this place.

Like any good lawyer, as the doctrine of equity goes, I must come to the court with clean hands. And so I declare I am a dual citizen. I am a South Australian export—the daughter of a Welsh immigrant father and free settler mother. I come from a beautiful place where my 95-year-old grandmother Gladys Lorenz still lives. It was in Adelaide on a hot summer day 26 years ago that I ran up to a Young Liberal stall at Adelaide university and asked, "Where do I sign?" The reason I joined? In my first ever pay packet—which was lean—I found, to my horror, a deduction for compulsory union membership. I had not consented. I did not want to be forced to join a union. My freedom of choice had been violated. It made me a lifelong Liberal. I was not going to be bullied back then, and I am certainly not going to start now. I am proud of my heritage and proud of my choices in life. I will be a warrior for freedom of choice for our citizens in this place.

I acknowledge the love of my life, my husband, David Begg. Nothing is more important than family—having someone to walk beside you, share the journey, love you, support you and occasionally drive you crazy. Thank you, David, for the gifts of our two beautiful, amazing children. I am lucky to have you. I am constantly inspired by you. You make me laugh because, yes, you are still funny. As a lawyer you took the Catholic Church to the High Court and paved the way for a royal commission which brought light to the darkness of childhood sexual abuse. Your determination and courage to represent those who could not stand up for themselves was brave and ballsy and the right thing to do.

You are the most intelligent, articulate, scary bright, enthusiastic, optimistic person I know. You give so much to everyone around you. And, now, after years of advocating for liberal values, you have chosen to relinquish your career for me. Many wives give up their careers for their husbands; my husband has given up his for me. Thank you for your love and self-sacrifice. Like so many others who have sought your counsel to take on careers in this place, in the words of Isaac Newton, "If I have seen further it is only because I stand on the shoulders of giants who have gone before me."

It is timely, on the back on my husband's sacrifice, to ask what it means to be a woman in Parliament. In 1890, Premier Sir Henry Parkes introduced electoral reform bills into the New South Wales Parliament which would have allowed women to stand for office. A number of honourable men spoke against women entering Parliament. The bills were defeated. Last week, in 2017, before I even entered this House, some people questioned my eligibility for this role. What did they ask? Did they question my qualifications, my experience as a lawyer or as a government adviser? Did they care that I was integral to introducing government policy that has saved taxpayers hundreds of millions of dollars? Were there any questions about whether I was committed to making a difference? The answer is no. They were suggesting that I cannot make decisions for myself or that I was somehow gifted a place in here after only 26 years of service to the Liberal Party.

It will not surprise you to hear that I am an independent, strong free thinker, a mother of two beautiful children, a devoted wife, and someone who, most importantly, cares about improving the lot of people in New South Wales. As a woman in Parliament I do not intend to sit here and take unfair criticisms. I will fight hard with anyone who wants to put petty rivalries ahead of service to the people of New South Wales. It is worth noting that it was another 36 years after Sir Henry Parkes first introduced his bill that women were finally allowed to stand for election in the Legislative Council. I hope that it does not take that long for us to mature.

In speaking of service to the people of New South Wales, I must acknowledge the Hon. Greg Pearce, a former member of the Legislative Council. One of the great privileges of my life has been working with Greg. Both in the Opposition years and in one of the greatest reformist ministries of New South Wales government, it was his intellect at the core of so many positive changes to this State. His work in revenue, budget estimates, compulsory third party insurance, workers compensation, ICT, leasing the desalination plant and ports, and capping public sector wage increases—just to name a few—helped bring the State's billion-dollar deficit under control and set the path for where we all are now. Greg's quiet achievements were never heralded, in keeping with his humility. But I learned a great deal, for which I am deeply grateful. Greg, thank you. I will carry the torch for you in this place.

In 2011, New South Wales was ranked last in all economic indicators, including growth and unemployment. Here we are in 2017, in Government, with a budget surplus that other States and countries envy. CommSec's State of the States report ranks us the leading State economy for the thirteenth straight quarter. The

public understandably always expects more than just strong fiscal results. We must continue to ensure that for the balance of this term, and then, hopefully, in terms three and four, our obligation to the vulnerable is not just couched in terms of what is in our charter. At its heart, a government must have a moral core. We now have a government of the highest integrity. It is for these reasons that we must continue to perform and satisfy the voters of this great State. The Australian Labor Party must look at our infrastructure achievements of the past 6½ years with such envy. This has not happened by chance. It has been delivered on the back of tough and at times unpopular decisions. Those decisions have set up this State's infrastructure needs for many generations to come.

As a representative of the northern province I promise to do my part. The northern province is a place bordered by water on three sides. The geography alone creates traffic challenges and people have been longing for a Northern Beaches Tunnel for 50 years or more. Now, under Premier Gladys Berejiklian, it is a reality. In the early days of this Parliament places like Berowra Waters and the coves of Pittwater were largely uncovered. However, the entire northern province has changed enormously over the decades. The challenges now faced by the communities of Hornsby, Manly, Willoughby and Davidson are overdevelopment, housing affordability and the need for more mental health services in our area. We need more transport connectedness; we need to preserve our natural environment for the good of our kids and theirs; and we need to ensure that we have the right education and health services for the increasing population.

Fortunately, our Premier is looking to the future of the northern province. We are building new roads, new transport infrastructure and new and improved schools and hospitals. The future of my province is looking bright, and I will be a fierce advocate to ensure that these projects get built on time and make the life of every member of the northern province community better. I look forward to the opening the Northern Beaches Hospital, ensuring commuter times drop on the NorthConnex, and of course seeing the first cars through the Northern Beaches Tunnel. I have enormous faith in our key Ministers in these portfolios delivering for the northern province; but, nonetheless, I plan to be a warrior for all the infrastructure projects affecting the communities for which I am responsible.

While the future of our great State is in good hands, the next 10 years will see drastic changes to the way we do business within a digital economy. My son keeps telling me so. Automation, robotics and the internet are things set to affect one in two jobs in this State. Thank you, Andrew Grill and Anne Marie Elias, for reminding us to prepare for the start-up community, which will become tomorrow's future employers. I will be a warrior for women founders, who now represent 25 per cent of all new start-up companies. As the daughter of an entrepreneur and having been both an employer and employee, I know how much business in this State carries its weight. I will stand with Premier Berejiklian and her program of incentivising business and getting out of its way.

But business is nothing without community. Community is the backbone of our lives, our economy and our wellbeing, by whatever means. For our family, surprisingly, it is through rugby. Not only is rugby the game they play in heaven, it is the great leveller. It holds communities together and crosses international borders. From the Braidwood Redbacks to the Manly Marlins and Manly Mermaids, we have an Olympic gold medal women's sevens team right here in New South Wales. I will be a warrior for rugby, especially women's rugby in this place.

Of course politics is also a team sport. I will be a champion for our Coalition colleagues and the importance of strong country and regional communities. Having a farm in Braidwood, I know the challenges our country friends face. I also know their strengths. We have a State rich in resources in the ground, above it and in our Coalition partners. We are stronger together, and I look forward to working with you on the importance of the regions which feed us, clothe us and power our capitals. An issue for us all, city and country, is mental health. I acknowledge Dr Vijay Roach and Catherine Knox and the critical work you do with the Gidget Foundation. You saved my life. It is criminal that in a country so wealthy, so full of natural resources and human capital, we still have people taking their own lives. Thank God for the survivors. Thank God for those who help them to survive. I will be a warrior for mental health in this place.

To my children, Madeleine and Fergus, I will embarrass you. There will be nights—like this week—where I cannot be home to help with homework and, like Monday, I will miss the trumpet concert and the STEM showcase. I am sorry. Long after you have forgotten about it, I will not have. But I hope that one day you will understand and forgive me. I am hoping my work here will make a difference to your lives and those of your children and maybe even your great-great-grandchildren. Thank you for your lively dinner table conversations, for being curious and critical of the world around you, for being optimistic and enthusiastic. You keep me centred. You are great political activists. Do not ever stop questioning and challenging. Maybe just don't challenge me quite so much! Your future is limitless. I promise that I will also be a warrior for your future in this place.

I am thankful for my beautiful sister-in-law, Adrienne Ward, and my brother, Tony Ward, who carries out his role as a brother diligently and will never let me take myself too seriously. Thank you for travelling to be here today. Eileen Begg, Kirsty Begg and Grahame Barker, thank you for welcoming me into your lives and creating a strong family bond that our children and we have the luxury of enjoying. My Uncle Derek and Auntie

Valerie in Queensland, who are watching, my Auntie Helen and Nana Gladys in Adelaide—I acknowledge people who are not here but who I know are watching over us: Dr John Begg is one of the sharpest intellects I have met, and one the gentlest men I have ever known and we in politics could learn a lot from him; Auntie Anne Inkster, a teetotal Presbyterian elder—I know she is watching and please excuse my language when I quote her favourite saying: "Bally men"—I am so lucky to have cheeky friends and I am grateful they will never call me "Honourable"; Milly Brigden; all of the Moufarriges; Monique Harris and Damian Horton; Suzanne Foster; Emma Halsey; and Alastair McEwin.

I acknowledge my colleagues and all the members of the Liberal Party, many of whom are here tonight. Their loyalty, honesty and counsel have seen me through the past 26 years. Just like any good family we have our moments, but we always come together. One thing I am so very proud and slightly terrified of is Liberal women. Do not mess with them—Chris McDiven, Robyn Parker, Marilyn Cameron, Di Woods, Carolyn Cameron, Sophie Stokes, Caroline Speakman, Shauna Jarrett, Nichola Constant, Namoi Dougall, Joanne McCafferty, Gabrielle Upton and Patricia Forsythe. And the women in office, all of you who serve, for those women who have stood for office and have not made it here—yet—I am here for you. Do not give up. We need you.

Women Coalition members and Ministers in this place—I am humbled to serve with you. And the best woman Premier that New South Wales has ever seen, Gladys Berejiklian, it is a privilege to serve with you. I will be a warrior for you in this place, and, as you demand, a warrior for the people of New South Wales. I am very aware that I am merely carrying the torch from those who have gone before me: the Hon. Bruce Baird, AM; Chris Puplick, AM; the Premier who had the courage of his convictions and my friend, Mike Baird; the Premier we should have had, John Brogden, AM. Those who are not here: Ross Barlow, OAM; and John Booth; of course the magnificent Manly Business Branch and all members of the northern province. I can't name everyone here but I will thank you in person.

To the next generation—like the movie, I call them the Bright Young Things: Tom Loomes, Mitchell Hillier, Ian Hancock, Lachie Crombie, James Wallace, Chris Rath, and Lachie Finch. I have such faith in you. You're smarter, savvier and better looking than we ever were. To my mentors, Dr the Hon. Robert Gordori Stokes—he hates me calling him that; the Hon. Stuart Ayres; the Hon. Don Harwin; the Hon. John Ajaka, Mr President; the Hon. Matt Kean; Trent Zimmerman, Jason Falinski and all my Liberal colleagues, thank you for being Liberal champions. All athletes need coaches and there is none better than Kevin McCann, AM. The Hon. Paul Fletcher and so many other Federal and State colleagues—I will thank you in person. I promise to honour you by upholding the core Liberal values of free enterprise, the freedom of the individual, and freedom of choice.

In an increasingly fabulously disrupted world, in a world where traditional approaches and methodologies are being challenged, these values have provided me a compass to map my direction. I promise to advocate for pulling people up and incentivising, rather than burdening them and penalising them. I will be a warrior for incentives rather than penalties to let them get on with the job. I will be courteous to the taxpayer and vigilant against mismanagement and union thuggery. I am proud to work alongside others who will not let partisan, hard conservative views or union self-interest prevail.

Finally, I will be the best that I can be for New South Wales—for my colleagues, for my family and for my father. I am incredibly sad tonight that my Dad cannot be here. My father was an entrepreneur who created jobs. He turned a run-down winery into a thriving employer when everyone said it could not be done. And he kept it throughout the Labor recession that, apparently, we "had to have." Dad, you were kind, generous to a fault, an inspiration, and like many good people you were taken way too soon. I miss you every single day. You were my best friend and my fiercest critic. You taught me to stand up to thugs and bullies through intelligent articulate argument. You taught me to be brave. I promise to uphold the values you instilled in me in this place and for all Liberals and Coalition members, and to thank our predecessors. Mr President, I thank you, and I thank honourable members for their courtesies.

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

Bills

BUILDING PRODUCTS (SAFETY) BILL 2017

Second Reading Debate

Debate resumed from an earlier hour.

Mr DAVID SHOEBRIDGE (20:00): The Greens will not oppose the Building Products (Safety) Bill 2017. However, we will be supporting significant amendments in Committee to make it a far more responsible solution to the dangers of flammable cladding. This bill does one-half or one-third of the job required to keep

buildings safe in New South Wales, particularly from flammable cladding. When members became aware of the Grenfell Tower disaster they would have realised that there but for the grace of God goes anyone's property or loved ones if we did not have proper building safety laws in place in New South Wales.

Since 1998 this State has had a two-decade-long experiment with private building certification that has made it more at risk than the United Kingdom. With that history in mind, when people in my party saw the Grenfell Tower disaster they were immediately concerned and wanted to know what this State's response would be. I acknowledge that the Government established a task force and that it implemented an audit to see what, if any, buildings in New South Wales would be at risk of experiencing a similar tragedy. A desktop audit identified more than 1,000 properties that were at high risk because of unsafe building cladding. It then drilled down to establish that half of them were multistorey residential properties.

The Greens could not get exact numbers from the Government or the Minister. However, I think they have identified a number less than 100 that raise substantive concerns. To date, despite the efforts of the Government and the task force, not one property has been made safe. The Greens think that is a failing. To date, not one building product has been identified as unsafe, no formal notice has been issued and no product has been withdrawn from sale in New South Wales. That is not good enough. To date, there is no evidence that one resident in an unsafe property or a property that is believed to be unsafe, as identified in the audit, has been told the nature of the concerns or how to make their home safer. Again, that is not good enough.

The Greens will support the bill because it effectively allows the Commissioner for Fair Trading to prohibit certain uses of building products to address a safety risk. That is not limited to fire safety, although the prohibition is obviously in the context of fire safety concerns raised by the Grenfell Tower disaster. This bill focuses on unsafe uses, unsafe installation and the end of the supply chain. It is focused on installers, builders and developers installing cladding in an unsafe way or contrary to a direction. It is in many ways like putting an ambulance at the bottom of a cliff: it focuses on the wrong end of the supply chain. It does not address the supply chain risk or require supply chain responsibility. It also contains inadequate notification measures. The only statutorily required notification The Greens can identify is that a notice must be placed somewhere on the internet. If the Government really wants the building industry to be aware of unsafe building products, the notification requirements must be far stronger than that. The Greens will move some amendments that will take the legislation in the right direction in that regard.

The bill also leaves home and unit owners primarily responsible for the cost of rectification works. Again, that is a significant defect. The Greens will move amendments to provide that home warranty insurance must meet the cost of the rectification of a safety notice under this bill by deeming such works to be major defect works for the purposes of the Home Warranty Insurance Scheme. The Greens also will support the Opposition's proposed amendments relating to supply chain responsibility. Indeed, in doing that we will be joining a chorus of voices from the industry. Previously, the industry saw a draft bill from this Government that would have included supply chain responsibility. It has examined Queensland legislation that contains that responsibility and it wants to know why that is not being done in New South Wales.

In that regard, I note representations from the Australian Steel Institute, which has said that the industry wants the bill to include provisions dealing with supply chain responsibility. The institute, which represents the steel supply chain in this country, is concerned that the New South Wales Government's draft bill "neglects to include major provisions that ensure more responsible building supply in line with nationally agreed first principles". That is the institute's opening salvo in a media release issued on 20 November. The chief executive of the Australian Steel Institute is hardly a bleeding-heart leftie. Tony Dixon is one of the senior players in the building products manufacturing industry in New South Wales. The institute states that one of the key concerns is that the value and importance of existing building industry initiatives designed to shore up that supply quality and to make the industry more rigorous with third party certification schemes are ignored in this bill. Mr Dixon states:

The draft NSW Bill in its current form only contains provisions to act after a non-conforming product has been brought to the Government's attention.

That is the ambulance at the bottom of the cliff that the Government has proposed. He continues:

... along with not imposing obligations on all participants in building product supply, the ASI is also disappointed that measures to strengthen building regulator's powers, commended by the BMF, are missing from the proposed NSW legislation. The Greens also are concerned about that. Lastly, I note that Mr Dixon said, "Suring up the supply chain in this manner is surely more preferable than applying punitive measures after nonconforming product is already built in or, god forbid, a disaster occurs." Members from all parties in this Chamber have received representations from the Building Products Innovation Council, which is very concerned about the bill. In a letter dated 21 November 2017, the council said that on 16 November 2017, a heavily-edited version of the bill that previously had been taken to representatives on 6 October 2017 was tabled in Parliament. The council said the edited bill is incapable of delivering on the Government's commitment to the Building Ministers' Forum, the industry and, incredibly, the Government's own 10-point plan. How did we get to this point? The Government has not yet explained what went wrong between

6 October 2017, when there was a roundtable and a draft bill that the industry was on board with, and now, when we have this gutted bill.

It is important to record what happened on 6 October 2017. The Building Products Innovation Council said that on 6 October 2017 representatives from major building industry organisations, including the Australian Industry Group, the Australian Institute of Architects, the Building Products Innovation Council, Engineers Australia, the Fire Protection Association Australia, the Housing Industry Association, the Master Builders Association, the Owners Corporation Network, the Property Council of Australia, Strata Community Australia, and others were invited to review a draft bill that would have given effect to the New South Wales Government's 10-point plan and would have committed the Government to a comprehensive building products scheme that would prevent the use of noncompliant and nonconforming products on buildings.

Industry came away from the meeting satisfied that the draft bill included all of the key aspects of the model nonconforming building products chain of responsibility legislation that Queensland had introduced and that were fully supported by all sectors of the industry. Then the Government introduced this bill, which guts all of the supply chain aspects of the draft bill. The Queensland model was rejected and we have this half-baked solution. It is an ambulance at the bottom of the cliff. Members of Parliament and, more importantly, the citizens of New South Wales living in homes that may well be unsafe because we do not have supply-chain responsibilities in place, have not had explained to them why the Government has done this half-baked job.

To its credit, the Opposition will move a series of amendments that basically reinstate the provisions that were stripped out of the draft bill. I ask other crossbench members in this House to consider the Opposition amendments not in a partisan fashion, but as amendments that are coming to them from industry. Australian Industry Group, the Australian Institute of Architects, the Building Products Innovation Council, Engineers Australia, the Fire Protection Association Australia, the Housing Industry Association, the Master Builders Association, the Owners Corporation Network, the Property Council of Australia and Strata Community Australia are the groups that those members should be listening to; not the partisan voices of Government members, who have introduced this watered-down bill.

When all of those players in the industry have said they were satisfied with the model being proposed in Queensland and that that was the safest solution for New South Wales, it would be culpable of any independently minded member of this place to ignore those representations from industry and instead listen to what I might say are hollow and false assurances from the Government that this bill gets it right. It does not get it right. It is a half-baked measure that will not keep mums and dads safe in buildings that are built in the future and will not deal adequately with the serious concerns in the supply chain that have been identified by the Building Products Innovation Council, the Australian Steel Institute, and other players in industry that expect a great deal more from the Government and this Parliament.

We will support the bill because at least there is an ambulance at the bottom of the cliff and it is better than not having one at all. At least there is the capacity for the commissioner to issue some notices about unsafe uses of building products. Maybe, just maybe, that will stop some unsafe cladding being used. However, it will not work if no-one knows about it and we do not amend the notification processes. I also stress that it is not appropriate for ordinary mums and dads to pay the costs themselves, without assistance from their insurance, as the Government is proposing with this bill. People are already busting a gut to pay their mortgages. The average mortgage in Sydney is hundreds of thousands of dollars. It is almost impossible for many people.

It is not appropriate for the Government to say, "You're busting your gut paying your mortgage and now we're going to slug you with another \$50,000 to \$100,000 to do the building rectification works and you cannot claim on your warrantee." We believe there should be clarity in this bill. It should make it retrospectively clear that the home building warrantee will respond to a rectification order for building products under this bill. The cost of that should be met because we deem that work to be a major defect under their insurance. I look forward to consideration in the Committee stage. I hope we can rescue the bill and reinstate it to the form it was in before it was gutted.

The Hon. PAUL GREEN (20:14): The Building Products (Safety) Bill 2017 is in response to the Grenfell Tower fire in London and the Lacrosse tower fire in Melbourne. Both fires were the result of the use of unsafe combustible building products. The Christian Democratic Party believes it is imperative to ensure the safety of residents in high-rise buildings and to ensure that building products used in buildings do not pose any risks. In basic terms, this bill aims to require builders, building product suppliers, manufacturers and importers to give their records to the Fair Trading Commissioner, so dangerous building products can be identified and rectified. It also gives local councils greater powers to force rectification where buildings have used unsafe building products.

The Minister has advised that the bill aims to do four things: one, identify unsafe products used in buildings; two, stop unsafe products being used in buildings; three, identify if unsafe products have been used in

buildings in the past; and, four, confer with local government with aim to rectifying buildings that have used unsafe building products. That has clarified what this bill is intended to do. The problems with unsafe building products are not necessarily about imported products, as they may comply with standards if used for one purpose, such as an internal wall of a building, and not in another case, such as an external one.

When a building product is noncompliant, it is crucial to find out whether the material used was specified for that purpose, if a practitioner on site substituted it for the intended product, or if the surveyor incorrectly signed it off as compliant. I have received emails from stakeholders concerned about a change in the draft bill from 6 October to now. The new bill is said to be a watered-down approach to addressing the safety of building product. Housing Industry Australia stated:

[It was] satisfied that the draft bill viewed on 6 October 2017 was an appropriate approach to achieving this objective and would have provided NSW with an excellent platform to address future faults in the manufacture, sale and use of building products in building work in NSW...The tabled bill does not reflect the Government's stated objective to develop a comprehensive building products safety scheme that would prevent the use of dangerous products on buildings.

The Building Products Innovation Council stated:

Having nearly 80 clauses cut from the bill has led to a document that is the antithesis of good regulation. Furthermore, the tabled bill no longer refers to non-compliant and non-conforming products on buildings and all the deletions greatly weaken the protections afforded building owners and occupants, while lessening the quality, safety, and longevity of the built environment that NSW residents expect.

Both organisations call for the reinsertion of the deleted clauses to return it to its original intent and purpose. I have spoken to the Minister regarding the proposed amendments. At this stage, the Christian Democratic Party will move two amendments to ensure the occupants of a building are notified if they have unsafe building products in their building. I will speak further to the amendments in the Committee stage.

I am aware that other parties have amendments to this bill—mainly relating to supply chains. The Government has advised that it believes that these measures go too far at this stage, and wants to assess how many buildings have unsafe building products before looking into the control of supply chains. Let us look at that situation first, and then look into amending supply chains once we know the full reach of unsafe building products in buildings. Fair Trading and Fire and Rescue NSW will check buildings over the coming months to assess what we are in for. The Minister has advised that, after this, he will look into anything further that needs to be done to amend supply chains. Australia has implemented one of the best fire safety measures in the world.

As I said, the safety of people in New South Wales is paramount. We must ensure unsafe building products are not being used contrary to their purpose. If they are being used, we must actively identify and investigate ways to rectify their use. I noted that, despite Mr Shoebridge's comments, at the end of his contribution he said that he would support the bill. That is not a bad position. The Christian Democratic Party has received assurances from the Minister and the Government that this is stage one of the legislation. Further research must be undertaken to ensure that we are making the right laws for the right reasons, after the right research. The Christian Democratic Party therefore commends the bill to the House.

The Hon. SCOTT FARLOW (20:20): On behalf of the Hon. Sarah Mitchell: In reply: I thank honourable members for their contributions to the debate on the Building Products (Safety) Bill 2017. I particularly thank the Hon. Peter Primrose, Mr David Shoebridge and the Hon. Paul Green for their contributions to the debate on this bill. I will briefly comment on the issues that were raised during the debate. As honourable members have heard, the powers contained in the bill put a stop to the use of unsafe building products in buildings and will ensure that those who misuse building products are penalised for their actions. Safety is always the Government's priority, and all measures will be taken to ensure that unsafe products are not in use in buildings.

There would not be a member of this place who was not horrified by the fire at Grenfell Tower in London in June. Those images and the shocking loss of 71 lives was a stark reminder of the importance of doing everything we can to make sure people in high-rise unit blocks are as safe as possible. Apartment living is increasingly a way of life for the people of New South Wales, particularly in Sydney, and many more are now living in high-rise buildings. We are determined to make sure that those people can go to bed at night knowing their buildings are as safe as possible. That is why this Government is banning dangerous building products across this State. That includes stopping unsafe cladding going onto high-rise buildings.

These measures will significantly bolster fire safety measures in high-rise buildings throughout New South Wales. We are empowering the Commissioner of NSW Fair Trading to stop building products being used where they are unsafe. This is all about making sure that the right product is used in the right place. Anyone stupid enough to breach these new laws will face fines of more than \$1 million for corporations, and more than \$200,000 for individuals. We will be vigorous in using these new laws to make sure building products used in this State are safe and fit for purpose. Under these new laws, builders, building product suppliers, manufacturers and importers will be compelled to produce their records to Fair Trading so that dangerous products can be tracked

and pinpointed. This is about finding this material and getting rid of it. Failing to produce these records will be a criminal offence with penalties of up to \$11,000.

If Fair Trading identifies properties where building products have been used inappropriately, local councils will be notified. Our reform package also gives councils increased powers to force rectification where there is a safety issue. This should be noted by the Opposition, which has claimed that remediation orders were absent from the bill. The New South Wales Government will in turn monitor councils' progress in managing the rectification. Companies that continue to use a banned product will be liable to fines of up to \$1.1 million, with fines of up to \$220,000 for individuals. Any shonky operator who thinks they will be able to continue using the wrong product in the wrong place should think twice. We will throw the book at anyone who is found to have breached these new laws. We are doing everything we can to identify unsafe buildings, and make sure they are made safe as quickly as possible. Work to identify buildings that may have cladding is ongoing and that work will be made easier by the new laws.

These laws will give Fair Trading the ability to identify and locate buildings where dangerous cladding has been used. We are taking a logical and sensible approach to address the key issue at hand. First, we are identifying what material is dangerous in what circumstances and where it is. Secondly, we are making it easier to rectify buildings where this material is identified. Our reform package will not just make it easier to find buildings of concern, but will make it easier to rectify them. This bill is a sensible, responsible and clear-headed approach to this issue. It allows us to find this material, and get rid of it.

We need to get some facts into this debate. New South Wales has some of the toughest fire safety standards in the world. New South Wales was one of the leading States in mandating the installation of smoke detectors in homes. We also have sprinkler systems in our buildings, and our design standards require a range of protections including fire exits, and the compartmentalisation of buildings so that fire can more easily be contained. These laws will complement what is already in place to further enhance safety. The Government is determined to do all that it can to make people as safe as possible in their homes, and the next step is to locate material that is potentially dangerous, and get rid of it. The New South Wales Government has been actively involved and continues to be actively involved in all avenues relating to unsafe building products.

The Opposition has falsely accused the Government of sitting on these issues, and seems to have no idea of what has been happening in this area. Since January 2015 the Government has been working towards creating a comprehensive scheme to develop specific and tailored measures to address the fire safety risks associated with external wall cladding. In January 2015 the Home Building Act 1989 was amended to ensure that builders are held responsible for significant problems in fire safety systems. The changes designated fire safety systems as a "major element" of a residential building to make sure they are covered by the six-year period of statutory warranty for major defects.

In February 2016 the Secretary of the Department of Planning and Environment [DPE] wrote to all New South Wales councils highlighting the potential fire safety risks for buildings with combustible wall cladding, and requested consideration of any action needed. In October 2016 Fire and Rescue NSW and DPE held information seminars for councils around the State to explain the requirements of the National Construction Code [NCC] and the enforcement powers available to them. New South Wales has been active at the national level working with other States and Territories, and the Australian Building Codes Board [ABCB] to strengthen regulation to minimise the risk of using building products that do not conform and comply with the NCC, technical standards or local laws. The ABCB published a national advisory note relating to the appropriate use and selection of external wall cladding. This is part of a range of measures agreed to by the Building Ministers Forum to address concerns relating to fire safety in high-rise buildings.

Laws are in place to deal with building defects. It is not correct to say that owners will bear the full burden of rectifying buildings. For example, there are laws covering statutory warranties, negligence and contracts, which give residents rights to recover against people who do the wrong thing, as they do in the case of any other building defect. I will turn to some of the points raised about the bill—particularly direct notification to residents. The Minister has committed to informing residents if their building is identified as being unsafe. It is important to remember that not all cladding is unsafe, and that the safe use of cladding is dependent on how it is installed and the nature of the other fire safety systems that are installed on the building. Additionally, the bill gives the power to notify the public that a building is unsafe because of a building product when the secretary considers it is in the public interest to do so.

The Hon. Peter Primrose raised the nonconforming and noncomplying building products. The key point is that we are trying to prevent building products from being used in a way that poses a safety risk. That is what the bill provides. If a building product is not suitable for use because it poses a safety risk, it will be banned from that use. We do not need to add unnecessary concepts to the bill. The key point is that building products are used safely, and that point is addressed in the bill. The chain of responsibility for unsafe builders has also been raised.

The bill already ensures the safety of not just consumers but any person in New South Wales against the use of an unsafe building product, whether for a particular use or all of its uses. This bill will deliver the appropriate safety regime to protect all individuals in New South Wales against unsafe building products.

As I have already mentioned, there are strong enforcement powers to ensure that all individuals who do not safely use building products are captured and penalised appropriately. No two building products are the same, and it is necessary that only individuals who contravene the requirements of the bill are held accountable for their actions. Builders are the ones who use the building products and should know what they are using when they are putting the product on a building. Builders should not be blindly engaging in building and construction. All products must conform to requirements of the NCC.

The Government recognises that the majority of the building industry in New South Wales does the right thing, respects the law and complies with existing regulations. With this legislation, the Government's intention is not to target builders, certifiers and developers who are trying to do the right thing but to ensure that building products are not used for an unsafe purpose and that only offenders are prosecuted. When a building product is identified as unsafe, the secretary will have the ability to ban the use of the building product. A person who does not comply with the requirements of the ban will be subject to hefty fines for contravention of a building product use ban.

The bill specifically outlines people who must comply with the building product use ban, which includes any person who does building work that causes the building product to be used. Additionally, the bill allows other circumstances to be prescribed by the regulations to ensure that any relevant individuals can be identified and captured in the future. The Opposition is oversimplifying the issues. Building products can have a range of different uses. Whereas some uses can be perfectly safe, others are not. That is why the bill bans the use of building products but only if they are unsafe or pose a safety risk. The Government is not targeting products that have a safe use and does not intend to put manufacturers and suppliers out of business by removing building products that may have a number of safe uses but are used inappropriately. The Government will target specific uses only to ensure that no unsafe building product is used in a building in New South Wales, to ensure that offenders are prosecuted, home owners and occupants are kept safe, and building products are used properly and safely in all buildings.

The Hon. Peter Primrose raised a number of points regarding the extent to which this bill adequately protects New South Wales residents. Let me assure this House that this bill is all about safety and provides a strong new framework to ensure that building products are safe. The Opposition raised concerns during debate about there not being recall and seizure powers in the bill. Those concerns are misplaced. Building products can be safe for one purpose and not safe for another. The Opposition has provided no justification for recalling products that are entirely fit for certain purposes. The Opposition has failed to appreciate that we need to take a targeted approach that avoids unintended consequences, and that is what this bill is intended to do.

The Opposition has suggested that traders be banned from trading if a ban is not effective. As I have already outlined, the penalties in the bill already are strong. Offenders will face a maximum fine of \$1.1 million in the case of a corporation and \$220,000 in any other case. Our Government takes a contravention of a legislated requirement very seriously. A fine of \$110,000 will apply for each day the offence continues for a corporation, and the penalty will be \$44,000 in any other case. These are tough new penalties. The Opposition also suggested that the bill lacks preventative powers. That is precisely what a ban is. It is about preventing unsafe building products being banned in the future. Mr David Shoebridge raised in his speech concerns about bans not being notified widely enough. I understand he intends to move amendments on this issue at the Committee stage. However, at this stage I point out that the Department of Fair Trading will publicise bans as broadly as possible and conduct industry education, as it does currently—for example, when a recall is issued. I commend the bill to the House.

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

Motion agreed to.

In Committee

The CHAIR (The Hon. Trevor Khan): There being no objection, the Committee will deal with the bill as a whole. There are three sets of amendments: the Christian Democratic Party amendments on sheet C2017-132, the Opposition amendments on sheet C2017-130A and The Greens amendments on sheet C2017-127.

The Hon. PETER PRIMROSE (20:34:3): By leave: I move Opposition amendments Nos 1 to 24, 26 to 29, and 31 to 42 in globo:

No. 1 **Chain of responsibility**

Page 2, clause 1, line 4. Omit "*Safety*". Insert instead "*Chain of Responsibility and Other Matters*".

No. 2 **Scope of Act**

Page 2. Insert after line 21:

3 Object of Act

The object of this Act is to regulate building products:

- (a) to ensure the safety of consumers, building workers and the public generally, and
- (b) to ensure that persons involved in the manufacture, supply or installation of building products are held responsible for the safety of those products and their use.

No. 3 **Chain of responsibility**

Page 2, clause 3. Insert after line 31:

chain of responsibility—see section 12.

No. 4 **Scope of Act, chain of responsibility and building product recalls**

Page 2, clause 3. Insert after line 44:

non-conforming building product—see section 5.

No. 5 **Chain of responsibility**

Page 2, clause 3. Insert after line 44:

notifiable incident means:

- (a) the death or serious injury of a person, or
- (b) an incident that exposes a person to a risk of serious injury.

No. 6 **Building product recalls**

Page 3, clause 3. Insert after line 6:

recall order means a recall order under section 27 that is in force.

No. 7 **Chain of responsibility**

Page 3, clause 3. Insert after line 6:

relevant regulatory provisions means:

- (a) the *Environmental Planning and Assessment Act 1979*, and
- (b) the *Plumbing and Drainage Act 2011*.

No. 8 **Scope of Act**

Page 3, clause 3. Insert after line 25:

unsuitable—see section 5.

No. 9 **Chain of responsibility and building product recalls**

Page 3, clause 3, line 26. Insert "and *intended use*," after "*use*".

No. 10 **Scope of Act**

Page 4, clause 4, lines 3–5. Omit all words on those lines. Insert instead:

- (1) For the purposes of this Act, there is a *safety risk* posed by the use of a building product in a building if any persons who engage in building work, or any occupants of the building, are or will likely be at risk of death or serious injury arising from the use of the building product in the building.

No. 11 **Scope of Act, chain of responsibility and building product recalls**

Page 4. Insert after line 12:

5 Non-conforming building products

- (1) A building product is a *non-conforming building product* for a use in a building if:
 - (a) there is a safety risk posed by the use of the building product; or
 - (b) the building product or its use does not or will not comply with the National Construction Code (within the meaning of section 85), Australian Standards or any law of this State or the Commonwealth; or

- (c) the building product or the use of the building product will cause or is likely to cause damage to any property or to destroy or otherwise significantly compromise any property; or
 - (d) the building product does not perform, or is not capable of performing, in relation to the use, to the standard that it is represented to perform by a person in the chain of responsibility for the building product; or
 - (e) any information or installation instructions provided in relation to the building product, or the use of the building product, by a person in the chain of responsibility for the building product is false or misleading in a material particular or inadequate.
- (2) For the purposes of this Act, a building product is *unsuitable* for use in a building if the building product is a non-conforming building product.

No. 12 **Scope of Act**

Page 4, clause 6, line 24. Insert "and any structure or part of a structure used in connection with building work on a building" after "1979".

No. 13 **Chain of responsibility and building product recalls**

Page 4, clause 7. Insert after line 31:

- (4) An intended use of a building product in a building means a use of a building product in a building that is intended or is reasonably likely.

No. 14 **Chain of responsibility**

Page 5. Insert after line 29:

Part 3 Duties of persons in chain of responsibility

Division 1 General provisions about duties

9 Relationship with safety laws

- (1) If a provision of this Part and a provision of a safety law deal with the same thing and it is possible to comply with both provisions, a person must comply with both provisions.
- (2) However, to the extent it is not possible for the person to comply with both provisions, the person must comply with the provision of the safety law.
- (3) Evidence of a contravention of this Part is admissible in any proceedings for an offence against a provision of a safety law.
- (4) If an act, omission or circumstances constitute an offence under this Part and a safety law, the offender is not liable to be punished twice in relation to the act, omission or circumstances.
- (5) In this section:
safety law means the *Work Health and Safety Act 2011*.

10 Principles applying to duties

- (1) This section sets out the principles applying to duties persons have under Division 2.
- (2) A person may have more than 1 duty because of the functions the person performs or is required to perform.
- (3) More than 1 person can concurrently have the same duty.
- (4) Each person must comply with the duty to the standard required under Division 2 even if another person has the same duty.
- (5) If more than 1 person has a duty for the same matter, each person:
 - (a) is responsible for the person's duty in relation to the matter; and
 - (b) must discharge the person's duty to the extent to which the person:
 - (i) has the capacity to influence and control the matter; or
 - (ii) would have the capacity but for an agreement or arrangement purporting to limit or remove that capacity.

11 Code of practice about discharging duties

- (1) The Minister may, by order published on the NSW legislation website, make a code of practice that states a way of discharging a duty a person has under this Part.
- (2) Sections 40 and 41 of the *Interpretation Act 1987* apply in relation to an order under subsection (1) in the same way as they apply to a statutory rule.

- (3) A code of practice, or an order amending or repealing a code of practice, commences on the day the order is published on the NSW legislation website or a later day specified in the order.
- (4) A code of practice ceases to have effect 10 years after it commences.
- (5) A code of practice is admissible in proceedings for an offence against this Part as evidence of whether or not a duty under this Part has been complied with.
- (6) Nothing in this section prevents a person from introducing evidence of compliance with the duty in a way that is different from the code of practice.

Division 2 Duties

12 Who is person in chain of responsibility

A person is a person in the *chain of responsibility* for a building product if:

- (a) the person:
 - (i) designs, manufactures, imports or supplies the building product; and
 - (ii) knows, or is reasonably expected to know, that the building product will or is likely to be used in a building; or
- (b) the person does the building work by which the building product is used in a building.

13 Primary duty of person in chain of responsibility

Each person in the chain of responsibility for a building product must, so far as reasonably practicable, ensure that the product is not a non-conforming building product for an intended use in a building.

14 Additional duty relating to accompanying information

- (1) A person in the chain of responsibility for a building product who designs the building product must ensure, so far as reasonably practicable, that, if the person gives the design to another person who is to give effect to the design, the design is accompanied by the required information for the product.
- (2) A person in the chain of responsibility for a building product who manufactures, imports or supplies the product must ensure, so far as reasonably practicable, that when the person gives the product to another person the product is accompanied by the required information for the product.
- (3) For the purposes of subsection (2), a person gives a building product to another person if the person:
 - (a) sells, supplies or otherwise transfers the building product to the other person; or
 - (b) facilitates the sale, supply or transfer of the building product to another person.
- (4) A person who does the building work by which a building product is used in a building must ensure, so far as reasonably practicable, that the owner of the building is given the information about the product prescribed by the regulations for this subsection.
- (5) The regulations may prescribe the following requirements in relation to the information required under this section:
 - (a) the matters that must be included or provided for in the information;
 - (b) the matters that must not be included or provided for in the information;
 - (c) the form in which the information must be given.
- (6) In this section:

required information means information about the product that:

 - (a) for each intended use of the product, states or otherwise communicates the following:
 - (i) the suitability of the product for the intended use and, if the product is suitable for the intended use only in particular circumstances or subject to particular conditions, the particular circumstances or conditions;
 - (ii) instructions about how the product must be used in a building to ensure it is not a non-conforming building product for the intended use; and

- (b) complies with the requirements for the information, if any, prescribed by the regulations.

Division 3 Offences relating to duties

15 Failure to comply with duty

A person commits an offence if:

- (a) the person has a duty under Division 2; and
- (b) the person fails to comply with the duty.

Maximum penalty: 1,000 penalty units.

16 Duty about representations about building products

A person must not make a representation, or permit a representation to be made, that the use of a building product in a building complies, or will comply, with the relevant regulatory provisions if the person knows, or ought reasonably to know, that the use of the building product does not, or will not, comply with the relevant regulatory provisions.

Maximum penalty: 1,000 penalty units.

17 Duty to notify non-conforming building product

- (1) If a person in the chain of responsibility for a building product becomes aware, or reasonably suspects, that the building product is a non-conforming building product for an intended use in a building, the person must, as soon as practicable and within 2 days after becoming aware or forming the suspicion, give the Secretary notice of the matter.

Maximum penalty: 50 penalty units.

- (2) If the person is aware of a notifiable incident that was or may have been caused by the use of the building product for the intended use, the notice under subsection (1) must also include notice of the notifiable incident.

- (3) The notice under subsection (1):

- (a) must be given as soon as practicable but, in any case, within 2 days after the person becomes aware that, or forms the suspicion that, a building product is a non-conforming building product for an intended use; and
- (b) must be given in a form approved by the Secretary.

- (4) In proceedings in which a person is charged with an offence under this section, it is a defence to the prosecution of the offence if the person charged proves that the person had a reasonable excuse for the act or omission concerned.

18 Duty to comply with directions of Secretary

- (1) The Secretary may, by written notice given to a person in the chain of responsibility for a building product, direct the person to take stated action within a stated period to remove or minimise the safety risks posed by the use of the building product in a building.

- (2) Subsection (1) applies only if the Secretary is satisfied on reasonable grounds:

- (a) that the use is an intended use, and
- (b) that the building product is or may be a non-conforming building product in relation to the use, and
- (c) that the use poses a safety risk.

- (3) A person given a direction under this section must comply with the direction.

Maximum penalty: 50 penalty units.

19 Duty to notify notifiable incident

- (1) A person in the chain of responsibility for a building product who becomes aware, or reasonably suspects, that a notifiable incident was or may have been caused by the use in a building of a building product that is a non-conforming building product in relation to that use must give the Secretary notice of the notifiable incident.

Maximum penalty: 100 penalty units.

- (2) The notice under subsection (1):

- (a) must be given as soon as practicable but, in any case, within 2 days after the person becomes aware that, or forms the suspicion that, a notifiable incident has occurred; and

(b) must be given in a form approved by the Secretary.

- (3) In proceedings in which a person is charged with an offence under this section, it is a defence to the prosecution of the offence if the person charged proves that the person had a reasonable excuse for the act or omission concerned.

20 Secretary may require remedial action

- (1) The Secretary may, by written notice given to a person, direct the person to do the following within the period stated in the direction:
- (a) remedy a contravention of this Part,
 - (b) take stated steps to prevent the contravention from continuing or being repeated.
- (2) The Secretary may give a direction under this section only if the Secretary is satisfied on reasonable grounds that the person:
- (a) has contravened a duty under this Part; or
 - (b) has contravened a duty under this Part in circumstances that make it likely that the contravention will continue or be repeated.
- (3) The period stated in the direction must be at least 28 days unless the Secretary is satisfied that, if the direction is not required to be complied with within a shorter period:
- (a) a substantial loss will be incurred by, or a significant hazard will be caused to the health or safety of, a person because of the contravention; or
 - (b) the contravention will cause a significant hazard to public safety or the environment generally.
- (4) A person given a direction under subsection (1) must comply with the direction.
- Maximum penalty: 1,000 penalty units.

No. 15 Powers of Secretary

Page 6, clause 9, line 3. Omit "may". Insert instead "must".

No. 16 Scope of Act

Page 6, clause 9, line 5. Omit "the use is unsafe". Insert instead "the building product is unsuitable to be used in a building".

No. 17 Scope of Act

Page 6, clause 9, lines 16, 18 and 19. Omit "unsafe" wherever occurring. Insert instead "unsuitable".

No. 18 Scope of Act

Pages 7, 9, 10, 11, 12, 32 and 34, clauses 14, 18, 19 (2), (3), (4) and (5), 20, 22, 24, 26, 81 and 86 (3) (b). Omit "safety" wherever occurring.

No. 19 Scope of Act

Pages 9 and 10, clauses 16 and 19 (1). Omit "*safety*" wherever occurring.

No. 20 Building product recalls

Page 9, clause 16. Insert after line 7:

regulatory instrument means a building product use ban or recall order.

No. 21 Building product recalls

Page 9, clause 17, line 18. Insert "or that a building product the subject of a recall order has been used in the building" after "ban".

No. 22 Building product recalls

Page 9, clause 17, line 20. Omit "building product use ban". Insert instead "relevant regulatory instrument".

No. 23 Building product recalls

Pages 9, 10 and 12, clauses 18, 19, 20 and 26. Omit "building product use ban" wherever occurring. Insert instead "regulatory instrument".

No. 24 Powers of Secretary

Page 9, clause 18, line 23. Omit "may" where secondly occurring. Insert instead "must".

No. 26 Notification of affected buildings

Page 9, clause 18, lines 37–40. Omit all words on those lines. Insert instead:

- (4) If the building is the subject of a strata scheme under the *Strata Schemes Management Act 2015*, a requirement to give notice to the owner or owners of the building is a requirement:
- (a) to give notice to the owners corporation constituted under that Act for the building; and
 - (b) to give notice to each person who is an owner (within the meaning of that Act) of a lot in the strata scheme.

No. 27 **Notification of affected buildings**

Page 9, clause 18, lines 41 and 42. Omit all words on those lines. Insert instead:

- (5) The Secretary must publish an affected building notice on the internet and in the Gazette.

No. 28 **Powers of Secretary**

Page 10, clause 19, line 2. Omit "may". Insert instead "must".

No. 29 **Scope of Act**

Pages 11 and 12, clauses 23 and 25. Omit "safe" wherever occurring. Insert instead "suitable".

No. 31 **Scope of Act**

Page 12, clause 26, line 29. Omit "safe". Insert instead "suitable".

No. 32 **Building product recalls**

Page 12. Insert after line 32:

Part 5 Building product recalls

27 Secretary may make recall order

- (1) The Secretary may, by order in writing served on a responsible person for a building product, direct the responsible person to recall that building product from use.
- (2) An order under this section is a *recall order*.
- (3) A recall order may be made only if the Secretary is satisfied on reasonable grounds that:
 - (a) the use of the building product in a building is unsafe; or
 - (b) the building product is a non-conforming building product for an intended use; or
 - (c) the building product is being used, on a wide scale or normally, otherwise than in accordance with the instructions of the manufacturer or supplier.
- (4) The Secretary may make a recall order for a building product whether or not:
 - (a) the responsible person, or another responsible person, has already undertaken a recall of the building product; or
 - (b) the building product has been used in a building.
- (5) A recall order for a building product may be made in relation to 2 or more responsible persons for the building product.
- (6) In this Part:

responsible person for a building product means:

 - (a) a person who designed, manufactured, imported or supplied the building product; or
 - (b) if the product has been used in a building—a person who did the building work by which the building product was used in the building.

28 Notice of intention to make recall order

- (1) Before making a recall order, the Secretary must:
 - (a) give each responsible person to whom the recall order is to apply written notice of the Secretary's intention to make the order and the reasons for making the order, and
 - (b) give the responsible person a copy of the proposed recall order, and
 - (c) ask the responsible person to show cause why the Secretary should not make the proposed recall order.

- (2) If a responsible person wishes to show cause why the recall order should not be made, the person may make written submissions to the Secretary within 7 days after receiving the notice and copy of the proposed order.
- (3) The Secretary must consider any written submissions made by a responsible person within the period mentioned in subsection (2) before making the recall order.
- (4) This section does not apply to a responsible person in relation to a building product if an order, however called, directing the person to recall the building product from use is in force under the law of another State.

29 Nature of recall order

- (1) A recall order must state:
 - (a) the reasons for the recall of the building product from use, and
 - (b) what each responsible person to whom the order applies must do to recall the building product from use including, for example, the following:
 - (i) the way in which, and the period for which, a responsible person must inform other persons about the reason for the recall order;
 - (ii) the information a responsible person must give other persons about the reasons for the recall order, including the action the other persons should take to mitigate any risk of injury;
 - (iii) the action a responsible person must take in relation to other persons to whom the building product has been sold or supplied, for example, replacing the building product or providing a refund for the building product;
 - (iv) for a building product used in a building—the action a responsible person must take to remove the building product from the building;
 - (v) the action a responsible person must take to stop the building product from being a non-conforming building product for an intended use, for example, by repair or modification;
 - (vi) the action a responsible person must take to help another responsible person to whom the recall order applies to comply with the order;
 - (vii) the information a responsible person must give to the Secretary about the progress of the recall.
- (2) Each responsible person to whom the recall order applies is liable for any cost incurred in relation to complying with the order, including costs incurred by a person giving any assistance the person is required to give under this Part.
- (3) The recall order remains in force until the end of 2 years after the order is made unless sooner revoked by the Secretary.
- (4) Subsection (3) does not prevent a further recall order being made for the same building product to which the recall order applied while it was in force.

30 Compliance with recall order

- (1) A responsible person must comply with the requirements of a recall order that applies to the person.
- (2) A person must not supply, or cause to be used in a building, a building product that the person knows, or ought reasonably to know, is the subject of a recall order.
Maximum penalty: 1,000 penalty units.

31 Other persons must help responsible person

- (1) A person who supplies a building product, or does the building work by which a building product is used in a building, must give a responsible person who is the subject of a recall order in relation to the building product any reasonable assistance that the person requests to enable the person to comply with the recall order.
Maximum penalty: 50 penalty units.
- (2) This section applies only if the responsible person who is the subject of the recall order produces a copy of the recall order to the person the subject of the request.

32 Public notice

The Secretary must ensure information sufficient to alert the public about the reason for the recall order is published:

- (a) in a newspaper circulating generally in the State; and

- (b) on the internet.

No. 33 **Scope of Act**

Pages 15, 16 and 18, clauses 34, 38, 39 and 42. Omit "unsafe" wherever occurring. Insert instead "unsuitable".

No. 34 **Building product recalls**

Page 15, clause 36, line 24. Omit "impose or amend a building product use ban". Insert instead "impose, make or amend a building product use ban or recall order".

No. 35 **Building product recalls**

Page 17, clause 41, line 15. Omit "impose or amend a building product use ban". Insert instead "impose, make or amend a building product use ban or recall order".

No. 36 **Enforcement orders**

Page 27. Insert after line 18:

70 Enforcement orders by court on conviction of person

- (1) If a person is convicted by a court of an offence against this Act or the regulations, the court may, if satisfied that it is appropriate in the circumstances to do so, make an order (an enforcement order) that imposes any or all of the following requirements on the convicted person in relation to the building product to which the conviction relates:
 - (a) a requirement that the convicted person cease manufacturing, supplying or using the building product,
 - (b) a requirement that the convicted person do anything, or cease to do anything, reasonably necessary to ensure that the building product is not a non-conforming building product and is not unsuitable for use in a building,
 - (c) a requirement that the convicted person do anything reasonably necessary to ensure that the building product is not used in a building,
 - (d) if the building product has been used in a building, a requirement that the convicted person do, or cause to be done, any work reasonably necessary to remove the building product from the building, or to eliminate or minimise the risk posed by the use of the building product and remediate or restore the building following that work,
 - (e) a requirement that the convicted person do anything reasonably necessary to ensure that third parties do not suffer loss or injury as a result of the convicted person's actions or as a result of the convicted person being required to comply with any of the other requirements of an order under this section.
- (2) An enforcement order must state the period within which the convicted person must comply with the order.
- (3) A person must not fail to comply with any requirement imposed on the person by an enforcement order.
Maximum penalty: 4,500 penalty units.
- (4) If an enforcement order is not complied with within the period stated in the order, the Secretary may:
 - (a) take any action that is required to be taken under the order; and
 - (b) recover from the convicted person, as a debt in any court of competent jurisdiction, the reasonable costs of taking those actions.
- (5) An enforcement order operates in addition to any other penalty the court imposes in respect of the offence.
- (6) In this section, a reference to the conviction of a person includes a reference to the making of an order in respect of a person under section 10 of the *Crimes (Sentencing Procedure) Act 1999*.

No. 37 **Recovery of investigation costs**

Page 27. Insert after line 18:

70 Payment of investigation costs on conviction of person

- (1) If a person is convicted by a court of an offence against this Act or the regulations, the court may, if satisfied that it is appropriate in the circumstances to do so, make an order (an *investigation costs order*) that requires the convicted person to pay a specified amount of investigation costs to the Secretary.

- (2) Investigation costs are any costs reasonably incurred by or on behalf of the Secretary in investigating, assessing or testing a building product, or the use of a building product, in connection with the conduct the subject of the offence.
- (3) The amount payable under an investigation costs order is not to exceed the jurisdictional limit of the Local Court when sitting in its General Division within the meaning of the *Local Court Act 2007*.
- (4) The amount payable under an investigation costs order is recoverable by the Secretary from the convicted person as a debt in any court of competent jurisdiction.
- (5) An investigation costs order operates in addition to any other penalty the court imposes in respect of the offence.
- (6) In this section, a reference to the conviction of a person includes a reference to the making of an order in respect of a person under section 10 of the *Crimes (Sentencing Procedure) Act 1999*.

No. 38 **Building product recalls**

Page 32, clause 81. Insert after line 10:

- (e) a decision of the Secretary to make a recall order,

No. 39 **Chain of responsibility**

Page 40, line 2, Schedule 2.1. Omit "Safety". Insert instead "Chain of Responsibility and Other Matters".

No. 40 **Chain of responsibility**

Pages 40, 41 and 42, Schedule 2.2, 2.3, 2.4, 2.5, 2.6, 2.7, 2.8 and 2.9. Omit "Safety" wherever occurring. Insert instead "Chain of Responsibility and Other Matters".

No. 41 **Chain of responsibility**

Page 40, line 27, Schedule 2.2 [2]. Omit "Safety". Insert instead "Chain of Responsibility and Other Matters".

No. 42 **Chain of responsibility**

Omit "to prevent the unsafe use of building products in buildings" from the long title. Insert instead "to regulate building products, to impose duties on persons who design, manufacture, supply and install building products".

I will not move amendments Nos 25 and 30 because similar amendments will be moved by the Christian Democratic Party which takes precedence. Given that I have moved 40 amendments, I seek the forbearance of the Committee to speak to each amendment briefly so that we can then move on with the debate. I will refer to the amendments as they come up in my notes. Opposition amendment No. 1 relates to the title of the bill. When the Opposition gets to the point of proposing an amendment to change the title of the bill, it is a good indication that the bill has problems. That is indicative of how far the Government has departed from an agreed position in a little over a month.

The title of the bill should reflect the focus of the bill, that is, regulatory intervention right along the building supply chain, ensuring that those responsible for non-conforming and non-complying products are held accountable; ensuring a duty of care right along the chain; and ensuring that New South Wales residents are protected against the risks and costs of dodgy building products and practices. The long title is dealt with in proposed amendment No. 42. Just as the Opposition seeks to amend the title of the bill to reflect the bill's focus, similarly the Opposition seeks to amend the long title to reflect what should be the focus of the bill, namely, to regulate building products and to impose duties on persons who design, manufacture, supply and install building products. This puts the concept of the chain of responsibility firmly back in the remit of the bill. These amendments relate also to the naming of the bill.

Amendment No. 2 relates to the objects of the proposed Act. The Opposition's amendments will insert into the bill additional objects: (a) to ensure the safety of consumers, building workers and the public generally; and (b) to ensure that persons involved in the manufacture, supply or installation of building products are held responsible for the safety of those products and their use. Amendments Nos 8 and 11 concern non-conforming and non-compliant building products. The Opposition also proposes to expand the scope of the Act by reinstating the key concept of non-conforming building products. Industry has advised the Opposition that the concept of non-compliant and non-conforming products are key concepts that should have been included in the bill. Non-conforming products are products that cannot be used, regardless of the situation. Non-compliant products are products that can or cannot be used, depending upon the circumstances. The Opposition believes that those concepts were included in the draft bill that was shown to industry representatives in October, yet for some reason they have been pulled from the bill that has been presented to this Parliament. These amendments restore the key concept of non-conforming products.

We also propose to amend definitions to remove, where appropriate, references to "unsafe" and replace them with "unsuitable", which in turn will link back to the concept of non-conformity and pick up the concept of a non-compliant product. That is a fundamental point. This reflects the general direction of jurisdictions as agreed in the Building Ministers' Forum as well as reflecting the conceptual language used in the model legislation passed by the Queensland Labor Government. New South Wales is heading in a different direction, and we are concerned that unless these amendments are passed, in coming years we will be trying to sort out the regulatory mess this Government will leave. The Opposition notes the statement of the Minister in the other place, who seemed to be confused and was under the misapprehension that adding definitions around non-conforming products is just a matter of red tape. That is of grave concern and reflects a pretty warped perception of safety.

In relation to chain of responsibility, amendment No. 5 goes to the core of the issue. This bill should have reflected the agreed approach of the Building Ministers' Forum which sought a consistent approach from all jurisdictions to address this serious issue. Other States and Territories and the Federal Government as well as, importantly, industry stakeholders have argued about the need to have a consistent approach, which should not be ignored simply for the sake of artificial deadlines. We also propose to recalibrate the purpose of the bill and seek to refer to it as an Act to regulate building products to ensure the safety of consumers and the public generally, and to ensure that persons involved in the design, manufacture and supply, specification or installation of building products are held responsible for the safety, suitability and conformity of those products in use. The amendments also expand the scope of the chain of responsibility beyond definitions limited to the Environmental Planning and Assessment Act.

Industry has advised the Opposition that the Environmental Planning and Assessment Act will not pick up all situations that present a risk, and amendments will be moved to pick up situations involving hoardings, scaffolding and formwork where the incidence of non-conforming building products is very high and the danger to workers is correspondingly high. We also include the concept of a notifiable incident, which again beefs up the bill to ensure an accident involving the death or serious injury of a person or an incident that exposes a person to a risk of serious injury must be notified. If Government members believe that dodgy building products like Alucobest should not be opposed and therefore vote against this amendment, I suspect the Government may ultimately need a good lawyer. If the Government does not support this fundamental amendment, it will lose the confidence of industry and other jurisdictions and will make clear that it is willing to leave innocent homeowners in the lurch and footing the bill for rectification works.

Amendment No. 14 imposes a range of duties of persons in the chain of responsibility. It links duties with safety laws and sets out principles applying to duties. It provides for the establishment of a code of practice for discharging duties and defines who is the person in the chain of responsibility and their primary duty, as well as setting out offences. Amendments Nos 26 and 27 refer to notifications and go to the issue of equity. The Government does not seem to care about ordinary families and the average individual and has always largely been for the big end of town. These amendments will ensure the secretary is required to notify all occupants and owners of the presence of non-conforming or non-compliant products and/or work. This reflects our view that everyone has the right to be directly advised of the presence of dangerous material in the place they own or reside in and not simply rely on some fiction of the trickle-down effect. The Minister should stand up and ensure that these amendments are carried.

Amendments Nos 15, 24 and 28 refer to the powers of the secretary. There are a number of instances where the secretary may undertake certain action, and this is even the case where the presence of dangerous material has been identified. These series of amendments are commonsense changes, which will state the secretary "must" undertake some actions, rather than "may". Amendment No. 32 concerns recalls. In the inadequate time we had to seek consultation in drafting these amendments, we have proposed this amendment to deal with an issue that industry thought needed to be included but has been excluded in the bill before the House, and that is product recalls. Recalls are a fundamental part of consumer protection law, and I am sure the Minister is already working on his Christmas product recall press release, which indicates that he certainly believes that is the case.

These series of amendments will allow the secretary to do his job—that is, to protect New South Wales consumers and New South Wales homeowners and recall non-conforming and non-compliant products if so required. The amendments impose a duty to make accurate representations about building products, to notify non-conforming building products, to comply with the directions of the secretary and to notify a notifiable incident. The amendments also provide powers to the secretary to require remedial action to force transgressors to remedy a contravention with penalties for non-compliance with these directions. Amendment No. 37 refers to investigation costs. The Opposition has put amendments to ensure the secretary can seek costs that are reasonably incurred in investigating, assessing or testing a building product or the use of a building product. I thank the shadow Minister, Yasmin Catley, for her hard work in preparing these amendments.

The Hon. SCOTT FARLOW (20:47): The Government does not support Labor's amendments to the Building Products (Safety) Bill 2017. The bill already ensures the safety of not only consumers but any person in New South Wales from the use of unsafe building products, for a particular use or for all of its uses. This bill will deliver the appropriate safety regime to protect all individuals in New South Wales against unsafe building products. The bill has been drafted to capture any building product where there is a safety risk. The Opposition is confusing the issue with the amendments before the House. The problem we are trying to solve is buildings being made unsafe by building products being used in ways that are not appropriate.

Often, building products may be unsafe for one purpose, but they may be totally safe for another purpose. Let us take PE cladding as an example. Concerns have been raised about PE cladding being used on high-rise residential buildings following the Grenfell Tower fire in London earlier this year. The Government shares those concerns. However, I have been advised that PE cladding is also used as street signs right across the country. No concerns have been raised with the Minister to suggest that PE cladding is unsafe for that purpose. What this bill does is stop products being used for purposes for which they are unsafe. Labor is proposing with these amendments to go further and has not been able to provide a justification for why a building product should not be able to be used where it is fit for purpose.

I comment now on the chain of responsibility. The key point here is that manufacturers may not always know what that product will be used for or how it will be used. Building products are complex. Building designs will vary and people should not be liable for faults for which they were not responsible. The bill avoids that risk by focusing on the problem at hand—the unsafe use of building products. Taking the approach proposed by these amendments risks significant unintended consequences. I draw the attention of the Committee to proposed new clause 5 of Labor's amendments, which defines non-conforming building products. Under proposed new clause 5 (1) (d) and (e), a building product will be a non-conforming building product if one person in the chain of responsibility for the building product makes representation or provides any information or instructions about the use of the product that is incorrect.

In practice, this means if a trainee sales assistant in Broken Hill makes an inaccurate statement about one of the matters set out in proposed new clause 5 (1) (d) and (e), then across the rest of the State that product will forever be a non-conforming building product. This is precisely the sort of absurd and unintended consequence this Government has avoided by focusing on the use of the building product. One would think those opposite, who boasted about being across these issues for years, would at least be able to propose amendments that do not give rise to such absurd consequences. The bill takes safety incredibly seriously. There are high penalties in the bill for those who act in breach of bans. This is a strong response to the issue of unsafe building products, which is why the Government does not support these amendments.

Mr DAVID SHOEBRIDGE (20:50): The Greens support each and every one of the Opposition's amendments. I will not cover them in detail, as the shadow Minister in this place covered them in detail in his contribution. I place on the record the work of the shadow Minister in the other place, Yasmin Catley. This is a comprehensive set of amendments produced at short notice. They are intelligent and detailed; they meet the concerns of industry; and they should become law. We have read them in detail. They put in place the chain of responsibility that was removed from the draft version of the bill.

With the Government's resources it could have had an even better version of the bill to make it even clearer that we are not just talking about the end use; it is about the distributors and suppliers, the obligations on those parts of the industry. If one thinks of the building industry as a pyramid, it is far easier to get at the distributors and suppliers—and hopefully at some point, with the cooperation of the Federal Government, the importers—than it is to get at the thousands and thousands of installers. That is the real merit in the Opposition's amendments. They get further up the pyramid where there is far more likelihood that sensible regulation will actually produce a positive outcome and save lives. We commend the amendments.

The CHAIR (The Hon. Trevor Khan): The Hon. Peter Primrose has moved Opposition amendments Nos 1 to 24, 26 to 29 and 31 to 42 on sheet C2017-130A. The question is that the amendments be agreed to.

The Committee divided.

Ayes13
Noes16
Majority.....3

AYES

Buckingham, Mr J
Field, Mr J

Donnelly, Mr G (teller)
Mookhey, Mr D

Faruqi, Dr M
Moselmane, Mr S
(teller)

AYES

Pearson, Mr M
Secord, Mr W
Walker, Ms D

Primrose, Mr P
Sharpe, Ms P

Searle, Mr A
Shoebridge, Mr D

NOES

Ajaka, Mr J
Clarke, Mr D
Farlow, Mr S
Harwin, Mr D

Amato, Mr L
Colless, Mr R
Franklin, Mr B (teller)
Maclaren-Jones, Ms N
(teller)

Blair, Mr N
Cusack, Ms C
Green, Mr P
Mallard, Mr S

Martin, Mr T
Ward, Ms P

Nile, Reverend F

Taylor, Ms B

PAIRS

Graham, Mr J
Houssos, Ms C
Veitch, Mr M
Voltz, Ms L
Wong, Mr E

Fang, Mr W
MacDonald, Mr S
Mason-Cox, Mr M
Mitchell, Ms S
Phelps, Dr P

Amendments negatived.

The Hon. PAUL GREEN (20:59): By leave: I move Christian Democratic Party amendments Nos 1 and 2 on sheet C2017-132 in globo:

No. 1 **Notification of affected buildings**

Page 9, clause 18. Insert after line 31:

(b) the occupier or occupiers of the building,

No. 2 **Notification of affected buildings**

Page 12, clause 24. Insert after line 8:

(b) the occupier or occupiers of the building,

The bill delivers a comprehensive new regime to ensure the safety of building products.

The CHAIR (The Hon. Trevor Khan): Order! Members will refrain from interjecting.

The Hon. PAUL GREEN: The Commissioner of NSW Fair Trading recognises the need to ban the specified use of a building product where a safety risk has been identified. It is evident that the Government understands the complex nature of modern construction and that building products can have safe and unsafe uses. To further strengthen the provisions of the bill, the proposed amendments relate to notification requirements. Clause 18 (3) refers to owner or owners of affected buildings and states:

(3) The Secretary is to give a copy of an affected building notice to the following:

(a) the owner or owners of the building

(b) the council for the area in which the building is located...

The Christian Democratic Party amendments will include owners and occupiers of affected buildings. The amendment to clause 24 requires the secretary to amend or revoke an affected building notice or a general building safety notice and to give such notices to owners and occupiers of buildings. The purpose of the amendments is to ensure that tenants and others living in affected buildings are made aware of the safety risk posed by a banned building product that has been used on their building. I commend the Government for introducing this bill and note that next year the Government will do further work on the matters raised earlier by the Hon. Peter Primrose which will balance the needs of the building industry and owners and ensure the safety of people across New South Wales now and in the future. I commend my amendments to the Committee.

The Hon. SCOTT FARLOW (21:02): The Government supports the Christian Democratic Party amendments relating to additional specific notification requirements for owners of buildings. The Government agrees it is important for affected individuals in buildings to be made aware of any issues. We do not oppose these requirements and are happy to amend the bill to include them. The Commissioner of NSW Fair Trading will notify those living in affected buildings of the details of a building product use ban to ensure that they are aware of the specific use conditions and exceptions. Full details of the building product use plan will be provided to building owners and every resident in an affected building. This includes those in single dwellings and high-rise developments. It is important that all residents are aware of the building product ban and the impact that such a ban may have on their building to allow decisions regarding their safety and avenues to rectify and make the building safe.

The CHAIR (The Hon. Trevor Khan): Order! There is too much audible conversation in the Chamber.

The Hon. PETER PRIMROSE (21:03): The Opposition is pleased that this amendment, which we have also proposed, has been moved by the Christian Democratic Party. We are also pleased that on this small but important matter the Government has been persuaded and has bowed to the inevitable pressure of the Parliament.

The CHAIR (The Hon. Trevor Khan): The Hon. Paul Green has moved Christian Democratic Party amendments Nos 1 and 2 on sheet C2017-132. The question is that the amendments be agreed to.

Amendments agreed to.

Mr DAVID SHOEBRIDGE (21:04): By leave: I move The Greens amendments Nos 1 and 2 on sheet C2017-127 in globo:

No. 1 Publication of building product use bans

Page 37, clause 91. Insert after line 7:

- (2) In addition, the Secretary is to cause notice of a building product use ban:
 - (a) to be published on the website of at least one news media organisation that, in the opinion of the Secretary, has a significant readership in New South Wales, and
 - (b) to be given to any industry or trade associations whose members should, in the opinion of the Secretary, be made aware of the building product use ban.
- (3) In this section:

news media organisation means a commercial enterprise that engages in the business of broadcasting or publishing news or a public broadcasting service that engages in the dissemination of news to the public.

No. 2 Major defects in home building

Page 42, Schedule 2.6, line 6. Omit "Act.". Insert instead:

- Act, or
- (d) a defect because of which a building product rectification order under the *Building Products (Safety) Act 2017* is made in relation to a building.

The Greens amendment No. 1 addresses an obvious defect in the bill. Currently the bill provides that the secretary has to give notice of a banned use or product "on the internet". Those are the words used in the bill. It is nice to know that the Government knows there is an internet—an extraordinary interweb that connects things. It is fascinating that the Government knows it is there and refers to it in legislation—a major advance for the Government. The problem is that the internet is large. It has quiet nooks that nobody goes into and large, prominent websites that people visit. Simply putting it on the internet, on the Moldavian social security page, will not bring these matters to the attention of the New South Wales building industry. That is why The Greens amendment No. 1 states:

- (2) In addition, the Secretary is to cause notice of a building product use ban:
 - (a) to be published on the website of at least one news media organisation that, in the opinion of the Secretary, has a significant readership in New South Wales, and
 - (b) to be given to any industry or trade associations whose members should, in the opinion of the Secretary, be made aware of the building product use ban.

The Greens usefully define "media organisation" as meaning:

... a commercial enterprise that engages in the business of broadcasting or publishing news or a public broadcasting service that engages in the dissemination of news to the public.

That fixes the Moldavian social security website problem that we think is implicit in the bill. I cannot understand why the Government would not specify and make it clear that it will put the notice on a major news media organisation's website and it will also tell the relevant industry or trade associations. Of course it should.

The Hon. Walt Secord: The *Green Left Weekly*.

Mr DAVID SHOEBRIDGE: I note the interjection. The definition of "media organisation" is:

... a commercial enterprise that engages in the business of broadcasting or publishing news ...

I do not think the *Green Left Weekly* features. I know the Hon. Walt Secord is keen to support the business model, but I do not think it would be covered, despite his urgings. Amendment No. 2 deals with the problem of rectification notices sent out by the Commissioner of NSW Fair Trading. Over the next few months—I hope that some come out—rectification notices will land in the letterboxes of home owners. They will receive a notice that says that, as a home owner they have to rip off dangerous cladding and make good their property. The first thing they will do is get a quote and they will suddenly find out that hundreds of thousands of dollars are involved. There will need to be major external scaffolding work and major building work. It will cost hundreds of thousands of dollars. Individual home owners will be facing bills of \$20,000, \$30,000, \$40,000 or \$50,000, courtesy of the rectification notices issued by this Government.

They will be wondering who the bloody hell will be paying for it. They built a property that was certified and delivered by a developer and they assumed it was safe, but now they have found that it is not. Who will pay for it? The Government's answer is, "Oh well, maybe they can sue the developer, the builder or a private owner." I am not including all multi-unit home owners; I understand this involves only properties of 15 metres or less. The Government has not made it clear that home owners can claim under their home warranty insurance. Home owners should be able to make such a claim for up to seven years, and that is what The Greens amendments propose. They will amend the bill to provide that a "defect because of which a building product rectification order under the Building Products (Safety) Act 2017 is made in relation to a building" is a major defect for the purposes of a home building warranty.

If mums and dads cannot claim against anyone else, if they cannot make a valid claim against a fly-by-night developer, they will be protected. The claim might be against Meriton (NSW) No. 43, which was registered to construct one building and was then liquidated. If they cannot make a claim against company X, Y or Z because it has gone into liquidation, they will be able to claim against their home warranty insurance and they will not have to pay for the rectification themselves. Of course, such defects should be covered by home warranty insurance, and these amendments make it clear that they will be.

I assume the Parliamentary Secretary will say that there is a clause somewhere in schedule 6 stating that, going forward, any unsafe building products identified in a ban notice will be covered as major defects. That is good, and The Greens would support such a provision in schedule 6. However, we are talking about the potentially thousands of buildings that now contain unsafe building products, and mums and dads should not be saddled with the huge cost of rectification; it should be recoverable under their home warranty insurance.

The Hon. SCOTT FARLOW (21:11): The Government does not support The Greens amendments. The bill already requires a building product use ban to be published on the internet. Of course the Government will get the message out to as many people as possible. That will include providing notice to media outlets, industry associations, licence holders, certifiers, owners and others who may be affected by a ban, but not to the Moldavian social security website as suggested by Mr David Shoebridge. NSW Fair Trading liaises with industry stakeholders and will ensure that an important decision to ban the use of a building product is conveyed. NSW Fair Trading already publishes bans of products made under the Australian Consumer Law without issue.

Mr David Shoebridge has indulged in some old-world thinking, which is typical of The Greens. They are not up to the standards of the Innovation and Better Regulation portfolio. However, as media changes, advertisements may not be the best way to get the message to the industry. Advertisements on Google, Facebook or LinkedIn may be much more effective. That is why the bill leaves this issue to be dealt with administratively and does not specify the media in the legislation. There is no need for the additional red tape burden proposed by The Greens. The amendment does not add anything to the requirements already in the bill.

There is also no need to amend the Home Building Act as proposed by The Greens in the second amendment. Existing laws deal with who must pay to address defects in buildings. The Government's focus is on stopping unsafe building products being used in buildings in the future and finding out where they have already been used. The Government wants to find these products and to get rid of them. It will examine whether the existing laws need to be amended once it knows the extent of the issue. The amendment moved by Mr Shoebridge puts the cart before the horse. Making people retrospectively liable to pay compensation, especially when they

are not at fault—which the Government understands is The Greens intention with this amendment—is a significant step that this Parliament should consider taking only once it has all the facts.

The Hon. PETER PRIMROSE (21:13): The Opposition has listened very carefully to the arguments put by the Parliamentary Secretary and, accordingly, it will support The Greens amendments.

The CHAIR (The Hon. Trevor Khan): Mr Shoebridge has moved The Greens amendments Nos 1 and 2 on sheet C2017-127. The question is that the amendments be agreed to.

The Committee divided.

Ayes 13
Noes 16
Majority.....3

AYES

Buckingham, Mr J (teller)	Donnelly, Mr G	Faruqi, Dr M
Field, Mr J (teller)	Moselmane, Mr S	Pearson, Mr M
Primrose, Mr P	Searle, Mr A	Secord, Mr W
Sharpe, Ms P	Shoebridge, Mr D	Veitch, Mr M
Walker, Ms D		

NOES

Ajaka, Mr J	Amato, Mr L	Blair, Mr N
Clarke, Mr D	Colless, Mr R	Cusack, Ms C
Farlow, Mr S	Franklin, Mr B (teller)	Green, Mr P
Harwin, Mr D	Maclaren-Jones, Ms N (teller)	Mallard, Mr S
Martin, Mr T	Nile, Reverend F	Taylor, Ms B
Ward, Ms P		

PAIRS

Graham, Mr J	Fang, Mr W
Houssos, Ms C	Mason-Cox, Mr M
Mookhey, Mr D	MacDonald, Mr S
Voltz, Ms L	Mitchell, Ms S
Wong, Mr E	Phelps, Dr P

Amendments negatived.

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: On behalf of the Hon. Sarah Mitchell: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. SCOTT FARLOW: On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a third time.

Motion agreed to.**NATURAL RESOURCES ACCESS REGULATOR BILL 2017****LOCAL GOVERNMENT AMENDMENT (REGIONAL JOINT ORGANISATIONS) BILL 2017****Returned**

The PRESIDENT: I report receipt of messages from the Legislative Assembly returning the abovementioned bills without amendment.

*Adjournment Debate***ADJOURNMENT**

The Hon. DON HARWIN: I move:

That this House do now adjourn.

HEALTH AND HOSPITAL SYSTEM

The Hon. WALT SECORD (21:24): As the shadow health Minister, I respond to the New South Wales Australian Medical Association president, Dr Brad Frankum's editorial entitled "In the wake of a tragedy", published in the November-December 2017 edition of the AMA journal, *The NSW Doctor*. It was also the subject of a breathless and wheezing Dorothy Dixier in the New South Wales Legislative Assembly today by the New South Wales health Minister. In that article, Dr Frankum referred to my recent observations of the New South Wales health and hospital system, including its many clinical errors. I note that both the office of the Premier and the health Minister were promoting a PDF of the article to the media before it was published. Curiously, on 31 October the New South Wales AMA media officer sent me an email with an attachment saying, "As a courtesy, I wanted to advise you of the contents of Brad's column." But the Berejiklian Government had already gained access to it and had distributed it.

It is important to put Dr Frankum's article in context. He is clearly within his rights to examine my critique of the New South Wales health and hospital system. In fact, it is within his role, effectively undertaking the duties of a union leader, representing and defending his member doctors. I can totally understand that as a Labor member, but I urge Dr Frankum to seriously consider his approach to defending major clinical errors and warn him of the risks of empowering and fostering a culture of cover-up. We saw that at St Vincent's Hospital in relation to the off-protocol chemotherapy scandal. Dr Frankum does himself, his union, his members and the community a disservice if he blindly defends major clinical errors. Respectfully, that is what his article goes some way to achieving. This is especially pernicious, given the culture of silence around clinical errors that is already encouraged in the New South Wales health and hospital system.

For the record, my office has repeatedly tried to get access to information about major clinical errors in the New South Wales health and hospital system. We have been denied access at every level by the health Minister and his obedient bureaucrats. We have been thwarted through blocked freedom of information requests and their non-answers to questions on notice in the budget estimates process. All we have been able to ascertain is that there have been 47 significant errors that have led to patient deaths or serious harm in the New South Wales health and hospital system. We hit a brick wall. I am disappointed in this context that Dr Frankum would try to explain away horrific cases like the Bankstown-Lidcombe Hospital baby tragedy, rather than demand additional resources for the overstretched health and hospital system.

I have received calls and messages of support from New South Wales doctors, who expressed their disquiet at Dr Frankum's position on clinical errors. Doctors have also suggested to me that Brad Frankum was under enormous pressure to justify medical errors so admittedly I was expecting his editorial. I recognise that the New South Wales AMA and the former health Minister Jillian Skinner had close links and perhaps on occasion saw eye-to-eye on the issue of keeping clinical errors under wraps. But I will not be intimidated. I pledge to continue to speak out and demand improvements in the New South Wales health and hospital system, and I urge Dr Frankum to do the same.

This is not the first time that I or the Leader of the Opposition, Luke Foley, have disagreed with the New South Wales AMA. In February 2015 the New South Wales AMA vehemently opposed Labor's plans to set up nurse walk-in centres and to expand vaccinations for adults into pharmacies. I can recall being profoundly disappointed by Dr Frankum's silence on the privatisation of five regional New South Wales hospitals in Goulburn, Bowral, Wyong, Shellharbour and Maitland. Unions NSW, the Health Services Union, Australian Salaried Medical Officers Federation and the NSW Nurses and Midwives Association were all at the forefront of the fight, as were the member for Wyong, Labor's David Harris; the member for Shellharbour, Anna Watson; and the member for Maitland, Jenny Aitchison.

The local Labor members of Parliament stood arm-in-arm with their local communities in fighting the privatisations. They held rallies, collected tens of thousands of signatures for petitions and led debates in Parliament. This made the New South Wales AMA noticeably absent on this important community health issue. As the shadow health Minister, I have a duty to represent everyone in the health and hospital system, including patients and their families, nurses and allied health workers, and hardworking doctors. I would have thought the New South Wales health Minister and Dr Frankum shared this broad scope of interests, but Dr Frankum's article and the Minister and the Premier's offices promotion of it suggest otherwise. I hope they can return New South Wales patients to the centre of their attention and I hope that in the future I can work in partnership with the AMA and its senior leadership.

WILD KOWMUNG RIVER

Mr JUSTIN FIELD (21:29): This summer the people of New South Wales will flock to our coastline in search of relaxation, recreation, entertainment and excitement. In awe of our stunning beaches and long stretches of still forested coastline, anticipating our cool, largely still clean and refreshing ocean and estuaries, we go to these places to spend a day on the beach, go for a snorkel, a surf, a fish or a sail. We in New South Wales are proud of our coastal heritage and cherish our coastal lifestyles. We value the coast's purity and its wildness. Marine parks and marine sanctuaries protect this wildness. From Cape Byron, to Coffs Harbour, Jervis Bay and Batemans Bay, marine parks in New South Wales are ensuring the future preservation of our coast. They are highly valued and supported by the community for the experiences they provide, the jobs they create, and the conservation values they retain, often instilling a sense of ongoing stewardship by the local community for their marine environment.

Despite this, the Liberal-Nationals Government actively works to undermine and erode protections over our marine estate. This Government, as part of a process of reform starting back in 2011, has just released a draft statewide Marine Estate Management Strategy—some six years later. This strategy fails to deliver on what is needed to protect our oceans and estuaries, fisheries and marine life over the next critical decade as climate change starts to hit. In a time when climate change, pollution, overfishing and inappropriate coastal development are impacting increasingly our marine environment, this Government has downgraded the recognised threat of climate change, opened the door to line fishing in our precious fully protected marine sanctuaries and flagged a de facto rezoning of our existing network of marine parks.

This is despite the Government's 2011 independent scientific review that kicked off this process, which recommended that we retain and expand our successful network of marine parks, including creating a new marine park right here in Sydney. Less than 7 per cent of the New South Wales coast is fully protected by no-take marine sanctuaries. This is simply not enough. We need a Government that protects and promotes our marine environment and the wildlife that inhabits it. We need a Government that listens to communities that are calling for new marine parks and protections. We need a marine park for Sydney that will be globally iconic and have something for everyone, no matter how people choose to use and enjoy the marine environment. The Liberal-Nationals Coalition is playing politics with our marine parks, but I know the New South Wales community loves the coast and wants to protect and strengthen our marine parks, and wants healthy oceans for the future.

Recently, I visited the wild Kowmung River, one of New South Wales remaining truly wild rivers. The Kowmung winds through the remarkable World Heritage listed Blue Mountains National Park and delivers its precious clean, fresh water directly into Sydney's drinking water supply at Lake Burragorang. Few in Sydney will know that the New South Wales Government has announced plans to raise the Warragamba Dam wall by 14 metres. This will flood 3,000 hectares of World Heritage area and drown large stretches of the rivers that run into Lake Burragorang, including the Kowmung. The flooding will kill the largely untouched forests along the river banks, causing the banks to slump, and soil and silt to flow down into the lake.

Raising the dam wall will cost New South Wales water users at least \$700 million. The Government has already allocated \$30 million for planning and assessment for the project, which it says will be completed by 2021. This money has wrongly been taken from the Climate Change Fund under the guise of flood mitigation. This fund should be reserved for projects that reduce our carbon emissions and can genuinely mitigate the worst impacts of climate change. A higher dam wall will not prevent flooding, given the Sydney Basin's unique natural features. What is needed is to ensure residents in already flood-prone land have the infrastructure in place to ensure safe evacuations and use the existing dam capacity to manage high flows, and to improve water efficiency and storm water management generally.

The reality is that this proposal is far more about looking after developer mates who want to build thousands of homes on high flood-risk land. The results could be disastrous, both for current and future residents, for the State budget but also for the wild Kowmung River. You cannot stand on the Kowmung without feeling inspired to protect this wild place. I certainly am. The idea that we would consider flooding 3,000 hectares of World Heritage listed national park and largely untouched wilderness on the edge of our biggest city is

unfathomable. These are the most precious of places. The Greens will work to oppose the dam wall raising and to save the Kowmung River.

GRAFFITI REMOVAL DAY

The Hon. NATASHA MACLAREN-JONES (21:34): I wish to speak about Graffiti Removal Day. Graffiti vandalism defaces and devalues Sydney trains, buses, parks and other facilities, as well as private homes and businesses, and costs tens of millions of dollars. In 2016, the total expenditure on combatting and cleaning up graffiti was estimated at just over \$300 million. Graffiti vandalism has the potential to make people feel unsafe, with recent Australian Bureau of Statistics surveys showing that 21 per cent of respondents in New South Wales perceived graffiti to be a social disorder problem in their local area. More importantly, they felt that spending public money on cleaning graffiti meant that money was not being spent elsewhere in ways that could benefit the community.

Furthermore, graffiti vandalism is often a dangerous activity for the perpetrator, as graffiti is often applied in dangerous locations such as along train tracks, train corridors and train tunnels. Records from the Independent Transport Safety and Reliability Regulator [ITSRR] show that the majority of recorded rail fatalities are trespassers on the rail network. Additionally, the fumes from aerosol spray cans may have detrimental effects on the health of graffiti vandals, as well as having adverse impacts on our environment. This adverse environmental impact is further compounded, as sometimes it is necessary to use strong cleaning chemicals to remove particular graffiti.

In New South Wales, police continue to disrupt and prosecute gangs of graffiti offenders by conducting anti-graffiti operations, and this year these operations also led to the seizure of prohibited weapons, cash and hundreds of cans of aerosol spray paint. According to figures from the New South Wales Bureau of Crime Statistics and Research, 401 people were found guilty of graffiti offences in 2016-17, including four who were given custodial sentences. Graffiti vandalism may be a pervasive problem, but fortunately it is one that can be combatted. Over the past year approximately 5,400 incidents of graffiti were recorded by the NSW Police Force, which is a decrease of 18 per cent from the previous year and a reflection on the stellar efforts of our Police Force and community services.

As well as the efforts of the NSW Police Force and other community outreach services, another major contributor to tackling graffiti vandalism comes in the form of community volunteers. Since its inception in 2012, each year volunteers have come together for Graffiti Removal Day. They take ownership of their community by picking up a paintbrush or paint roller, and joining a graffiti removal team. In 2016, approximately 1,500 Graffiti Removal Day volunteers removed 20,600 square metres of graffiti.

The Hon. Bronnie Taylor: That is amazing.

The Hon. NATASHA MACLAREN-JONES: It is amazing. They removed graffiti from more than 460 sites in 57 local government areas in New South Wales, from an area equivalent to the size of two football stadiums. These efforts saved the Government and private property owners an estimated \$1.4 million. This year, Graffiti Removal Day was held on Sunday 29 October, and after being provided with free graffiti-removal equipment, protective gear and training, approximately 1,900 volunteers across the State rolled up their sleeves and helped to rejuvenate their communities, one paint-brush stroke at a time. These figures are a testament to how far Graffiti Removal Day has come in just five years, with volunteers having cleaned nearly 94,000 square metres of graffiti since the event began in 2012, restoring community pride, and delivering the Government and private property owners an estimated \$6.2 million in savings.

Encouragingly, the number of graffiti incidents reported to the NSW Police Force has fallen by 46 per cent over the past five years, from 9,932 to 5,407 each year. The work of the NSW Police Force, community services, and the Graffiti Hotline—1800 707 125—all play a part, but special thanks must be given to Graffiti Removal Day volunteers who give up their valuable time each year. Volunteers come from all walks of life. We see scouts and girl guides working together and painting alongside football players, business people, retirees, Rotarians and countless others. In recognition of these volunteers I was delighted to host a reception and awards presentation ceremony for Graffiti Removal Day volunteers on Wednesday 22 November in Parliament House.

Attorney General Mark Speakman and Minister for Police Troy Grant were also in attendance to express their thanks to the assembled Graffiti Removal Day volunteers and to present individual and group awards. Special mention must go to Mr Jeff Egan, who has seen Graffiti Removal Day go from strength to strength in his capacity as project manager. I commend the efforts of the NSW Police Force as well as those who volunteered during Graffiti Removal Day this year for their actions in combatting the scourge of graffiti vandalism, and I encourage those who did not have the opportunity to participate in this year's event to get involved in the future. Only by engaging with our local communities can we work together to tackle this crime.

SCHOOL CLEANERS JOB SECURITY

The Hon. PETER PRIMROSE (21:39): Cleaners in local schools fear for their jobs next year. The New South Wales Liberal and Nationals Government is stripping away all job security provisions, and 7,000 school cleaners are being forced to reapply for their own jobs under the new cleaning contract starting in July 2018. They will lose entitlements such as sick leave, which some have built up over decades of service. This affects 4,500 sites, including 2,300 schools. Eighty per cent of cleaning work is done in schools. Other sites include the offices of members of Parliament, TAFEs, courthouses and ambulance stations. Led by NSW Branch Secretary Mel Gatfield, United Voice is campaigning to protect the rights of cleaners and to stand up and fight back against the job insecurity being promoted by this Government. In one of the most cynical statements I have read in a long time, in a letter to United Voice dated 26 October 2017 the Secretary of the Department of Finance simply says:

... under the new contract, all existing Cleaners will be offered the chance to attend an interview with the successful tenderers.

Thanks a lot—how caring of the Government! What a joke. Cleaners are supposed to be grateful for the opportunity of getting an interview to apply for the same jobs that many have already been doing for years—but now with no guarantees and no job security. My mother was a school cleaner at Campbelltown High School. I know how hard the work that cleaners do is and also how important it is for the health and wellbeing of students and the whole school community to keep learning spaces and play areas hygienic and safe. The indifference of this Government to school cleaners is frankly obnoxious, particularly with 60 per cent of cleaners being women, 61 per cent aged over 45 and nearly 38 per cent from culturally and linguistically diverse backgrounds.

There are some simple solutions that the Government could put into the request for tender right now, but time is short as the contract packages will be awarded in March 2018. In meetings with United Voice, cleaning members and officials, the Minister for Finance, Services and Property, Victor Dominello, has shown no sign of caring about job security for school cleaners or maintaining cleaning standards. Premier Gladys Berejiklian must intervene on this issue or will also be justifiably accused of arrogant indifference. Cleaners who are currently working should be able to continue to be employed regardless of who is awarded the next contract.

The New South Wales Government is stripping away employment guarantees that have been in contracts for 24 years. Other than the blind ideology of the Government, there is no reason that cleaners should lose their jobs next July. The Government's new contract has no hours guarantee for cleaners. Contractors have been asked to tender on a square metre basis rather than per hour. This will reduce cleaning hours. Fewer cleaning hours will mean dirtier classrooms. No account has been taken of the varying number of students at different locations, what specific use an area has or what surfaces are in use. The Government is treating schools and TAFEs as though they are simply a generic office space. Cleaners should be employed permanently, and provision should be made for school cleaners so they can continue to be paid through school holidays.

If the Government wants to reduce hours on the contract it should be obliged to seek evidence from the contractors about what innovations they will implement to ensure continuity of quality cleaning service provision. The contract should limit subcontracting unless it is for specialist cleaning that cannot be delivered by the primary contractor. All cleaners employed by the subcontractor should receive the same training and security checks as the primary contractor and be registered by the primary contractor. Finally, all cleaners should be employed under the Cleaning Services Modern Award 2010 as a minimum. I urge everyone to write to Premier Berejiklian and let her know that school cleaners need job security—a job and hours guarantee—put back into the cleaning contract. The Premier can be sent a message directly at cleanschools.org.au/Gladys.

POLAND INDEPENDENCE DAY

The Hon. DAVID CLARKE (21:44): I pay tribute to the nation of Poland. Recently approximately 1,000 members of Sydney's Polish community gathered in St Andrews Cathedral to celebrate Poland Independence Day. Against all the odds Poland has successfully resisted throughout history forces which, had they been triumphant, would have presided over the destruction of Christian and Western civilisation in Europe. In 1683 at the Battle of Vienna the Ottoman Turks were comprehensively defeated in their push to conquer Europe and impose Islam. History testifies that the Polish forces participating in that battle were pivotal in the Ottoman defeat. With the success in 1917 of the Bolshevik revolution in Russia a new threat arose to confront the safety of Europe—that of communism and its determination to destroy both democracy and Christianity. It was a time when much of Europe was vulnerable due to a series of communist revolutions and insurrections.

In 1920 Soviet forces invaded Poland and began an expansionist push westward, resulting in the Polish-Soviet War. Despite Poland only having been restored as an independent nation in 1918, the Soviet forces suffered a devastating defeat in August 1920 at the Battle of Warsaw. With 10,000 killed, 30,000 wounded and 66,000 taken as prisoners, Soviet losses were decisive in restraining Soviet expansion through Europe. In the 1930s, with the rise of Hitler, a new threat to Europe arose. Through a series of territorial expansions by Nazi

Germany without a shot being fired, Europe's appeasement of Hitler knew no bounds. This culminated in the Munich Agreement and Europe's acquiescing to Czechoslovakia's dismemberment and absorption by Germany. This acquiescence came to a sudden halt in September 1939 when Poland did not roll over to permit itself to be invaded but resisted to the full extent of its military capacity, despite simultaneously being invaded and occupied in its eastern regions by Soviet forces. This was the first time that Hitler's military expansion had been met with military resistance.

The upshot of this heroic bravery of the Poles was that it shamed Britain and France into abandoning their policy of appeasement to declare war on Germany. If Poland had not resisted German invasion, the future Europe would have been starkly different. Even under occupation by the Nazis in the west and the Soviet Communists in the east, the Polish people continued to heroically resist despite the reign of terror unleashed upon them by their occupiers. In the west the Nazis murdered 3.5 million Jewish Poles; in the east the Soviet Union murdered hundreds of thousands of Poland's intelligentsia in secret killing locations such as the forest of Katyn. Yet the Poles did not lessen their resistance. Large numbers of Polish pilots made their way to England to fight in the Battle of Britain. Polish troops fought in North Africa, including at Tobruk. They fought in the landings at Normandy, the Battle of France and the Battle of Monte Cassino. They fought on the Western Front and the Eastern Front. They even fought in the final Battle for Berlin.

Despite the 45 years of Poland as a communist satellite of the Soviet Union following the end of World War II, the Poles were never really conquered. Once again they took action that was to change the course of history. It started as peaceful opposition to communism in the Gdansk shipyards. It was led by the Solidarity trade union and it received spiritual leadership from a Polish pope, Pope John Paul II. Eventually it spread all the way to Moscow and led to the collapse of the communist system. When President Trump visited Poland he called it the soul of Europe and said it was the European centre of Western, Christian civilisation. He said to the Polish people:

Despite every effort to transform you, oppress you, or destroy you, you endured and overcame.

In 1683 the Poles saved Europe from the Ottoman Turks at the Battle of Vienna. In 1920 the Poles saved Europe from communism at the Battle of Warsaw. In 1939 Poland pricked the conscience of the Allies to stand up to Hitler and thus saved Europe from fascism. In 1989 the Poles were responsible for events that led to the collapse of communism once and for all. For 1,000 years Poland has been sanctified again and again by saving Europe at its very darkest hour. We can indeed be thankful for the nation of Poland and its heroic people.

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

Motion agreed to.

The House adjourned at 21:49 until Thursday 23 November 2017 at 10:00.