



New South Wales

Legislative Council

PARLIAMENTARY DEBATES (HANSARD)

**Fifty-Sixth Parliament
First Session**

Tuesday, 14 August 2018

Authorised by the Parliament of New South Wales

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LEGISLATIVE COUNCIL

Tuesday, 14 August 2018

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

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

Bills

MODERN SLAVERY BILL 2018

WATER MANAGEMENT AMENDMENT BILL 2018

CRIMES AMENDMENT (PUBLICLY THREATENING AND INCITING VIOLENCE) BILL 2018

CRIMINAL LEGISLATION AMENDMENT (CHILD SEXUAL ABUSE) BILL 2018

VICTIMS RIGHTS AND SUPPORT AMENDMENT (STATUTORY REVIEW) BILL 2018

APPROPRIATION BILL 2018

APPROPRIATION (PARLIAMENT) BILL 2018

NSW GENERATIONS FUNDS BILL 2018

SNOWY HYDRO LEGACY FUND BILL 2018

STATE REVENUE LEGISLATION AMENDMENT BILL 2018

FORESTRY LEGISLATION AMENDMENT BILL 2018

Assent

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

Governor

ADMINISTRATION OF THE GOVERNMENT

The PRESIDENT: I report receipt of the following message from the Administrator:

GOVERNMENT HOUSE
SYDNEY

John Basten
ADMINISTRATOR

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

Monday 25 June 2018

ADMINISTRATION OF THE GOVERNMENT

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

GOVERNMENT HOUSE
SYDNEY

David Hurley
GOVERNOR

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

Tuesday 26 June 2018

ADMINISTRATION OF THE GOVERNMENT

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

GOVERNMENT HOUSE
SYDNEYT Bathurst
LIEUTENANT-GOVERNOR

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

Saturday 30 June 2018

ADMINISTRATION OF THE GOVERNMENT**The PRESIDENT:** I report receipt of the following message from His Excellency the Governor:GOVERNMENT HOUSE
SYDNEYDavid Hurley
GOVERNOR

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

Sunday 22 July 2018

ADMINISTRATION OF THE GOVERNMENT**The PRESIDENT:** I report receipt of the following message from His Excellency the Lieutenant-Governor:GOVERNMENT HOUSE
SYDNEYT Bathurst
LIEUTENANT-GOVERNOR

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

Sunday 29 July 2018

ADMINISTRATION OF THE GOVERNMENT**The PRESIDENT:** I report receipt of the following message from His Excellency the Governor:GOVERNMENT HOUSE
SYDNEYDavid Hurley
GOVERNOR

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

Tuesday 31 July 2018

ADMINISTRATION OF THE GOVERNMENT**The PRESIDENT:** I report receipt of the following message from His Excellency the Lieutenant-Governor:GOVERNMENT HOUSE
SYDNEYT Bathurst
LIEUTENANT-GOVERNOR

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

Thursday 9 August 2018

ADMINISTRATION OF THE GOVERNMENT**The PRESIDENT:** I report receipt of the following message from His Excellency the Governor:GOVERNMENT HOUSE
SYDNEYDavid Hurley
GOVERNOR

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

Thursday 9 August 2018

Bills

RESIDENTIAL TENANCIES AMENDMENT (SOCIAL HOUSING) BILL 2018

First Reading

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

The Hon. DON HARWIN: I move:

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

Motion agreed to.

The Hon. DON HARWIN: I move:

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

Motion agreed to.

Documents

INSPECTOR OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION

Reports

The PRESIDENT: According to the Independent Commission Against Corruption Act 1988, I table a revised version of the special report of the Inspector of the Independent Commission Against Corruption entitled "Report concerning a Complaint by Mr Murray Kear about the conduct of the Independent Commission Against Corruption in Operation Dewar (Special Report 18/04)", dated July 2018, received out of session and authorised to be made public on 4 July 2018.

The Hon. DON HARWIN: I move:

That the report be printed.

Motion agreed to.

Commemorations

CENTENARY OF FIRST WORLD WAR

The PRESIDENT (14:34): In August 1918 the Allied forces launched the Hundred Days Offensive, a series of advances across the Somme that ultimately led to the end of the war. Critical to the success of this campaign was the assault on Mont Saint-Quentin, a German stronghold near the village of Péronne controlling a section of the Somme River from an elevated position. Outnumbered and attacking uphill across open ground, the Australian Second Division captured the crest of the hill and forced the Germans back to their main trench line. The two sides fought for two days, often hand to hand. The top of Mont Saint-Quentin was regained by the Germans only to be recaptured and secured by the Australians the following day. One British commander described the victory at Mont Saint-Quentin, in which more than 3,000 Australians were killed or wounded, as the greatest of the war.

While the attack was planned by General Monash, it was led by Major-General Charles Rosenthal. According to Monash, his leadership of the Second Division "contributed in no small measure to the fame which it has won". Wounded four times during the war, and mentioned in despatches seven times, Rosenthal was awarded the Distinguished Service Order for his service. After returning to Australia, he was elected to the Legislative Assembly for a three-year term as the Nationalist member for Bathurst. In the mid-1930s he served briefly in the Legislative Council prior to his appointment as Administrator of Norfolk Island. Major-General Rosenthal was the highest-ranking veteran of the First World War to serve in this Parliament. Lest we forget.

Announcements

MESSAGE STICK

The PRESIDENT (14:36): I advise members that according to the resolution of the House of Thursday 21 June 2018 the message stick, which was presented to this House on 11 October 2017 during a special ceremony to commemorate the introduction of the Aboriginal Languages Bill 2017, is now on display on the northern wall

of the Chamber. As resolved by the House, the message stick will stay on permanent display and will also be placed on the table during an opening of Parliament and during other special occasions. A photograph of Aunty Maureen Sulter presenting the message stick to the Hon. Sarah Mitchell, Minister for Aboriginal Affairs, illustrates the interaction between the two important proceedings: the message stick ceremony and the passage of the bill in this Parliament. The photograph was taken by Mr Nicholas Ryan, the son of our former colleague, the Hon. John Ryan. On behalf of members, I thank Nicholas Ryan for agreeing to make this photograph available for display. I acknowledge the presence of both Nicholas and the Hon. John Ryan in the President's Gallery today.

As members are aware, I consulted with the Aboriginal Languages Establishment Advisory Group and the NSW Coalition of Aboriginal Regional Alliances on an appropriate display, and then commissioned LSJ Heritage Planning and Architecture to design a cabinet to display the message stick and a description of its significance. As President of this House I am very proud to have worked with the elders and Aboriginal language custodians to achieve this display. It is more than just a reminder of the proceedings of 11 October last year. As the description declares, the message stick is a commemoration of the introduction of the bill in the Legislative Council, the first of its kind in the world and the first occasion on which an Aboriginal language was spoken in debate by a non-member. Most importantly, it is a reminder to us all of the two-way ongoing dialogue between the Aboriginal community and the New South Wales Parliament.

NATIONAL CONFERENCE OF STATE LEGISLATURES DELEGATION

The PRESIDENT (14:38): I advise members that I recently led a delegation to attend the National Conference of State Legislatures [NCSL] 2018 Legislative Summit and to visit the California State Senate. The delegation included the Deputy President, the Leader of the Opposition, the member for Lake Macquarie and the member for Blue Mountains. New South Wales has had a sister State relationship with California since 1997. The Parliament of New South Wales has hosted a number of delegations from the California State Senate, most recently in 2012. Our visit to Sacramento last week provided an opportunity to renew this important relationship and to extend an invitation for a delegation visit from California, hopefully in 2019.

I table a copy of my address to the California State Senate. I took the opportunity to express, on behalf of the people of New South Wales, our condolences on the recent and current fires in California. The members and others with whom we met were particularly interested in lessons to be learnt from the New South Wales experience in managing bushfires. The visit was also extremely useful from a New South Wales trade and investment point of view. I thank Minister Blair for the invaluable assistance provided by his officers in facilitating the visit. We will be following up a number of matters with Minister Blair and other Ministers in the weeks ahead.

Members

PARLIAMENTARY SECRETARIES

The Hon. DON HARWIN: I inform the House that on 13 July 2018 Mr Daryl Maguire, MP, resigned as Parliamentary Secretary for the Centenary of ANZAC, Counter Terrorism, Corrections and Veterans.

The Hon. Walt Secord: Corrupt scoundrel. Your mate.

The PRESIDENT: Order! The Deputy Leader of the Opposition knows better than that.

Motions

SCHIZOPHRENIA AWARENESS WEEK

The Hon. NATASHA MACLAREN-JONES (14:40): I move:

- (1) That this House notes that:
 - (a) the thirty-third annual Schizophrenia Awareness Week is held from 20 to 27 May 2018 and coincides with the week of World Schizophrenia Awareness Day on 24 May 2018;
 - (b) the theme for this year is "Do What You Can" and the aim of the week is to raise community awareness of schizophrenia and mental illness in general; and
 - (c) Schizophrenia Awareness Week commenced in 1986 and has included a range of activities across New South Wales, including information displays and events.
- (2) That this House supports Schizophrenia Awareness Week and the need for advocacy around the issue of schizophrenia.
- (3) That this House commends the important role that non-government organisations play in the mental health sphere.

Motion agreed to.

*Documents***TABLING OF PAPERS**

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

- (1) Assisted Reproductive Technology Act 2007—Report entitled "Report on the Statutory Review of Part 3A of the Assisted Reproductive Technology Act 2007", dated April 2018.
- (2) Criminal Procedure Amendment (Mandatory Pre-trial Defence Disclosure) Act 2013—Report of NSW Department of Justice entitled "Statutory Review: Criminal Procedure Amendment (Mandatory Pre-Trial Defence Disclosure) Act 2013", dated August 2018.
- (3) Report of the Commercial Fishing NSW Advisory Council entitled "Annual Report to the Minister for Primary Industries 2017-2018", dated June 2018.

I move:

That the reports be printed.

Motion agreed to.

TABLED PAPERS NOT ORDERED TO BE PRINTED

The Hon. SCOTT FARLOW: According to Standing Order 59, I table a list of all papers tabled and not ordered to be printed since 5 June 2018.

*Committees***LEGISLATION REVIEW COMMITTEE****Report: Legislation Review Digest No. 59/56**

The Hon. NATASHA MACLAREN-JONES: I table the report of the Legislation Review Committee entitled "Legislation Review Digest No. 59/56", dated 14 August 2018. I move:

That the report be printed.

Motion agreed to.

SELECTION OF BILLS COMMITTEE**Reports**

The Hon. NATASHA MACLAREN-JONES: I table report No. 11 of the Selection of Bills Committee, dated 14 August 2018. I move:

That the report be printed.

Motion agreed to.

The Hon. NATASHA MACLAREN-JONES: I move:

That the following bills not be referred to a standing committee for inquiry and report this day:

- (a) Animal Research Amendment (Reduction in Deaths of Dogs and Cats Used for Research) Bill 2018;
- (b) Crimes Amendment (Misconduct in Public Office and Other Matters) Bill 2018;
- (c) Public Finance and Audit Amendment (State-funded Private Entities) Bill 2018;
- (d) Residential Tenancies Amendment (Social Housing) Bill 2018;
- (e) Fair Trading Legislation Amendment (Consumer Guarantee Directions) Bill 2018;
- (f) Paintball Bill 2018; and
- (g) Road Transport Legislation Amendment (Penalties and Other Sanctions) Bill 2018.

Motion agreed to.

*Documents***AUDITOR-GENERAL****Reports**

The CLERK: According to the Local Government Act 1993, I announce receipt of a Performance Audit Report of the Auditor-General entitled "Fraud controls in local councils", dated June 2018, received out of session and authorised to be printed on 22 June 2018.

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

- (1) Special report entitled "Assessment of the use of a training program", dated June 2018, received out of session and authorised to be printed on 27 June 2018.
- (2) Performance Audit Report entitled "Regulation of water pollution in drinking water catchments and illegal disposal of solid waste", dated June 2018, received out of session and authorised to be printed on 28 June 2018.
- (3) Special report entitled "Performance audit insights: Key findings from 2014-2018", dated June 2018, received out of session and authorised to be printed on 29 June 2018.
- (4) Performance Audit Report entitled "Matching skills training with market needs", dated July 2018, received out of session and authorised to be printed on 26 July 2018.
- (5) Performance Audit Report entitled "Managing antisocial behaviour in public housing", dated August 2018, received out of session and authorised to be printed on 10 August 2018.

Committees

PRIVILEGES COMMITTEE

Report: Procedural Fairness for Inquiry Participants

The CLERK: According to standing order, I announce receipt of report No. 75 of the Privileges Committee entitled "Procedural fairness for inquiry participants", dated June 2018, received out of session and authorised to be printed on 29 June 2018.

The Hon. NATASHA MACLAREN-JONES (14:45): I move:

That the House take note of the report.

Debate adjourned.

REGULATION COMMITTEE

Report: Environmental Planning and Assessment Amendment (Snowy 2.0 and Transmission Project) Order 2018

The CLERK: According to standing order, I announce receipt of report No. 1 of the Regulation Committee entitled "Environmental Planning and Assessment Amendment (Snowy 2.0 and Transmission Project) Order 2018", dated June 2018, together with transcripts of evidence, submissions, tabled documents, correspondence, and answers to questions taken on notice and supplementary questions, received out of session and authorised to be printed on 29 June 2018.

The Hon. SCOTT FARLOW (14:46): I move:

That the House take note of the report.

Debate adjourned.

SELECT COMMITTEE ON THE STATE SENATE BILL 2015

Reports

The CLERK: According to standing order, I announce receipt of the report of the Select Committee on the State Senate Bill 2015, dated July 2018, together with transcripts of evidence, submissions, tabled documents, correspondence, and answers to questions taken on notice and supplementary questions, received out of session and authorised to be printed on 4 July 2018.

PORTFOLIO COMMITTEE NO. 4 - LEGAL AFFAIRS

Report: Emergency Services Agencies

The CLERK: According to standing order, I announce receipt of report No. 36 of Portfolio Committee No. 4 - Legal Affairs entitled "Emergency services agencies", dated July 2018, together with transcripts of evidence, submissions, tabled documents, correspondence, and answers to questions taken on notice and supplementary questions, received out of session and authorised to be printed on 24 July 2018.

The Hon. ROBERT BORSAK (14:47): I move:

That the House take note of the report.

Debate adjourned.

PORTFOLIO COMMITTEE NO. 2 - HEALTH AND COMMUNITY SERVICES**Report: Provision of Drug Rehabilitation Services in Regional, Rural and Remote New South Wales**

The CLERK: According to standing order, I announce receipt of report No. 49 of Portfolio Committee No. 2 - Health and Community Services entitled "Provision of Drug Rehabilitation Services in Regional, Rural and Remote New South Wales", dated August 2018, together with transcripts of evidence, submissions, tabled documents, correspondence, and answers to questions taken on notice and supplementary questions, received out of session and authorised to be printed on 6 August 2018.

The Hon. GREG DONNELLY (14:48): I move:

That the House take note of the report.

Debate adjourned.

LEGISLATION REVIEW COMMITTEE**Report: Legislation Review Digest No. 58/56**

The CLERK: According to the Legislation Review Act 1987, I announce receipt of a report of the Legislation Review Committee entitled "Legislation Review Digest No. 58/56", dated 7 August 2018 received out of session and authorised to be printed on 7 August 2018.

*Documents***2018-2019 BUDGET FINANCES****Return to Order**

The CLERK: According to the resolution of the House of 20 June 2018, I table documents relating to an order for papers regarding the 2018-2019 budget finances received on 11 July 2018 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of the documents.

Claim of Privilege

The CLERK: I table a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

2018-2019 BUDGET**Return to Order**

The CLERK: According to resolution of the House of 20 June 2018, I table documents relating to an order for papers regarding the 2018-2019 budget received on 11 July 2018 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of the documents.

2018-2019 BUDGET FINANCES**Dispute of Claim of Privilege**

The PRESIDENT: I inform the House that on Tuesday 17 July 2018 the Clerk received from Mr Justin Field written correspondence disputing the validity of the claim of privilege on documents lodged on Wednesday 11 July 2018 relating to the 2018-2019 budget finances. According to standing order, the Hon. Keith Mason, AC, QC, being a retired Supreme Court judge, was appointed as an independent arbiter to evaluate and report as to the validity of the claim of privilege. The Clerk released the disputed documents to Mr Mason. Mr Mason invited submissions from the Department of Premier and Cabinet or Treasury; however, no further submissions were received.

Report of Independent Legal Arbitrator

The PRESIDENT: I report that the Clerk has received a report from the Independent Legal Arbitrator, the Hon. Keith Mason, AC, QC, on the validity of a claim of privilege on documents lodged with the Clerk on Wednesday 11 July 2018 relating to the 2018-2019 budget finances. The report is available for inspection by members of the Legislative Council only.

*Petitions***PETITIONS RECEIVED****Tweed Byron Policing**

Petition noting the reduction in police staffing levels in the Tweed and calling on the Government to restore police numbers in the region, received from the **Hon. Walt Secord**.

Religious Freedoms

Petition supporting the protection of religious beliefs and the right to participate in religious activities, and requesting that the Government support the introduction and passage of the Anti-Discrimination Amendment (Religious Freedoms) Bill 2018, received from **Reverend the Hon. Fred Nile**.

Anti-discrimination Legislation

Petition expressing concern about the passage of the same-sex marriage legislation, the calls for the repeal of religious exemptions from anti-discrimination law and the potential loss of religious liberties, and calling on the Government to support the introduction and passage of the Anti-Discrimination Amendment (Religious Freedoms) Bill 2018, received from **Reverend the Hon. Fred Nile**.

Business of the House

WITHDRAWAL OF BUSINESS

Mr JUSTIN FIELD: I withdraw Private Member's Business item No. 2322 outside the Order of Precedence standing in my name on the *Notice Paper* relating to the Protection of the Environment Operations Amendment (Marine Plastics Reduction) Bill 2018.

POSTPONEMENT OF BUSINESS

The Hon. ADAM SEARLE: I move:

That Business of the House Notice of Motion No. 1 be postponed until Tuesday 13 November 2018.

Motion agreed to.

ORDER OF BUSINESS

The Hon. DON HARWIN: According to sessional order, I move:

That:

- (1) Proceedings be interrupted at approximately 6.00 p.m. this day, but not so as to interrupt a member speaking, to enable Dr Mehreen Faruqi to give her valedictory speech without any question before the Chair.
- (2) At the conclusion of Dr Mehreen Faruqi's speech, Government business take precedence.

Motion agreed to.

Personal Explanation

INSPECTOR OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION

The Hon. Dr PETER PHELPS (15:24): By leave: I wish to make a brief personal explanation. On 22 May this year I said the following in this place:

ICAC Inspector McClintock said that he is only going to do investigations prospectively—investigations that have arisen after his appointment.

On 25 June Inspector McClintock wrote to me saying:

I would like to correct some remarks you made in the Legislative Council ...

I have never said anything to that effect and it is not my intention.

Of course, on a literal reading of the words, this is correct. But I was not speaking literally; I was speaking metaphorically. If my words were taken literally by anyone, they were not meant to be so. My point was that I was concerned that Inspector McClintock would not make a serious effort to examine the institutional malfeasance that characterised the Ipp and Latham regimes. I hope that I am wrong in this assessment but unfortunately, given the recent reports on Murray Kear and Operation Acacia, I fear that I am not.

Bills

UNEXPLAINED WEALTH (COMMONWEALTH POWERS) BILL 2018

Second Reading Speech

The Hon. CATHERINE CUSACK (15:25): 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.

I am pleased to introduce the *Unexplained Wealth (Commonwealth Powers) Bill 2018*. The purpose of this legislation is to refer certain matters relating to unexplained wealth and information gathering to the Parliament of the Commonwealth for the purposes of section 51 (xxxvii) of the Australian Constitution, which enables State Parliaments to refer matters to the Commonwealth Parliament.

This referral of powers will authorise the Australian Federal Police to use certain New South Wales offences as a basis for confiscation of unexplained wealth from criminals under the *Commonwealth Proceeds of Crime Act 2002* [POCA]. This power would operate concurrently with New South Wales' own confiscation laws, including the unexplained wealth orders available under the *Criminal Assets Recovery Act 1990* [CARA].

Serious and organised crime is a threat to Australia's national wellbeing, and has far-reaching consequences for Australian society and its economy. According to the Australian Crime Commission's 2017 Organised Crime in Australia report, organised crime is estimated to cost Australia at least \$36 billion annually. This equates to \$1,561 out of every individual Australian's pocket, adding 6.3 per cent to the average cost of living.

Organised crime groups are increasingly operating across State, national and international boundaries to conduct their illicit trade and conceal their proceeds of crime. This calls for an enhanced focus on cooperative, cross-jurisdictional action by Australian governments, and their law enforcement and confiscation agencies.

All Australian jurisdictions have a variety of conviction-based and civil asset forfeiture regimes. A key strategy in disrupting organised criminal groups is to allow courts to confiscate the proceeds of their crimes.

State-based confiscation agencies are generally working efficiently, yet across the country the "black economy" continues to grow. It is generally acknowledged that the New South Wales Crime Commission, acting under CARA, is the most successful confiscation agency in the country. It confiscated \$33 million in criminal assets during 2015-2016 and \$30 million during 2016-2017. Proceedings under the conviction-based *Confiscation of Proceeds of Crime Act 1989* [COPOCA] are conducted by the Director of Public Prosecutions or the NSW Police Force, depending on the quantum involved.

Commonwealth confiscations are currently constrained by the requirements of the *Commonwealth Proceeds of Crime Act 2002*, which provides that it can only obtain an unexplained wealth order where a court with proceeds jurisdiction has made a preliminary unexplained wealth order and is satisfied that the whole, or any part, of the relevant person's wealth was derived from an offence against a law of the Commonwealth; a foreign indictable offence; or a State offence that has a Federal aspect. This limitation reflects Australia's constitutional arrangements.

In June 2013, the then Commonwealth Minister for Home Affairs, and Minister for Justice, the Hon. Jason Clare, MP, appointed former Australian Federal Police Commissioner Mick Palmer, AO, APM, and former NSW Police Commissioner Ken Moroney, AO, APM, as members of a panel on national unexplained wealth laws. The panel was tasked with working with Federal, State and Territory governments to develop an understanding of unexplained wealth arrangements and determine their views on the best way to establish a national approach to unexplained wealth legislation. The panel's findings supported the operational perspectives of experienced criminal investigators and prosecutors, and strongly recommended a referral of powers to the Commonwealth to overcome the constitutional restriction on using State offences as a basis for Commonwealth confiscation action.

Mechanisms targeting criminal wealth and assets are important tools that provide alternative and complementary strategies to traditional law enforcement responses to serious and organised crime. With this in mind, the New South Wales Government has agreed to become the first State to make a referral of unexplained wealth powers to the Commonwealth, which will facilitate more effective and comprehensive targeting of serious and organised crime groups across jurisdictions where suspects have wealth and assets in different Australian States and Territories, or overseas.

The *Unexplained Wealth (Commonwealth Powers) Bill 2018* makes three referrals of power to the Commonwealth:

1. **A text referral of State legislative power to the Commonwealth Parliament** to enable it to amend the *Commonwealth Proceeds of Crime Act 2002* to include a defined class of relevant State offences. The referral will only allow the Commonwealth to take action in relation to relevant New South Wales offences that can already form the basis of unexplained wealth and other confiscation proceedings in New South Wales under our *Criminal Assets Recovery Act 1990*.
2. **A savings and transitional provisions referral** to enable the Commonwealth to enact general savings and transitional provisions in the *Commonwealth Proceeds of Crime Act 2002* to ensure that Commonwealth proceedings that have commenced on the basis of the referral are able to continue even if the referral sunsets or is terminated.
3. **An amendment referral to enable the Commonwealth Parliament to amend the Commonwealth Proceeds of Crime Act 2002** as it applies to relevant State offences or the cooperative scheme. For example, the Commonwealth may need to amend their Act in response to a court decision. An Intergovernmental Agreement will commit the Commonwealth to consulting participating States prior to making any amendments touching on the "referred" parts of their Act. This minimises the grounds on which challenges could be brought to the validity of the Commonwealth legislation.

The referral of powers to the Commonwealth made under this bill will not change the capacity of New South Wales to confiscate criminal assets under our regime; rather, it will expand the field of potential targets for Commonwealth confiscation by allowing the Australian Federal Police to link persons of interest to both Commonwealth and State offences, and share the proceeds with relevant participating States.

In this way, the Australian Federal Police will be given the offence range they need to help target those criminals conducting illicit activities against the laws of New South Wales and acting against the interests of *our* citizens. The dismantling of such groups is a clear benefit to, and in the interest of, this State. We hope that the fact that New South Wales, the Northern Territory and the Australian Capital Territory are supporting this project will encourage other States to join what will be a National Cooperative Scheme on Unexplained Wealth.

An equitable sharing agreement is already in place in respect of confiscations arising from joint operations between jurisdictions. However, the new scheme will legislate a clearer, simpler and enforceable model that is more favourable to New South Wales and any future participating States.

According to the current national confiscation scheme, New South Wales only receives a share of confiscated proceeds if it has contributed to an investigation. Under the new scheme as a participating State, New South Wales will not be required to demonstrate a contribution to an investigation for it to receive an equitable share of confiscated proceeds if the Commonwealth has relied on New South Wales offences (in part or whole) to pursue the confiscation action. Apart from a proportion paid into the Victims Compensation Fund, all confiscated proceeds are currently paid into the Confiscated Proceeds Account. This will also be the case for shared proceeds from the Commonwealth.

As part of these reforms, the Commonwealth will provide State confiscation agencies with some access to information-gathering powers under the Commonwealth *Proceeds of Crime Act 2002*.

The New South Wales Crime Commission will have access to two of the Commonwealth's information-gathering powers to assist in tracing unexplained wealth assets hidden interstate. These include the powers to issue financial institutions (outside of New South Wales) with notices and to seek a court ordered production order in respect of "property tracking documents".

I emphasise, that the referral of powers will not foster competition between law enforcement agencies for the confiscation of criminal assets, but rather strengthen law enforcement cooperation between Commonwealth and State agencies to target those criminals who have been involved in serious criminal activity, and who try and exploit jurisdictional divisions to hide their assets derived from illicit proceeds.

I am happy to advise the House that I, as Minister for Police, will sign the Intergovernmental Agreement or IGA on the National Cooperative Scheme on Unexplained Wealth alongside the Commonwealth Minister for Home Affairs, the Australian Capital Territory Attorney General, and the Northern Territory Minister for Police, Fire and Emergency Services.

The IGA enshrines cooperative investigation protocols for addressing any operational inconsistency that may arise from concurrent State and Federal proceedings and confiscation orders. If the protocols for cooperation fail and inconsistent State and Commonwealth orders are made in respect of the same assets (whether through error or even bad faith), the Commonwealth proceedings would prevail; however, New South Wales would receive an equal share of the confiscated proceeds.

The legislation and IGA contain a range of protections to ensure the Commonwealth does not make amendments that are unacceptable to New South Wales, and in particular cannot change the fundamental nature of the unexplained wealth provisions in POCA (for example, by introducing provisions for unexplained wealth orders to be made by an entity other than a court).

The IGA makes provision for consultation, and approval of, proposed amendments to POCA. Clause 3.5.5 stipulates that the Commonwealth will provide the parties with the proposed text of the amendment and a reasonable time to consider and comment on the amendment.

In a situation where the Commonwealth enacts an amendment that New South Wales did not approve of, New South Wales would be able to terminate text reference 1 (which provides the power for POCA to apply in respect of State offences) as well as the amendment reference (which provides the Commonwealth with the power to amend the specific text the subject of text references 1 and 2) under clause 12 of the New South Wales bill.

New South Wales will also have "roll back" powers as a safeguard from unacceptable amendments made by the Commonwealth. The bill includes the power for New South Wales to "roll back" (or disapply) certain Commonwealth amendments by Governor's proclamation.

Additional protections are provided by the independent review of the scheme scheduled to occur four years after the commencement of the complementary Commonwealth amendments. A sunset clause in the New South Wales bill concludes the scheme after six years; however, it can be renewed if that is considered desirable.

In the unlikely event that the Commonwealth acts in bad faith under the scheme, whether by ignoring equitable sharing arrangements, failing to abide by the IGA's conflict avoidance provisions, or introducing unacceptable amendments, New South Wales has the ultimate protection of being able to terminate the referral of powers early at any time through Governor's proclamation.

I now turn to the details of the *Unexplained Wealth (Commonwealth Powers) Bill 2018*.

Clause 3 defines certain words and expressions used in the proposed Act, including the following:

Commonwealth Proceeds of Crime Act is defined to mean the *Proceeds of Crime Act 2002* of the Commonwealth, as in force from time to time.

Pre-assent version of the Commonwealth Proceeds of Crime Act is defined to mean the *Proceeds of Crime Act 2002* of the Commonwealth, as originally enacted and as subsequently amended by amendments enacted at any time before the date of assent to the proposed New South Wales Act.

Clause 4 refers to the Commonwealth Parliament each of the following:

- (a) the matters to which the pre-assent version of the Commonwealth *Proceeds of Crime Act* would relate if express amendments were made to it in the terms, or substantially in the terms, of the text set out in schedules 1 and 2 to the Act but excluding matters to which that version otherwise relates (hereafter referred to as *Text Reference 1*),
- (b) the matters to which the pre-assent version of the Commonwealth *Proceeds of Crime Act* would relate if express amendments were made to it in the terms, or substantially in the terms, of the text set out in schedule 3 to the proposed Act but excluding matters to which that version otherwise relates (hereafter referred to as *Text Reference 2*),

- (c) the matters relating to unexplained wealth (excluding certain matters) and to information gathering, but only to the extent of the making of laws with respect to those matters by making express amendments of the Commonwealth *Proceeds of Crime Act* (hereafter referred to as the *Amendment Reference*).

Clause 5 defines unexplained wealth as property or wealth that might not have been lawfully acquired. It also makes it clear that the meaning of lawfully acquired, property and wealth includes, but is not limited to, the meaning of those terms in the pre-assent version of the Commonwealth *Proceeds of Crime Act*.

Clause 6 defines information gathering to mean the production or provision of information for the purposes of, or relevant to, the taking of action, or the institution of proceedings, under a law of the State.

Clause 7 enables the Governor, by proclamation, to roll back certain express amendments to the Commonwealth *Proceeds of Crime Act* under the authority given by the proposed sections 14G and 14J of that Act.

Clause 8 specifies what are to be treated as relevant offences for the purposes of the Commonwealth *Proceeds of Crime Act* in its application to the State.

An offence referred to in section 6 (2) of the *Criminal Assets Recovery Act* 1990 is specified except:

- (a) an offence covered by paragraph (b) of that subsection by force of paragraph (f) of the definition of drug trafficking offence in section 6 (3) of that Act, or
- (b) an offence referred to in paragraph (c) or (i) of that subsection.

Clause 9 provides for *Text Reference 1* and the *Amendment Reference* to terminate on the sixth anniversary of the commencement of proposed section 4 (1) except if the Governor, by proclamation, fixes a later day or an earlier day for the termination.

Clause 10 enables the Governor, by proclamation, to fix a day for the termination of *Text Reference 2*.

Clause 11 enables the Governor, by proclamation, to fix a later day than the current termination day for the termination of *Text Reference 1* or the *Amendment Reference*.

Clause 12 enables the Governor, by proclamation, to fix an earlier day than the current termination day for the termination of *Text Reference 1* or the *Amendment Reference*.

Clause 13 enables the Governor, by proclamation, to fix a day for *Text Reference 1* and the *Amendment Reference* to terminate if the Commonwealth Parliament enacts an express amendment of the Commonwealth *Proceeds of Crime Act* that, in the opinion of the Governor, is inconsistent with the fundamental attributes of certain unexplained wealth provisions. This power will not limit, or affect, any other powers of the Governor under the proposed Act concerning the extension or termination of references made by the proposed Act.

Clause 14 enables the Governor to make regulations for the purposes of the proposed Act.

Schedule 1 sets out some of the text of the amendments to the pre-assent version of the Commonwealth *Proceeds of Crime Act* that form part of *Text Reference 1*. These amendments will extend the main unexplained wealth provisions of that Act to relevant offences specified by the proposed Act (that being New South Wales offences).

Schedule 2 sets out some of the text of the amendments to the pre-assent version of the Commonwealth *Proceeds of Crime Act* that form part of *Text Reference 1*. These amendments will allow information gathering under the proposed National Corporative Scheme on Unexplained Wealth.

Schedule 3 sets out the text of the amendments to the pre-assent version of the Commonwealth *Proceeds of Crime Act* that constitute *Text Reference 2*. These amendments will provide for application of that Act to a State and certain transitional, application and saving matters relating to the Proposed National Cooperative Scheme on Unexplained Wealth.

Schedule 4 makes consequential amendments to the *Criminal Assets Recovery Act* 1990.

Given the importance of unexplained wealth powers to the investigation of serious and organised crime, it was important that time was taken to develop a national unexplained wealth regime that would work for both the Commonwealth and the States, and to get the legislation right.

Without clear legislative protection a referral of powers could, by virtue of section 109 of the Commonwealth Constitution, render the confiscation regimes of the participating States invalid. The Commonwealth equivalent bill for this scheme therefore makes it clear that it is *not* intending to "cover the field" and that schemes of State jurisdictions will operate concurrently. I note that the Commonwealth Office of Constitutional Law has advised that the New South Wales bill must be enacted and commenced before the Commonwealth can enact and commence their bill.

The Commonwealth Government has committed additional funding to support the operations of the Australian Federal Police, including \$12.6 million over the next four years for their proceeds of crime litigation. It is in the interest of all Australian jurisdictions to see more organised crime groups (mostly involved in the illicit drug trade) lose their profits and the means to commit further crimes.

This reform package is the culmination of years of hard work and cooperation between the Commonwealth and New South Wales governments. New South Wales can proudly stand as the first State to join the national scheme and strengthen the fight against organised crime.

Second Reading Debate

The Hon. LYNDIA VOLTZ (15:27): On behalf of the Opposition I speak in debate on the Unexplained Wealth (Commonwealth Powers) Bill 2018. The object of the bill is to install the legislative framework that allows New South Wales to participate in the national cooperative scheme that would enable each respective jurisdiction to refer certain matters to the Commonwealth. The purpose is to provide the Australian Federal Police [AFP] with

the mechanism to use New South Wales offences to confiscate unexplained wealth from criminals under the Commonwealth Proceeds of Crime Act 2002. In 2013 the then Federal Labor Minister for Home Affairs, and Minister for Justice, the Hon. Jason Clare, appointed former Australian Federal Police Commissioner Mick Palmer and former New South Wales Police Commissioner Ken Moroney to a panel to assist State and Federal governments with the development of policy geared towards a national scheme addressing unexplained wealth.

The objective was to provide the AFP with the appropriate powers to clamp down on serious organised crime across Australia without running into jurisdictional issues relating to certain offences. The introduction of this bill will allow New South Wales to participate in this national scheme and, hopefully, see all other jurisdictions follow suit. The bill has come forward as a result of ongoing discussions and developments with governments across all jurisdictions, wherein New South Wales will be the first State in Australia to sign up to the scheme. The bill defines "unexplained wealth" as property or wealth that might not have been lawfully acquired. It also makes it clear that the meaning of "lawfully acquired, property and wealth" includes, but is not limited to, the meaning of those terms in the pre-assent version of the Commonwealth Proceeds of Crime Act.

The AFP has frequently expressed concerns that its hands are tied due to constitutional constraints that limit its ability to confiscate unexplained wealth from criminals who may be operating across several jurisdictions throughout Australia. It is anticipated that implementation of similar legislation will be rolled out across other Australian jurisdictions in the near future. This provides the national scheme the teeth it requires to clamp down on serious organised crime across our nation.

Under existing agreements, New South Wales receives a share of any confiscated proceeds that are seized in joint operations with the Australian Federal Police, so long as New South Wales contributes to the investigation. In his second reading speech in the other House, the Minister for Police emphasised that under changes in this bill and as a result of the National Cooperative Scheme on Unexplained Wealth any future confiscated proceeds that were seized as a result of a referral to the Commonwealth from New South Wales offences will still be equitably distributed to New South Wales, irrespective of whether we provided any further participation to the investigation.

Furthermore, it has been noted that the intergovernmental agreement that will allow New South Wales to participate in the national cooperative scheme will contain sufficient protections for New South Wales to ensure no amendments can be made to the agreement that our State does not agree with. The scheme is set to be reviewed after four years, with the sunset clause concluding after six years with the option to renew. Under the proposed bill, the following will be considered a relevant serious criminal offence for the purpose of this bill, as set out in section 6 (2) of the Criminal Assets Recovery Act 1990:

- (a) an offence referred to (before the commencement of the *Drug Misuse and Trafficking Act 1985*) in section 45A of the *Poisons Act 1966*:
 - (i) of supplying any drug of addiction or prohibited drug within the meaning of the *Poisons Act 1966*, or
 - (ii) of cultivating, supplying or possessing any prohibited plant within the meaning of that Act, or
 - (iii) of permitting any premises, as owner, occupier or lessee of the premises, to be used for the purpose of the cultivation or supply of any prohibited plant within the meaning of that Act or of being concerned in the management of any such premises
- (b) a drug trafficking offence, or
- (c) a prescribed indictable offence, or an indictable offence of a prescribed kind, that is of a similar nature to a drug trafficking offence, including in either case an offence under a law of the Commonwealth, another State or a Territory, or
- (d) an offence that is punishable by imprisonment for 5 years or more and involves theft, fraud, obtaining financial benefit from the crime of another, money laundering, extortion, violence, bribery, corruption, harbouring criminals, blackmail, obtaining or offering a secret commission, perverting the course of justice, tax or revenue evasion, illegal gambling, forgery or homicide, or
- (e) an offence under section 50A, 51, 51B, 51BA or 51BB of the *Firearms Act 1996*, or
- (e1) a drug premises offence, or
- (f) an offence under section 80D or 80E of the *Crimes Act 1900*, or
- (g) an offence under Division 15 or 15A of Part 3 of the *Crimes Act 1900* (other than an offence under section 91D (1) (b) of that Act), or
- (g1) an offence under section 93T or 93TA of the *Crimes Act 1900*, or
- (h) an offence under section 197 of the *Crimes Act 1900*, being an offence involving the destruction of or damage to property having a value of more than \$500, or
- (i) an offence under the law of the Commonwealth or a place outside this State (including outside Australia) which, if the offence had been committed in this State, would be a serious criminal offence referred to in paragraphs (a)—(h), or

- (j) an offence of attempting to commit, or of conspiracy or incitement to commit, or of aiding or abetting, an offence referred to in any other paragraph of this subsection.

Last but not least, schedule 4 sets out a number of consequential amendments to the Criminal Assets Recovery Act 1990 No 23 to give effect to this bill. The purpose of this bill is to crack down on serious organised crime across the nation. We all understand the importance of this bill and support measures aimed to fight back against the scourge of organised crime in Australia. The New South Wales Labor Opposition fully supports the hardworking men and women of the NSW Police Force and the Australian Federal Police, as well as the intent of the National Cooperative Scheme on Unexplained Wealth, as set out by the former Labor Federal Government in 2013. The Opposition supports the bill.

The Hon. PAUL GREEN (15:33): I speak in debate on the Unexplained Wealth (Commonwealth Powers) Bill 2018. Over the past several years, organised crime in New South Wales has evolved as a result of globalisation and transnational drug trafficking, terrorism and money laundering. Dozens of major organised crime groups are operating in New South Wales and those businesses can easily shift their money from one jurisdiction to another. The investigation of organised crime calls for domestic, national, international and business partnerships. Hundreds of millions of dollars from the proceeds of crime are believed to be laundered in New South Wales annually.

This bill and a complementary Commonwealth bill to be introduced shortly constitute the first step in a planned national scheme to confiscate the proceeds of serious crime using unexplained wealth provisions of the Proceeds of Crime Act 2002, which is a Commonwealth Act. Under traditional proceeds of crime laws, the prosecution has to prove that the wealth of a convicted criminal was derived from crime. Unexplained wealth laws do not require proof of a direct link between the unexplained wealth to a specific crime. With unexplained wealth laws, the onus is placed on the holder of any assets in Australia to prove that their assets and cash were gained legitimately using the "balance of probabilities" test. Under Commonwealth law, that means that people need to show how they paid for their houses and cars or earned the cash in their accounts. If they cannot, then a court may require them to forfeit a sum that represents the difference between the explained and unexplained portions of those assets. Money laundering is a critical risk to Australia. It is the common denominator of almost all serious and organised criminal activities. The New South Wales Crime Commission states:

Money laundering is increasingly a transnational enterprise, with the proceeds of crime generated by organised crime groups being put through both a domestic and an international money laundering cycle. The complex and transnational nature of money laundering has led organised criminal groups to employ the services of professional money laundering syndicates in many cases. The goal of these professional money laundering groups is to make the proceeds of crime appear to be legitimate and therefore available to organised crime groups to use without risk or fear of confiscation.

As I am sure most members have heard, the Australian Transaction Reports and Analysis Centre, or AUSTRAC, has welcomed the \$700 million civil penalty recently ordered against the Commonwealth Bank of Australia by the Federal Court of Australia. This was the largest civil penalty in Australia's corporate history and reflects the magnitude of the serious non-compliance by the Commonwealth Bank of Australia. The Proceeds of Crime Act 2002 established a scheme to confiscate proceeds of crime and provides the means for returning the benefits of those confiscated funds to the community. Under section 298 of the Act, confiscated proceeds of crime can be reinvested in programs for relevant purposes, including crime prevention and law enforcement.

The New South Wales Crime Commission confiscated more than \$30 million in criminal assets during the 2016-17 financial year and those proceeds of crime should go back to victims. That is why I addressed this issue in the Modern Slavery Act 2018, whereby a person who is convicted of a modern slavery offence may also be subject to orders under the Confiscation of Proceeds of Crime Act 1989 or the Criminal Assets Recovery Act 1990. For example, if a person is convicted of a serious offence, such as an offence under section 91G or 93AB of the Crimes Act 1900, the Director of Public Prosecutions or another appropriate officer may seek the making of a pecuniary penalty order under the Confiscation of Proceeds of Crime Act 1989 against the person in respect of benefits derived by the person from the commission of the offence. Similarly, if a person engages in serious crime-related activity such as anything that is an offence under section 93AB of the Crimes Act 1900—slavery, servitude and child forced labour—an assets forfeiture order may be made against the person on application by the New South Wales Crime Commission under the Criminal Assets Recovery Act 1990.

This bill will facilitate a more effective and comprehensive targeting of serious and organised crime groups across jurisdictions where suspects have wealth and assets in different Australian States and Territories or overseas. According to the current national confiscation scheme, New South Wales only receives a share of the confiscated proceeds if it has contributed to the investigation. Under the new scheme New South Wales will not be required to demonstrate its contribution to an investigation if the Commonwealth has relied upon New South Wales offences to pursue the confiscation action.

The Christian Democratic Party believes that we need a strong national approach to dealing with unexplained wealth and proceeds of crime. This legislation is a good start to strengthening the State and national fight against organised crime and returning the money back to victims. As members well know, the Victims Compensation Scheme was of poignant interest to people who had been trafficked and were seeking compensation and health reforms in order to restore their lives. This legislation, which will run concurrently with the Commonwealth legislation, will complement other State legislation. The Christian Democratic Party commends the bill to the House.

Mr DAVID SHOEBRIDGE (15:40): I speak to the Unexplained Wealth (Commonwealth Powers) Bill 2018 and state at the outset that The Greens do not oppose the bill. The bill refers a number of powers to the Commonwealth to allow it to confiscate unexplained wealth on the basis of a series of New South Wales offences. The Greens are concerned that we may see a competition for seizure of those assets between organisations like the New South Wales Crime Commission and Federal agencies. We have seen some pretty untidy behaviour from the Crime Commission in its pursuit of unexplained wealth at a State level. We are told that there are strong governance arrangements under an intergovernmental agreement that will ensure a cooperative approach between New South Wales and Commonwealth agencies. We do not have any details of what that cooperative intergovernmental agreement is but, as I said before, past practice of the New South Wales Crime Commission suggests it has an untidy history in this regard.

Ultimately this bill provides for the Commonwealth to rely upon potential breaches of New South Wales offences to empower Commonwealth officials to seek in Commonwealth courts the confiscation of private wealth. The protection of private wealth is normally a matter of great concern to the Coalition because normally it is deeply troubled by things like reverse onus in the courts where wealth is targeted. Nevertheless, probably without reading the bill and understanding its effect, Government members have simply waved this legislation through. Perhaps they do not know what it does, because, largely, it is an attack on property with a reverse onus on the property holder having to prove where they got their property from. In the circumstances that does not offend The Greens.

The Hon. CATHERINE CUSACK (15:42): On behalf of the Hon. Don Harwin: In reply: I thank the Hon. Lynda Voltz, the Hon. Paul Green and Mr David Shoebridge for their contributions to this debate. This bill will refer certain matters relating to unexplained wealth and information gathering to the Parliament of the Commonwealth and will authorise the Australian Federal Police to use certain New South Wales offences as a basis for confiscation of unexplained wealth from criminals under the Commonwealth Proceeds of Crime Act 2002. The new national scheme will operate concurrently with New South Wales confiscation laws under the Criminal Assets Recovery Act 1990.

I am proud that New South Wales will be the first State to join the national scheme and that we will have taken even further steps to combat organised crime groups operating their illicit trade across State, national and international boundaries. I take this opportunity to congratulate the Minister for Police, Mr Troy Grant, MP, for implementing this reform. I also acknowledge his predecessor, Minister Stuart Ayres, MP, for his contribution to the development of the policy. I thank the Federal Minister for Home Affairs, Mr Peter Dutton, MP, who has been progressing the complementary Commonwealth Unexplained Wealth Legislation Amendment Bill 2018. I thank also Minister Dutton's predecessor in this policy area, Minister Michael Keenan, MP, for his advocacy of this reform. 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.

Third Reading

The Hon. CATHERINE CUSACK: On behalf of the Hon. Don Harwin: I move:

That this bill be now read a third time.

Motion agreed to.

FAIR TRADING AMENDMENT (SHORT-TERM RENTAL ACCOMMODATION) BILL 2018

Second Reading Speech

The Hon. SCOTT FARLOW (15:45): On behalf of the Hon. Don Harwin: I move:

That this bill be now read a second time.

The New South Wales Government is pleased to introduce the Fair Trading Amendment (Short-term Rental Accommodation) Bill 2018. Short-term holiday letting has been part of our lives for decades. Many New South

Wales families spend part of their summers in our coastal communities and those coastal communities depend on the seasonal tourism that short-term holiday letting supports for their prosperity. However, with online platforms changing the way short-term letting is occurring in New South Wales, it is appropriate for us to look again at how we regulate short-term holiday letting. It is important to ensure that our laws continue to support innovation and local economies whilst ensuring that neighbours are able to enjoy their homes in peace and quiet and that short-term holiday letting does not worsen housing affordability.

The Government has consulted widely with industry and the community to make sure our nation-leading regulatory framework is the very best approach to short-term rental accommodation in the country. Indeed, these short-term rental accommodation reforms follow on from the parliamentary inquiry into the regulation of this industry, which tabled a report in October 2016. The Government then conducted an extensive public consultation process during the second half of 2017 and that public consultation process involved the release of an options paper, which canvassed various policy frameworks to regulate this industry.

There was a very strong community and industry response to the public consultation process and almost 8,000 submissions were received. Those submissions provided us with the views of a wide range of stakeholders, including hosts and guests, neighbours, online platforms and the wider accommodation industry. One thing that became particularly clear from this process was that any framework to regulate short-term rental accommodation needs to consider the needs of those individuals who can be adversely affected by this industry, especially neighbours. In other words, it was crucial that our reforms supported the rights of neighbours to peacefully enjoy their homes and their neighbourhoods.

The Government has worked hard to strike the right balance between preserving the ability of home owners to use their properties as they wish and maintaining the strong economic benefits of short-term holiday letting with public concerns about adverse impacts of short-term rental accommodation such as increased levels of noise, disturbance and impacts on neighbourhood amenity. This bill will form part of a broader package that protects the rights of individual home owners; ensures the continued economic benefit of short-term rental accommodation to the State's economy, particularly in regional communities; and cracks down on bad behaviour, especially party houses.

While members may be more familiar with the term "short-term holiday letting", the bill uses the term "short-term rental accommodation" for the simple reason that this kind of accommodation is now widely used for purposes other than holidays. This can include professionals on work trips, people from regional areas needing somewhere to stay while they receive medical treatment, grandparents coming to visit their grandchildren, and international students studying in New South Wales.

This industry has grown rapidly in New South Wales due to the emergence of online booking platforms and the expansion of the "sharing economy". The short-term holiday letting industry is contributing to the New South Wales economy, creating jobs, triggering innovative ways of doing business and boosting tourism, especially in coastal and regional areas of our State. Short-term holiday letting is estimated to be worth more than \$31 billion to the Australian economy. New South Wales contributes approximately half of that amount. That is staggering. The New South Wales Government's reforms will ensure that local economies continue to benefit from short-term rental accommodation by permitting the use of a residential premises for short-term rental accommodation, cracking down on bad behaviour and amending strata legislation.

The first component of this bill amends the Fair Trading Act 1987 to allow the Government to establish the toughest mandatory code of conduct in the country which will apply to all short-term rental industry participants. In other words, online booking platforms, letting agents, property managers, hosts and guests will all be subject to the code, which will set out the minimum standards of behaviour for the industry and establish the mechanisms needed for its enforcement. A key feature of the code is a "two strikes and you're out" policy. This means that hosts or guests who commit two serious breaches of the code within two years will be banned from short-term holiday letting for five years. A breach will encompass any behaviour which unreasonably interferes with a neighbour's quiet and peaceful enjoyment of their home.

The code will also establish a complaints system, which will be available to neighbours of short-term rental accommodation, strata committees and owners' corporations. Complaints will be assessed by independent adjudicators, approved by NSW Fair Trading. Adjudicators will be required to make decisions on evidence after giving both complainants and respondents a chance to put their case forward. If the investigation of a complaint regarding a host or guest finds that they have committed a serious breach of the code more than once over a two-year period, the guest or host will be listed on the register.

If any existing host or guest is listed on the register, platforms and agents will remove them from the platform. If a host owns several properties and the complaint concerns a specific dwelling, strikes will apply on a property-specific basis. Platforms and letting agents will be required to check the exclusion register before

allowing new hosts and guests to use their service. The exclusion register is a tough but necessary measure to send the message that antisocial and irresponsible behaviour related to short-term rentals will not be tolerated. The industry register will also ensure that guests and/or hosts cannot "platform shop". As members may be aware, there was one minor amendment to the bill in the other place. The amendment added a registration system for short-term rental premises to the list of matters that may be dealt with by the code. The Government supported the amendment on the simple grounds that it adds certainty to the range of matters that the code can cover while not restricting the code in any way.

When it comes to resourcing, compliance and enforcement, these responsibilities will be divided between the short-term rental accommodation industry and NSW Fair Trading. The industry will have responsibility for funding the operation and administration of the code. However, the Commissioner for Fair Trading will administer and enforce the parts of the code that apply to the online platforms and real estate agents. This will ensure compliance by the industry with the terms of the code. There will be significant penalties for non-compliance with the terms of the code, with online booking platforms and property agents facing civil penalties of up to \$1.1 million for corporations and \$220,000 for individuals. These penalties are to ensure that online platforms give effect to the two-strikes policy.

It should be noted that the code will be developed in consultation with industry participants, industry associations and other relevant entities. Under the code, it will be possible to require the industry to collect and provide data about industry operation, as well as about the levels of complaints and compliance with the code. This will help government to understand how the industry is operating and to assess the impact of the new regulatory framework. The intention is to have the code up and running as soon as possible. I understand that the Minister for Innovation and Better Regulation, the Hon. Matt Kean, has already reached out to key stakeholders to initiate the development of the code and the response from those stakeholders has been enthusiastic.

Separate from the code of conduct, another key element of the Government's approach to short-term rentals will involve measures under planning laws. A clear definition of "short-term rental accommodation" will be introduced and short-term letting will be a permitted use for residential premises, within certain limits. This aspect of the regulatory framework will be dealt with separately to this bill by introducing a statewide planning instrument.

The bill also contains amendments to the Strata Schemes Management Act 2015 regarding by-laws. There is some uncertainty in the strata industry about whether by-laws can be adopted to prohibit the use of a lot for short-term rental accommodation. This is despite a longstanding restriction in the strata scheme management laws stating that a by-law is not capable of prohibiting or restricting how a lot owner deals with their lot. This uncertainty has led to the situation where some owners' corporations have incurred costs to have a by-law drafted and adopted to prevent short-term rentals when such by-laws are unenforceable. This matter has been further complicated by apparently contradictory decisions of courts and tribunals in New South Wales and in other jurisdictions. On the one hand, the 2017 Privy Council advice in *O'Connor (Senior) v The Proprietors, Strata Plan No. 5145* held that a by-law banning holiday lettings of less than one month in a strata title scheme in the Turks and Caicos Islands was valid. As the strata title laws in the Turks and Caicos Islands are modelled on the original New South Wales strata title laws from 1961—which is an interesting fact for all members of the Parliament at the moment—

The Hon. Dr Peter Phelps: We are number one.

The Hon. SCOTT FARLOW: We are number one when it comes to strata title laws. This gave rise to conjecture that the same could be true of New South Wales. On the other hand, in *Estens v Owners Corporation SP 11825*, also in 2017, before the NSW Civil and Administrative Tribunal, a lot owner applied for orders to invalidate a by-law prohibiting short-term letting that had been adopted by the owners' corporation of her strata scheme. The tribunal was satisfied that the by-law was invalid, as the owners' corporation had no power to adopt it due to the existing limitations on by-laws under section 139 (2) of the Strata Schemes Management Act.

However, in line with the other measures in the bill that will help to address negative impacts of short-term rentals, we are introducing an amendment to the strata scheme management laws. This amendment will allow the adoption of by-laws to prohibit the use of lots for short-term rental accommodation, but only when the lot is not the principal place of residence of the person who is letting out the lot. This approach will ensure that lot owners can let out their properties when they are on holidays or when they are present and are sharing their home. However, it will also allow owners' corporations to prevent short-term letting which is carried on year round as the primary purpose of a property. That is, owners' corporations will be able to decide that they do not want their strata schemes being used as hotels.

The usual process for adopting by-laws by special resolution will still apply. That means a 75 per cent vote in support of the by-law at a general meeting of the owners' corporation will be required. This provision will

not stop owners' corporations from introducing other measures that may govern how short-term rentals occur within their strata properties. There are a number of other strata law provisions that can help owners' corporations to manage some of the common concerns that have been raised around short-term rentals. For example, by-laws can be adopted requiring lot owners to notify the owners' corporation at least 21 days before the change of use of that lot. By-laws can also be adopted restricting the occupancy of bedrooms in a lot to no more than two adults. This may assist owners' corporations to control overcrowding related to short-term letting. There is also a longstanding obligation on owners and occupiers of lots not to create or permit a nuisance or hazard, either in the lot or on the common property.

Another longstanding obligation is that residents may not use the common property in a manner that interferes unreasonably with the use or enjoyment of the common property by other residents. To ensure that strata schemes are aware of these options, Fair Trading will develop a specific short-term letting information kit for the strata sector to ensure they understand how these existing provisions and related penalties can be used to address common problems. Overall, this package of reforms should provide significantly greater certainty to all involved in this industry.

However, to ensure that they are delivering on its intentions, the Government has committed to reviewing the entire reform package 12 months after the code has commenced. I am confident that the provisions in this bill offer a proportional and effective mechanism to directly address the core concerns regarding short-term rental accommodation. These provisions strike the appropriate balance between permitting individuals to use their homes within reasonable limits with the need to protect the interests of neighbours. I commend the Minister for Innovation and Better Regulation, the Hon. Matt Kean, and his staff for providing assistance on this bill and for bringing it to the House. I commend the bill to the House.

Second Reading Debate

The Hon. PETER PRIMROSE (15:59): I am pleased to lead for the Opposition in debate on the Fair Trading Amendment (Short-term Rental Accommodation) Bill 2018. The Opposition supports the sharing economy. It was the Leader of the Opposition, Luke Foley, who took the lead in New South Wales and embraced the emerging potentials for the New South Wales economy from the digital economy. The sharing economy not only disrupts traditional economic and commercial models but also disrupts longstanding and conventional regulatory models. This Parliament has grappled with the disruption of new models such as Uber and now it turns to the circumstances presented by sharing homes through online platforms such as HomeAway and Airbnb.

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

Visitors

VISITORS

The PRESIDENT: I welcome into the public gallery Gabriela Guzman, a law and communications student at the University of Technology Sydney currently working in the office of the Hon. Courtney Houssos as an intern. Ms Guzman is here today to observe question time.

Questions Without Notice

SYDNEY BASIN COAL EXPLORATION LICENCE

The Hon. ADAM SEARLE (16:00): My question without notice is directed to the Minister for Resources. Given the Government has granted a coal exploration licence in the Sydney Basin for the first time since 1993 and given that such exploration licences can lead to additional mining activity, what is the Minister's response to community concerns about the impact additional mining would have on Sydney's water catchment, particularly given that our State is now in a severe state of drought?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:01): I well recall sitting through answers given by former leaders of the Government, members of the Hon. Adam Searle's party, when they gave a homily to the Chamber saying that members of the Opposition should not rely on newspapers when they are writing questions and are making claims about what the Government is or is not doing. I am afraid the basis of the honourable member's question is not well founded in fact. On 19 July 2018, Endeavour Coal, a wholly owned subsidiary of South32, applied for a coal exploration licence for operational allocation purposes—something completely different. The exploration licence application is associated with South32's existing Appin mine and covers an area near Picton and Camden, as the honourable member would know.

The application is currently under assessment by the Division of Resources and Geoscience within the Department of Planning and Environment. It is under assessment. All exploration licence applications made for

operational allocation purposes are subject to a market interest test. The market interest test is implemented through an expression of interest process to determine whether other parties might have a valid interest in exploring in the area subject to the application; therefore, this includes publishing a notice in the *NSW Government Gazette*. This application was also advertised in the *Sydney Morning Herald* and the *Daily Telegraph* and on the department's website, inviting submissions from parties interested in conducting exploration within the area. If no market interest is identified, the application will be assessed against the requirements of the operational allocation guidelines and the Mining Act 1992. Under the Mining Act, the Minister for Resources is the decision-maker on whether the application for the exploration licence should be granted.

Exploration licence application 5710 was published in the gazette on 27 July 2018, and the market interest test was published in the gazette on 10 August 2018. The closing date for submissions to the market interest test is 9 September 2018. We are not anywhere near the point as it has been represented, particularly by the *Sydney Morning Herald* this morning. I believe that the *Sydney Morning Herald* has already amended its article. Further, I was advised by my staff earlier this morning that there may be additional material in tomorrow's *Sydney Morning Herald* making it quite clear that they simply got it wrong.

The Hon. ADAM SEARLE (16:04): I ask a supplementary question. Given that Endeavour Coal's application is still under assessment and that the Minister is the consent authority, will the Minister elucidate that part of his answer where he referred to himself or the holder of that office as being the consent authority and inform the House whether in reaching any assessment the Minister will take into account that the State is in drought?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:05): I can give the House an absolute assurance that in any planning processes for mining activity, water is always at the forefront. In regard to the catchment, I am very well aware of my dual responsibilities, not only as Minister for Resources but also as Minister for Energy and Utilities covering some role in the Sydney catchment. That, in particular, I believe is what the honourable member is seeking. I am sure that the honourable member is aware that the operational allocation framework is quite different from—

The Hon. Walt Secord: Operational matter.

The Hon. DON HARWIN: Obviously, the Deputy Leader of the Opposition is not aware of the operational allocation framework or he would not have made an inane interjection like that. I will give the Leader of the Opposition the credit of assuming that he understands that the operational allocation framework is quite different from a new exploration licence, and that this is in relation to an operational allocation for an existing mine.

SOLAR ENERGY INITIATIVES

The Hon. BEN FRANKLIN (16:06): My question is addressed to the Minister for Energy and Utilities. Will the Minister update the House on how the Government is helping renters to access rooftop solar and reduce power bills, and are there any alternative policies?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:06): I thank the Hon. Ben Franklin for his question. More than 420,000 small solar units are installed in New South Wales.

The Hon. Penny Sharpe: You fixed your solar bonus scheme.

The Hon. DON HARWIN: I will get to that. I thank the honourable member for raising that issue. Solar uptake for rental properties has been slower because most of the benefits from solar go to tenants, but it is the landlord who has to invest in the system up-front. Renters are now a step closer to sharing in the benefits of rooftop solar thanks to an initiative of this Government backing clean energy projects. On 5 August I announced that some tenants have received \$33,000 from the NSW Clean Energy Knowledge Sharing Initiative to help landlords and renters benefit from rooftop solar installation on 100 residential and commercial rental properties. That will be a win for those investors and tenants involved but, more importantly, it will help reduce tenants' bills, it will help property owners increase the value of their investment and it will save some 130 tonnes of carbon emissions. But the principal benefit is what we will learn from this knowledge-sharing initiative.

The same program is also providing \$33,000 to Solar Analytics, a firm that helps customers make the most of their installed solar, to demonstrate a new energy trading platform. Solar Analytics' innovative project will allow customers to share rooftop solar energy with their local community via a peer-to-peer trading platform. SunTenants and Solar Analytics are two of the organisations the Government is supporting across the State as part of its \$300,000 Clean Energy Knowledge Sharing Initiative. This Government is supporting innovation in the energy sector which will put further downward pressure on energy prices. In spite of what those opposite say,

there is no silver bullet for reducing electricity prices. When it was last in government Labor introduced a solar bonus scheme that cost New South Wales taxpayers over \$1 billion.

The Hon. Penny Sharpe: That helped you get 440,000 rooftop units.

The Hon. DON HARWIN: The member is totally wrong. The Australian Competition and Consumer Commission's [ACCC] recent report "Restoring electricity affordability and Australia's competitive advantage" called out schemes such as the Hon. Penny Sharpe is referring to that were introduced by her Government. The report noted that the benefits were more generous than the wholesale cost of energy. The payments were funded by all users regardless of access to rooftop solar and vulnerable customers were less likely to benefit, making the scheme a grossly regressive cross-subsidy—yet those opposite want to bring it back. The ACCC recommends that these schemes should be borne by State governments through the budget rather than being recovered through charges to electricity users. Labor has some questions to answer. It has spoken about mandatory minimum prices for solar for over a year, which would kill competition between retailers and drive up the bill for every single household without access to solar. How will Labor fund it? Will it be through the budget or through a distributor charge? [*Time expired.*]

POWERHOUSE MUSEUM FASHION BALL

The Hon. WALT SECORD (16:11): I direct my question to the Minister for the Arts. In light of the Minister's 7 March statements in the House that the Powerhouse Museum Fashion Ball 2018 raised \$70,000 for charity, will the Minister explain to the House how information in a freedom of information request from ABC broadcaster Michaela Boland reveals that the fundraiser cost New South Wales taxpayers \$215,000? Will the Minister explain why he misled the House and why he is refusing to correct the record?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:12): There has been so much interchange.

The Hon. Walt Secord: Why did you mislead? Why did you lie?

The Hon. DON HARWIN: First of all, I will not take a point of order that accusing a member of lying is unparliamentary. I have not misled this Chamber. I gave advice to this Chamber based on the advice I received from the director of the Museum of Applied Arts and Sciences Trust, Dolla Merrillees, about every aspect of the answer I gave. My comments were quite clear about the \$70,000: At no stage did I say it was a profit. What I said was the \$70,000 came through donations and was put into the Australian Fashion Fund and that is exactly what happened. The honourable member asks about the cost of the function. Let us be quite clear: at the time I was asked those questions not all of the accounts had been received and it was not possible to give a final figure on that function. At no stage have I misled the House.

The Hon. WALT SECORD (16:14): I ask a supplementary question. Would the Minister elucidate his answer in relation to the outgoing Powerhouse Museum director, Dolla Merrillees? Was her departure directly related to providing the Minister with so-called incorrect information in relation to the fashion ball 2018?

The Hon. Don Harwin: Point of order: I am perfectly happy to answer questions about those matters, but that question is not asking for elucidation of part of the answer; it is a new question.

The Hon. WALT SECORD: To the point of order: The Minister directly raised in his answer the outgoing Powerhouse Museum director Dolla Merrillees. Her name was introduced into the answer to the House by the Minister.

The Hon. Don Harwin: Further to the point of order: I might have mentioned the Hon. Shaoquett Moselmane in my answer but that would not give the member opposite licence to ask a question about his function with Vic Alhadeff last night.

The PRESIDENT (16:15:4): I refer members to the ruling of former President Burgmann in 2000:

Supplementary questions are allowed in order to elucidate further information on a question which a member feels has not been effectively answered. They must be actually and accurately related to the original question and must relate to or arise from the answer given to the original question. They are not an opportunity to ask another question.

In my view, the Deputy Leader of the Opposition was simply asking another question. The supplementary question is out of order.

CORRECTIONAL CENTRE SECURITY

Reverend the Hon. FRED NILE (16:16): I direct a question to the Hon. Niall Blair, representing the Minister for Corrections, David Elliott. Is the Minister aware of the recent report by Candace Sutton on news.com.au concerning the rates of illegal and immoral sexual relationships becoming commonplace between

prison officers and inmates in New South Wales correctional centres—especially the recent case of a prisoner, in jail for the murder of a prison officer, and a female prison officer? Will the Minister explain to the House what this means for the security and integrity of correctional facilities and what action is the Government taking to prevent such illegal relationships in New South Wales prisons?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:17): I thank Reverend the Hon. Fred Nile for the question. He asked me as the representative in this House of the Minister for Corrections. It is in relation to a number of matters that have been well publicised and that the Minister has provided substantial responses to. There have been a number of investigations. I do not have all of the information at hand in the Chamber to answer the member's questions, as there was a series of questions asking for a range of information. I will take the question on notice and refer it to the Minister for Corrections. He will collate the necessary information that the Reverend the Hon. Fred Nile is seeking, including the type of report he was referencing in his question. The Minister will collate that information and I will return it to the member in due course.

DROUGHT ASSISTANCE

Mr SCOT MacDONALD (16:18): I address a question to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Will the Minister update the House on the New South Wales Government's Emergency Drought Relief Package?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:18): I thank the honourable member for his question. As members of this House are aware, 100 per cent of this State is now in drought. This Government said it would listen, constantly reassess the conditions and do everything it could to make sure the right help is available at the right time. On Monday 30 July at Newbridge I was joined by Premier Gladys Berejiklian, Deputy Premier John Barilaro and the member for Bathurst, Paul Toole, to announce further support for farmers, their families and rural communities with a new \$500 million Emergency Drought Relief Package, taking the Government's total drought support to more than \$1 billion.

The Emergency Drought Relief Package has three major elements: \$190 million for drought transport subsidies, \$100 million to cut the cost of farming fees and charges, and \$150 million to bolster the Farm Innovation Fund infrastructure program. The package also includes funding for counselling and mental health, critical services in regional communities including transporting water and drought-related road upgrades and repairs as well as animal welfare and stock disposal scheme initiatives. The major feature of the Emergency Drought Relief Package is transport subsidies. The transport subsidy of \$20,000 per eligible farm business per year equates to \$30,000 over 18 months. Importantly, we have backdated the relief measure to the start of the year when the drought intensified, especially in the Upper Hunter and western New South Wales. This means that eligible farmers who made the decision to destock earlier this year will still benefit from the new relief package. It covers 50 per cent of the full cost of freight up to a maximum of \$5 per kilometre and 1,500 kilometres per journey for the transport of fodder, livestock and/or water for stock.

Over the weekend I announced former NSW Farmers president and Corowa farmer, Derek Schoen, as the State's drought transport subsidy integrity adviser. He will work with government and industry to ensure that there are open lines of communication and active monitoring of freight prices during the program rollout. The New South Wales Government will cut the cost of farming by waiving Local Land Services annual rates, fixed charges on water licences, registration costs for class one agricultural vehicles and interest on existing Farm Innovation Fund loans. We have set aside additional funding for families needing to bring in water for domestic use. We have additional resources for a stock disposal scheme to relieve the burden on farmers who are managing drought-affected stock. This is in addition to the increased financial support announced in the 2018 New South Wales budget for key infrastructure including Doppler weather stations and streamlining kangaroo management in this State.

The Government has delivered a fair and equitable package that is able to be adapted to all types of farming businesses across the State. We know this drought will end. Unfortunately, we do not know when. I reassure communities across the State that we will be standing with them now and when we finally move into recovery. The Government has been heartened by the level of support from everyone in New South Wales. This whole-of-government support is attracting a lot of attention; we are starting to hear some of the stories. We cannot forget those who have put a lot of effort into being better prepared for this drought. New South Wales has many levels of different businesses and we want to ensure that we continue to talk up the sector. We continue to let everyone know that we have innovative farmers who have been preparing for the drought. They will come through the drought and continue to service our domestic and international trade obligations. They must all be commended. The Government will stand by every farming operation in this State.

KOALA PROTECTION

The Hon. MARK PEARSON (16:22): My question is directed to the Hon. Don Harwin representing the Minister for Transport and Infrastructure. An ABC Government Information (Public Access) Act request revealed that 68 North Coast koalas have been killed on the Pacific Highway since 2013. Fatalities include a koala killed by a truck driver who ignored flashing warning signs set up by Roads and Maritime Services [RMS] workers who were attempting to rescue the koala trapped on the highway. Noting that koalas are endangered on the North Coast, what is the Government doing to improve koala protections on the Pacific Highway? And will the Minister advise whether the truck driver has been charged with killing an animal and contravening RMS traffic directives?

The Hon. Don Harwin: As the matter is more properly within the portfolio of the roads Minister, my colleague the Deputy Leader of the Government will answer the Hon. Mark Pearson.

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:23): I thank the House for its indulgence. The member asked a question that should have been directed to the Minister for Roads, Maritime and Freight rather than the Minister for Transport and Infrastructure. I am advised that as part of the strategy to increase koala habitat and connect existing habitat, 80,000 koala habitat trees have been planted on 110 hectares of previously cleared land with another 10,000 trees to be planted on 20 hectares when construction on the Pacific Highway is complete.

So far more than 7,000 workers have been trained through a koala zero harm induction program to identify koala habitat, key threat mitigation strategies and how to implement strict rescue procedures. When complete, the highway will provide a closed system of fauna fencing with 26 bridges and large culverts to allow local wildlife and koalas to safely cross, which is about one crossing every 500 metres. I can advise members that 23 kilometres of temporary fencing and 16 kilometres of permanent fencing has been installed on the existing Pacific Highway at Wardell Road. All project sites and access roads have been protected with temporary koala fencing and speed zones have been reduced in known koala areas. Six vehicle activated koala signs and seven static safety signs have been installed on local roads in consultation with Ballina Shire Council and Friends of the Koala to increase driver awareness about koalas in the area. RMS continues to work with stakeholders to ensure the best outcome for koalas and is keeping the community informed of progress. A progress update on the Koala Management Plan was released in February 2018. An independent ecological contractor has started a monitoring program that will be in place for up to 15 years. This will help to measure the effectiveness of the mitigation strategies.

I saw the ABC story about the incident in the tunnel to which the Hon. Mark Pearson is referring. The images were quite confronting to view. I am advised that RMS staff took all reasonable steps to prevent this incident, including reducing traffic to one lane, reducing the speed limit, alerting motorists to the koala in the tunnel and calling the koala rescue group Friends of the Koala to help rescue the animal. Despite the best efforts of RMS staff, the koala was struck after a motorist failed to observe the warnings. Since the 2017 incident, RMS have reviewed fencing in the area. Following the incident, an additional 120 metres of fauna fencing was installed north of the tunnel. RMS is not aware of any other koalas being hit by traffic on this section of the highway since the incident. In addition to the recent announcement by the Minister for the Environment, the Government has some measures that will be installed in areas such as Appin Road to address its area of concern. I hope that provides the Hon. Mark Pearson with a bit of information as to what RMS has been doing. I thank the House and the member for allowing me to provide that information, although the original question was asked to the Minister for Transport and Infrastructure.

ELECTRICITY GENERATION

The Hon. ADAM SEARLE (16:27): My question without notice is directed to the Leader of the Government, the Minister for Resources, and Minister for Energy and Utilities. Given reports that the Federal Government's National Energy Guarantee [NEG] could result in Commonwealth financial support being given to new coal-fired power stations, will the Government still support a NEG that underwrites new coal-fired power generation? And will the Government guarantee that it will not support taxpayer dollars being used to invest in coal-fire powered technology?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:28): The member has got several details wrong—I will not say completely wrong. The question he has asked has some deficiencies. First, I have heard reports that the Federal Government is interested in taking up recommendation number four that Mr Sims and the Australian Competition and Consumer Commission [ACCC] made a couple of weeks ago in respect of giving support for new generation. Last week it was being referred to as the NEG-plus by some newspaper commentators.

That is not part of the National Energy Guarantee proposal. The substance of the National Energy Guarantee proposal consists of a reliability obligation on the emissions intensity of the output, based on the Federal Government's international obligations under the Paris accord in relation to climate change. The honourable member is referring to something quite different indeed. Mr Sims has made a large number of recommendations but the main focus is on the need for more generation, and in that I respect I agree with him.

As I have repeatedly told the House for the past 18 months, our problem with rising prices is the wholesale price. It is just economics 101. Thanks to the closure of the Hazelwood and Northern power stations, the demand is constant but the supply has fallen. When that happens the price goes up and that is why we have this problem. Commissioner Sims has correctly pointed out the need to have more generating options. The Prime Minister's comments have been technology neutral. He has not limited it to coal and he has talked about all forms of generation. He has always said that the response should be based on economics and engineering, and he has not declared any preference for any particular method of generation—and in that I think he is right. All methods of generation currently able to be advanced in Australia—coal, gas, solar, wind, solar thermal—

The Hon. Natalie Ward: Hydro.

The Hon. DON HARWIN: —and pumped hydro—can meet our needs. Pumped hydro, to firm up solar and wind, gas as a peaking fuel and coal for baseload power all have a role to play. I think the Prime Minister's comments have been appropriate. I have always been quite clear: The New South Wales Government is not going— [*Time expired.*]

BARWON ELECTORATE PRESCHOOL FUNDING

The Hon. RICK COLLESS (16:32): My question is addressed to the Minister for Early Childhood Education. Will the Minister update the House on how the Government is increasing preschool places in the Barwon electorate?

The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (16:32): I thank the Hon. Rick Colless for his question and for the opportunity to update the House on my recent visit to the Barwon electorate with the local member, Kevin Humphries, and the outstanding candidate for The Nationals, Andrew Schier. Andrew Schier is very impressive. He has a great ability to connect with constituents in the electorate. He was passionate about the issues that were raised during the trip. The Liberal-Nationals Government is the only government that can truly represent the diverse and growing population of New South Wales. That is why it is continuing to deliver for our communities through the Start Strong Capital Works Grants program.

The Hon. Scott Farlow: Point of order—

The PRESIDENT: Stop the clock.

The Hon. Scott Farlow: My point of order relates to the level of interjection from Opposition members. We are all interested in hearing the Minister's answer with respect to Barwon electorate preschool funding, but we cannot hear it because of the level of interjections from those opposite.

The PRESIDENT: I remind members of the ruling of then President Primrose in 2007:

Members should allow Ministers to answer their questions without interruption.

The Hon. Penny Sharpe has been given great latitude. Then President Primrose also stated:

By tradition, the Chair tolerates interjections that are not disruptive ...

I have given the Hon. Penny Sharpe more than enough leeway. I call the Hon. Penny Sharpe to order for the first time.

The Hon. SARAH MITCHELL: Over the course of three days and more than 1,200 kilometres in the Barwon electorate, we met with services that had successfully received capital works grants. It was great to meet them in these regional and remote communities and to see how the funding is working on the ground. I visited Lightning Ridge preschool, which received \$300,000 for an upgrade. Thanks to this funding, it will be able to completely gut its existing building and complete some much-needed upgrades to create additional places. Also, thanks to this funding, the service will be able to build a more suitable learning environment and facilitate vision screening and hearing check programs for the children. This will be a great benefit to the community, something about which we spoke when we were there, particularly to the local Aboriginal community. It will allow problems to be picked up and treated far earlier than they may have been previously.

Gulargambone preschool received \$1.145 million to completely relocate its service and create approximately 25 additional places. When we visited the current service I was extremely impressed by the

preschool's director, Amy, and by the connection between it and members of the community. It is quite a small town. Everyone is really excited. The current service has been operating out of an old hall for a number of years. Soon it will have a brand-new, purpose-built learning space, which is exciting for those children and for those families.

We also visited the home town of Andrew Schier, Gilgandra. Its preschool has received more than \$400,000 in capital works funding to extend its service. It provides a lot of support for additional needs and other critical services. We also visited Condobolin preschool kindergarten, which received \$500,000 to extend its service and create approximately 20 additional places. We were able to review the plans of the new service. It has taken years of planning and preparation and the hard work of the staff. I compliment the director, Melissa, and all the staff, seven of whom have been there longer than 10 years, which shows their level of dedication to the community and families.

This Government understands the importance of quality early childhood education and ensuring that all children, regardless of their postcode, have the same level of access. That is why the Government has put this money into capital grants. Since 2015 this Government has delivered \$28 million in capital works grants, through rounds of \$5 million, \$8 million and \$10 million, and a second round of \$5 million, to deliver in these places. As members would be aware, also in this year's budget the Government has made further announcements to continue to invest in capital works. It has committed an additional \$42.1 million to build infrastructure to create 4,800 new places in areas that need them most. That ties in with the Government's announcement to provide funding for all three-year-olds in community preschools. The Liberal-Nationals Government and candidates such as Andrew Schier understand that a person who lives in Gilgandra should still have access to quality services and resources for early childhood education. We will deliver that. [*Time expired.*]

TWEED HEADS HOSPITAL DEVELOPMENT

Ms DAWN WALKER (16:37): My question is directed to the Minister for Primary Industries, representing the Minister for Health. The Government's North Coast Regional Plan identifies Tweed Heads as a regional city, with the current hospital site identified for growth. Why then is this Government planning to build the new hospital on State significant farmland rather than expanding and renewing the existing hospital?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:38): I thank Ms Dawn Walker for her question, which is directed to me as Minister for Primary Industries in relation to farmland as much as it is directed to the Minister for the Environment, whom I represent in this Chamber. As Ms Dawn Walker rightly identified, the proposed site for the Tweed Valley Hospital development is identified as State significant farmland under the Northern Rivers Farmland Protection Project 2005. The Department of Planning and Environment is the consent agency for State significant infrastructure under the Environmental Planning and Assessment Act. Given that the proposal is to be located on State significant farmland, Department of Primary Industries [DPI] Agriculture will be a referral agency throughout the assessment process.

A section 117 direction under the Environmental Planning and Assessment Act 1979 protects this farmland from rezoning for rural residential and urban development. However, State significant infrastructure is exempt from this direction. It is State significant farmland but the Tweed hospital is State significant infrastructure, which means we go down a different planning path. I am advised that within this parcel of land, the current zoning includes approximately 70 per cent agricultural, 20 per cent nature reserve—which will remain as such—and 10 per cent residential. The land at Cudgen, zoned agricultural, represents about 0.13 per cent of the total State significant farmland on the New South Wales far North Coast.

As with other developments proposed in the area in the past, DPI Agriculture has raised potential impacts on change to land use on mapped farmland within the Cudgen plateau. NSW Health has indicated that based on its site selection process, no alternate site meets site selection requirements. It is therefore proceeding with site acquisition and the planning application process. It is important to note that because of the work of the member for Tweed, Geoff Provest, local residents had an extended period to lodge alternative proposals for the site of the \$534 million hospital. The criteria for the site included being accessible by a main arterial road link, above the probable maximum flood level, and being available for development from the latter part of this year. More than 30 proposed sites were considered by NSW Health. DPI will continue to work with NSW Health, the Department of Planning and Environment, Tweed Shire Council and other relevant agencies to ensure that any potential impacts from the proposed development are minimised.

BANKSTOWN HOSPITAL DEVELOPMENT PROPOSAL

The Hon. GREG DONNELLY (16:42): My question is directed to Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts, as Leader of the Government in this House. Given that

exhibit 189 from the Independent Commission Against Corruption's Operation Dasha revealed correspondence from former Liberal councillor Michael Hawatt to the office of then health Minister Jillian Skinner, has the Minister sought assurances from his current chief of staff, who then worked for Mrs Skinner, that he had no interactions with Mr Hawatt in relation to his attempt to influence a Bankstown hospital property development proposal?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:42): This is not a matter with which I have any connection at all in my ministerial portfolios, so I have no idea about any of the matters that the member raised.

The Hon. Walt Secord: Point of order: This is clearly within the purview of public affairs in New South Wales. The Minister is the Leader of the Government and his chief of staff was involved with a corrupt Liberal councillor. This is completely within the purview of public affairs and the community should demand that the Leader of the Government answer this question. He cannot just slide away from this.

The Hon. Catherine Cusack: To the point of order—

The PRESIDENT: I do not need any further assistance. The Leader of the Government did not take a point of order. He was answering the question in the way that he is entitled to. It is not the responsibility of the Chair, nor is it within my power, to direct a Minister how to answer a question. The Minister did not take a point of order. As he had already started to answer the question, it would have been too late for him to do so even if he had wanted to. There is no point of order.

The Hon. DON HARWIN: I have concluded my answer.

The Hon. GREG DONNELLY (16:44): I ask a supplementary question. In light of the Minister's answer, will he elucidate with respect to confirming to the House that he will seek assurances from his current chief of staff that he had no interactions with Mr Hawatt in relation to his attempt to influence a Bankstown hospital property development proposal?

The Hon. Scott Farlow: Point of order: The question is out of order. It did not seek an elucidation of any aspect of the Minister's answer and was simply a new question.

The Hon. Greg Donnelly: To the point of order: The Minister provided an answer of sorts. I seek to build on his answer to see whether he will seek assurances based on my original question. There is a clear nexus between my original question and my supplementary question.

The Hon. Scott Farlow: Further to the point of order: There is no requirement within the standing orders for a nexus to be established, but to seek an elucidation. The supplementary question does not seek an elucidation of an aspect of the Minister's answer to the member's question. It should be ruled out of order.

The PRESIDENT: Order! I uphold the point of order. The supplementary question is out of order.

REGIONAL CULTURAL FUND

The Hon. TAYLOR MARTIN (16:45): My question is addressed to the Minister for the Arts. Will the Minister update the House on how the Government is delivering arts and culture in our regions?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:46): Absolutely.

The Hon. Walt Secord: One grant.

The Hon. DON HARWIN: How wrong is the Hon. Walt Secord. During the winter recess, it has been my pleasure to travel from Batlow to Byron Bay, announcing the round one recipients of the New South Wales Government's \$100 million Regional Cultural Fund [RCF]. The RCF is investing in new arts and cultural facilities and upgrading existing cultural spaces, including galleries, theatres, libraries, museums and halls. Recently Deputy Premier John Barilaro and I announced 68 cultural projects from 44 local government areas and 25 electorates across New South Wales, worth a total of \$48 million funded through the first round of the Regional Cultural Fund.

I am particularly proud of the almost \$8.6 million for the Bundanon Trust's new Arthur Boyd gallery at Riversdale in the Shoalhaven, which I announced with the member for Kiama and the Hon. Paul Green in June. The project includes a contemporary gallery built into the landscape, fireproof storage for the collection, an auditorium and space for collection research. It will be a truly unique place and a major asset not just for the Shoalhaven but also for our State and Australia. The expanded Riversdale will offer expanded public programs and provide new accommodation for artist groups, residential education and related purposes. That is part of future stages of the project.

At Dubbo \$600,000 is being provided for the redevelopment of the Old Dubbo Jail exhibition space, which will create opportunities to increase cultural tourism to this State Heritage-listed site. At Goulburn, \$1.3 million is being provided to the Goulburn Regional Conservatorium for the development of a creative precinct and renewed facilities that will provide spaces for rehearsal, performance, professional development, community collaboration and creative exploration—and \$4.5 million for the excellent performing arts centre proposal for Goulburn as well. So full marks for Goulburn. At Young, \$3 million is being provided towards the development of a new cultural, community and education precinct that will enhance cultural opportunities for the local community.

The Hon. Mick Veitch: This is a good one, isn't it? Where will you build it, Don? On nationally significant land. This is where the Lambing Flat riots were run. This is a great one, Don; excellent place to build it.

The Hon. DON HARWIN: The member should do his research. He does not do know what he is talking about. If he had done his research, he would know that he was wrong.

The Hon. Scott Farlow: Point of order: My point of order relates to the level of interjections by Opposition members. The Hon. Mick Veitch is free to ask the next question from the Opposition if he wishes to do so.

The PRESIDENT: Order! I remind members of two rulings by former Presidents of this House. In 2007 then President Primrose ruled:

Members should allow Ministers to answer their questions without interruption.

And in 2013 then President Harwin ruled:

It is out of order for a Minister to respond to interjections when answering a question.

The Minister has the call.

The Hon. DON HARWIN: It is not just the large-scale projects that will change the trajectory of regional communities. For example, I was proud to announce that Tweed Unlimited Arts has received \$17,000 for the installation of a new kiln, which will allow it to continue its excellent pottery work. Stories such as this have been replicated in communities across New South Wales—in Kyogle, Lockhart, Batlow, Kangaroo Valley, I could go on. I inform the House that round two of the Regional Cultural Fund is now open and \$47 million is available for projects such as galleries, theatres, creative hubs and museums. It has been expanded to include public art. The Government is delivering for the regions because it believes that all communities—[*Time expired.*]

NSW POLICE FORCE LEGAL COSTS

The Hon. ROBERT BORSAK (16:51): My question without notice is directed to the Hon. Niall Blair, representing the Minister for Police. What was the total cost to the NSW Police Force arising from the legal representation provided by the Office of General Counsel, the Crown Solicitor's Office and external barrister's costs, as the respondent in the case of *Larsson v Commissioner of Police*, which was dealt with at the NSW Civil and Administrative Tribunal in June this year?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:52): I thank the honourable member for his question. The question refers to the costs associated with a specific court case. I do not have that information to hand. I will refer the question to the Minister for Police for a response.

ARTS AND CULTURAL DEVELOPMENT

The Hon. WALT SECORD (16:52): My question without notice is directed to the Minister for the Arts. Given in a joint statement that more than 60 arts groups publicly criticised the Government's Arts and Cultural Development Program, which approved only six applications—of which only one was in Western Sydney and one was in rural and regional New South Wales—from a pool of 222 applications, a success rate of a mere 2.7 per cent, is it correct that the Minister personally directed Create NSW to allocate that funding to another major Sydney cultural institution?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:52): Create NSW's Arts and Cultural Development Program [ACDP] is a key mechanism through which the New South Wales Government supports the arts and cultural sector. In 2017-18 the New South Wales Government provided \$52.9 million to the ACDP and ACDP funding of \$54.8 million is to be provided in the current financial year. The ACDP funds everything from multi-year programs to a range of organisations. It funds our major State-significant organisations, such as the Museum of Contemporary Art and Carriageworks, and our major festivals, such as the Sydney Festival, the Sydney Writers' Festival and the Sydney Film Festival.

The ACDP also funds one-off projects and professional development opportunities across visual arts, museums, history, literature, performing arts, music and more. Like all funding categories under the ACDP, applications to the arts and cultural projects funding rounds—

The Hon. Walt Secord: Point of order: My point of order relates to relevance. My question was specific: It was about the Minister personally directing Create NSW to reallocate funding to another major Sydney cultural institution.

The PRESIDENT: My recollection is that the question raised a number of matters. The Hon. Walt Secord is referring to only one part of that extensive question. The Minister is being generally relevant to the question.

The Hon. Walt Secord: Further to the point of order—

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

The Hon. Walt Secord: To assist I can provide the answer—

The PRESIDENT: Order! I call the Hon. Walt Secord to order for the first time. I have ruled on the point of order. The member could have taken another point of order. Instead, he offered further information after my ruling. The Minister has the call.

The Hon. DON HARWIN: Like all funding categories under the ACDP, applications to the arts and cultural projects funding rounds are subject to a funding limit as part of the broader ACDP budget. Create NSW receives an extremely high number of applications across the range of funding programs offered each year. In 2017-18 the number of applications received for arts and cultural projects funding increased by more than 130 per cent—from 151 applications in 2016-17 to 361 applications in 2017-18. Given the competitive nature of the majority of funding programs, unfortunately, not all worthy applications can be funded. Across these two rounds of funding in 2017-18, 29 applicants received more than \$1.1 million under the arts and cultural projects category—not six, but 29 in total in that financial year.

The honourable member's assertion that funds were directed to one organisation is inaccurate. I will take this opportunity to emphasise some of the excellent applications that were funded. The successful regional application referred to by the Hon. Walt Secord was at Canowindra—namely, for a multi-art form event that will interweave four significant local histories across multiple sites in the regional town of Canowindra. The local histories will feature the Devonian period, First Nation, bushranger and agricultural activity and will culminate in an extraordinary community-driven event. The Blue Mountains City Council received funding for a series of public programs to celebrate NAIDOC Week 2018, which has now been held, in conjunction with the exhibition—*[Time expired.]*

DROUGHT ASSISTANCE

The Hon. BRONNIE TAYLOR (16:58): My question is addressed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. How is the New South Wales Government supporting drought-affected communities such as Coonabarabran?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:58): I thank the honourable member for her question. We all know that drought is having an impact on most parts of rural and regional New South Wales. Last month I travelled to the Warrumbungle shire to discuss the impact of the drought on Coonabarabran because it has been in a precarious situation for longer than most. The key water source for Coonabarabran, the Timor Dam, is at its lowest level since it was built in 1964.

Coonabarabran is obviously already on water restrictions. Unless the region gets good rain, and soon, the situation will only worsen. That is why the Government is extending a helping hand to the Warrumbungle shire. Following a request from the shire council last December, I approved \$975,000 in drought relief assistance. Originally, this money funded pre-construction work and test drilling to determine how to best drought-proof Coonabarabran. That helped, but we all know what happened in the first quarter of this year. Low inflows meant that Timor Dam fell to critical levels, and so the council received funding to access the so-called "dead" storage and prepare infrastructure for water carting. There is still water in the dam but it is low level and not usually accessible—hence the term "dead" storage.

Some of the new Government funding is helping to allow access to that water too, stretching the supply for as long as possible. However, this is still not a long-term solution. Coonabarabran is on level 6 water restrictions. We have heard reports of people washing their clothes on their front lawn to save water and to keep their gardens alive. It was clear that additional funding for emergency bores was required, and we were happy to

support that proposal. The Government has provided an additional \$750,000 in immediate financial support to help the shire in the continuing drought.

Obviously, everyone in Coonabarabran, across the Warrumbungle shire and right across the State's hard-hit rural and regional areas is hoping for good, drenching rains. However, we cannot rely on hope to make water available for essential needs. The test bores are being drilled to identify the best options for emergency bores to supply Coonabarabran to ensure that the town does not run out of water. The Government understands and appreciates the impact of the drought on rural and regional New South Wales. During the tough times, such as now, we stand behind our regional and rural communities. Like many members of this House who represent regional areas, I am all too aware of the costs of prolonged drought for our environment, our industries and, in particular, our communities. The Warrumbungle Shire Council and Mayor Peter Shinton have done an excellent job working with the community during this challenging time.

It was pleasing to inspect the dam site and also to see some of the bores that have been constructed. It is my understanding they should be in operation if not now then very soon to give some relief to that community and provide them with their essential water supply. It was also a good opportunity for me to inspect the Timor Dam and to have a conversation with council members regarding potentially raising the dam wall so the community can be in a better situation in the future. As I said during my visit to the area, I am more than happy to entertain the idea if the council was to proceed with an application through the Government's \$1 million Safe and Secure Water Program. I am sure that project would be adequately assessed on its merits. I commend the council for the work it has done. It is timely that we have been able to sink the bores and I hope the community will see some relief as a result.

The Hon. DON HARWIN: The time for questions has expired. If honourable members have further questions, I suggest they place them on notice.

Deferred Answers

TAXATION

In reply to **the Hon. PAUL GREEN** (22 May 2018).

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

- (1) As part of the 2018-19 budget, the Government announced that the payroll tax threshold will increase over the next four years to reach \$1 million in 2021-22.

COMMONWEALTH GAMES 2026

In reply to **the Hon. PENNY SHARPE** (22 May 2018).

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

The New South Wales Government is in ongoing discussions with the Commonwealth Games Federation regarding options and requirements for hosting a future games.

DIGITAL SECURITY

In reply to **Reverend the Hon. FRED NILE** (22 May 2018).

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

I am advised:

The protection of personal information handled by private sector organisations is regulated by the Commonwealth Government.

In New South Wales, the legislation framework for protecting personal information comprises the Privacy and Personal Information Protection Act 1998 and the Health Records and Information Privacy Act 2002. These Acts regulate the collection, use and disclosure of personal and health information by New South Wales public sector agencies. Health service providers are also subject to the Health Records and Information Privacy Act 2002.

Issues relating to the digitisation of New South Wales driver licences should be directed to the Minister for Finance, Services and Property.

SANTOS LEEWOOD WATER TREATMENT PROJECT

In reply to **the Hon. GREG DONNELLY** (22 May 2018).

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

I have been advised Santos Limited do not hold a water use approval for irrigation at the Leewood Water Treatment Facility. I am aware however that Santos Limited does hold a water use approval at the same site which was issued to enable construction of infrastructure. I understand the EPA, who has compliance oversight for this activity, is investigating the matter to ensure relevant approvals are held. The Department of Industry—Water and the Natural Resources Access Regulator are providing support and will take the lead on administering approval requirements under the Water Management Act 2000.

DROUGHT ASSISTANCE

In reply to **the Hon. MARK PEARSON** (22 May 2018).

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

I am advised:

The NSW Police Force [NSWPF] is not responsible for euthanising drought-affected animals. While animal welfare situations involving injured or drought-affected animals can be reported to police, the RSPCA or the Animal Welfare League, the assessment and euthanasia of these animals should be undertaken by either primary producers, veterinarians or agencies such as the Department of Primary Industries, the Local Land Services, the RSPCA or the National Parks and Wildlife Service.

The NSWPF further advises that in an emergency situation, current police-issue side-arms and ammunition are suitable for the destruction of animals when used in accordance with relevant guidelines.

SANTOS LEEWOOD WATER TREATMENT PROJECT

In reply to **the Hon. DANIEL MOOKHEY** (22 May 2018).

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

I am aware that the EPA, who has compliance oversight of coal seam gas activities, is investigating the matter. The Natural Resources Access Regulator and staff from Department of Industry—Water are providing support. The matter is ongoing and to date no regulatory action has been issued. I have been advised Santos have ceased irrigating and no risks have been identified to the environment or water users from the irrigation activity.

DROUGHT ASSISTANCE

In reply to **the Hon. ADAM SEARLE** (22 May 2018).

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

I am advised:

Roads and Maritime Services has not delayed any road works in Bourke, Coonamble and Walgett Shires. Roads and Maritime has road maintenance contracts with all three councils.

GREYHOUND RACING INDUSTRY

In reply to **the Hon. ROBERT BORSACK** (23 May 2018).

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

I am advised by Greyhound Racing NSW [GRNSW] that Cobalt is a naturally occurring trace element that is normally present in greyhounds at very low levels as a result of normal dietary intake.

I am advised that on 31 August 2015, GRNSW announced Greyhounds Australasia [GA] amendments to the Greyhound Racing Rules [Rules] to introduce a maximum threshold for the presence of cobalt in racing greyhounds from 1 October 2015.

GA introduced the cobalt threshold due to concerns about excessive amounts of cobalt having performance enhancing effects due to the effect on the cardiovascular system.

I am advised by GRNSW that:

Prior to implementing the threshold, GA sponsored an analysis of 762 greyhounds (sampled on race day) by world-renowned expert in this field, Emeritus Professor David Brynn Hibbert from the University of NSW [UNSW] School of Chemistry, to determine an appropriate urinary cobalt threshold for greyhounds. The analysis found that:

- the median value of cobalt was only 3.44ng/mL
- 74 per cent of samples were below 10ng/mL
- only 31 of those sampled exceeded the 100ng/mL threshold
- the chance of a greyhound exceeding 100ng/mL without the administration of cobalt is very minimal.

In light of the report's conclusions (that 100ng/mL was a conservative threshold), GA determined it was appropriate to declare cobalt over the level of 100ng/mL as a prohibited substance. GRNSW stated the threshold is considered conservative with a significant margin of safety with normal amounts of cobalt supplementation through routine nutritional sources.

I am advised that in announcing the cobalt threshold, GRNSW provided the study results to trainers along with advice on the type of vitamin supplements that contain cobalt. GRNSW also advised trainers to exercise extreme caution when administering substances that contain cobalt close to racing as it may inadvertently lead to a rise in urinary cobalt levels

I am advised by GRNSW that:

The scientific evidence that forms the basis for the 100ng/mL cobalt threshold is sound, with two analytical reports prepared by UNSW's Professor Hibbert informing and supporting the 100 ng/mL threshold for cobalt.

Following industry concerns about the threshold, GRNSW and Greyhound Racing Victoria commissioned a further report by Professor Hibbert entitled "Cobalt and Arsenic in Racing Greyhound Urine" in October 2017.

The report analysed a larger number of urine samples (18,000) collected from racing greyhounds in Australia in the period July 2016–July 2017, and concluded:

- cobalt mass concentrations ranged from 0–1662 ng/mL, with a median value of 1.2 ng/mL
- only 0.1 per cent of samples exceeded the GA threshold of 100 ng/mL.

POINT TO POINT TRANSPORT

In reply to **the Hon. ROBERT BROWN** (23 May 2018).

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

I am advised:

The New South Wales Government is mindful of the pressures being experienced by the taxi industry in many parts of New South Wales following the point to point transport reforms. While modernisation of the regulatory framework for point to point transport has seen customers throughout New South Wales benefit from a greater number of transport options and has enabled industry to innovate, adjusting to the changes has been challenging for some in the industry.

The New South Wales Government, as one of the first governments in Australia to legalise rideshare, is delivering on its commitment to provide industry adjustment assistance to people like taxi and hire car licence holders who have been impacted by the liberalisation of the point to point transport industry.

\$92 million in transitional assistance payments has already been made available to eligible taxi licence holders.

Applications for a further additional assistance scheme of up to \$142 million, targeting those detrimentally impacted by the reforms and in financial hardship, will open soon.

COPYRIGHT AGREEMENTS

In reply to **the Hon. WALT SECORD** (24 May 2018).

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

I am advised:

The New South Wales Government is committed to ensuring appropriate copyright fees are paid to authors and artists, but maintains that the rate must be fair, and based on evidence of actual copying by its employees.

The State of New South Wales pays substantial copyright fees to the Copyright Agency Limited [CAL] under an educational licence. The State of New South Wales also directly pays copyright owners including publishers, authors and artists via licences negotiated by many New South Wales government agencies.

The Department of Justice has been negotiating with CAL on behalf of the State of New South Wales in an effort to achieve a fair and equitable rate for the State of New South Wales' in-house copying and communication of text and images by employees. The matter is now before the Copyright Tribunal which will independently determine an equitable rate of remuneration.

NEWCASTLE LIGHT RAIL

In reply to **the Hon. PAUL GREEN** (24 May 2018).

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

I am advised:

The New South Wales Government is committed to keeping Newcastle open for business during light rail construction. Construction on Newcastle Light Rail is progressing well, and is expected to be completed on time.

There is short-term disruption with any major construction, but Newcastle is still open for business, and it is the businesses along the light rail route which will see the greatest uplift when it is complete in 2019.

Local engagement managers and business advisers are available to provide businesses with personalised advice and assistance. Local businesses and residents also have access to a 24-hour construction response line.

Revitalising Newcastle is hosting and supporting a range of events in the city to show the city is still open for business, and to support local traders during light rail construction. These events are held in partnership with local businesses. Revitalising Newcastle is distributing flyers with special discounts and promotions from local businesses.

Revitalising Newcastle has a dedicated marketing and communications program to promote the city centre as a destination and encourage patronage at local businesses.

The NSW Small Business Commissioner, through its relationship with the Hunter Business Chamber and Newcastle Now Business Improvement Association, has been engaged to assist small businesses through this period of change.

HOMELESSNESS

In reply to **the Hon. ERNEST WONG** (24 May 2018).

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:

11 William Street Woolloomooloo forms part of the Australian Museum site and there are no plans to sell the site.

RELIGIOUS EDUCATION

In reply to **the Hon. ERNEST WONG** (5 June 2018).

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

The New South Wales Government does not hold information relating to secular ethics classes at non-government schools.

DEATH OF LEWIS "BUDDY" KELLY

In reply to **Mr DAVID SHOEBRIDGE** (5 June 2018).

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:

I wrote to Mr Shoebridge on 27 June 2018 in response to his letter of 22 May 2018.

KOALA HABITAT

In reply to **Ms DAWN WALKER** (5 June 2018).

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

The NSW Koala Strategy has established an unprecedented network of viable koala reserves.

NAMBUCCA HEADS PUBLIC LIBRARY

In reply to **the Hon. PETER PRIMROSE** (5 June 2018).

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

The Regional Cultural Fund [RCF] received more than 230 applications from across New South Wales in round one.

I am advised by the Cultural Infrastructure Program Management Office that expressions of interest received were of a very high quality and the round was incredibly competitive. Unfortunately, Nambucca Shire Council's application for the development of the Nambucca Heads library was not successful.

In January 2018, the Department of Planning and Environment provided extensive feedback to Nambucca Shire Council regarding their expression of interest application and advised on how their application could be developed for submission to the next round. I understand the council found this feedback to be very constructive and of great benefit for future applications.

In round two of the RCF, up to \$5 million has been allocated specifically for public library infrastructure projects. Round two is currently open and I strongly encourage Nambucca Shire Council to apply for funding in this round.

RURAL TRANSPORT INFRASTRUCTURE

In reply to **the Hon. ROBERT BROWN** (5 June 2018).

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

I am advised:

As demonstrated by our regional spend across the State, including the rail upgrades at Leeton, the stakeholders that influence our regional spending are the local communities.

GOVERNMENT PRODUCTION OF DOCUMENTS

In reply to **the Hon. GREG DONNELLY** (6 June 2018).

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

I understand the New South Wales Government provided, on a voluntary basis, copies of the Tune report to the Clerk of the Parliament.

YM EFFICIENCY CARGO SPILLAGE

In reply to **Mr JUSTIN FIELD** (6 June 2018).

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

I am advised:

Roads and Maritime Services is overseeing the clean-up operations and working with relevant government agencies responsible for safe navigation of vessels and environmental health of our waterways.

Approximately 947 cubic metres of debris from the container ship *YM Efficiency* has been collected to date, and is being analysed against the ship's cargo records. The container cargo has been confirmed as non-hazardous. Australian Border Force has cleared most of the debris for disposal, with the exception of the recovered tyres which are still being assessed.

The number of containers lost has been confirmed as 81, two of which have been located. Surveys are ongoing to search for the remaining 79 containers. There were an additional 57 damaged containers on board that were removed from the ship before it departed to sea on Friday 22 June.

Roads and Maritime is working with relevant agencies, local councils, Local Aboriginal Land Council, and insurers to establish criteria and processes for longer term arrangements for surveillance and recovery of any further debris.

TAXI INDUSTRY ASSISTANCE PACKAGE

In reply to **the Hon. PAUL GREEN** (6 June 2018).

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

I am advised:

The information is available on the Transport for NSW website.

PRESCHOOL PARTICIPATION RATE

In reply to **Reverend the Hon. FRED NILE** (6 June 2018).

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

Children who participate in a quality early childhood education program for at least 600 hours in the year before school are more likely to start school equipped with the social, cognitive and emotional skills they need to engage in learning.

In 2017, the proportion of all New South Wales children enrolled in an early childhood education program in the year before school remained above the national benchmark of 95 per cent.

Results from the 2017 Community Preschool census have demonstrated a great improvement in 600 hours enrolments in New South Wales. Between 2016 and 2017, 600 hour enrolments have increased by 40 per cent, equal to approximately 11,000 children.

The proportion of these enrolled children, enrolled for 600 hours in the year before school was 94.1 per cent, closely approaching the 95 per cent benchmark. New South Wales has made the largest improvement of all the States and Territories—no other jurisdiction showed more than a one percentage point increase in performance from 2016-2017.

In the NSW Budget 2018-19 \$197.8 million of State funding has been allocated over four years to extend New South Wales's record investment in preschool education under the Start Strong program.

The Commonwealth Government has primary responsibility for funding long day care services in line with their responsibility for workforce participation. This funding is provided regardless of a child's age. The New South Wales Government is primarily responsible for supporting access to early childhood education. Please refer any questions regarding children under the age of three to Senator Birmingham.

FAMILY AND COMMUNITY SERVICES FUNDING

In reply to **the Hon. ERNEST WONG** (6 June 2018).

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

The 2018-19 budget invests over \$2 billion to protect and support our most vulnerable children, young people and families.

I am advised the 2018-19 budget allocates \$740 million more for child protection and out-of-home care services than in our first budget in 2011-12. That is a 66 per cent increase in our investment in child protection and out-of-home care since we came to government.

On top of increased investment in previous budgets, the 2018-19 budget will invest an additional \$59 million over four years to help protect vulnerable children and young people and find a safe home for life. This will mean an additional 78 caseworkers, 10 casework support workers and 12 casework managers over the next two years. This also includes \$17 million that will help the Government achieve our goal of more than 1,000 open adoptions over the next four years.

NEWCASTLE CONTAINER TERMINAL

In reply to **the Hon. JOHN GRAHAM** (7 June 2018).

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

I am advised:

The Government's policy in relation to ports is reflected in the draft Freight and Ports Plan which is available on the Future Transport website.

DEER CULLING

In reply to **the Hon. ROBERT BROWN** (7 June 2018).

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

I am advised that since early 2016, landholders in the Willow Tree area have been discussing the impact of deer populations in the area at local community meetings as well as establishing a working group with representation from landholders, Local Land Services and NSW DPI staff.

A study in 2016 on landholder perceptions about wild deer in the Liverpool Plains region ([link](#)) found that wild deer represent a major concern and their presence on farms represents a major threat to the financial viability of agricultural operations and biodiversity.

In addition, the North West Regional Pest Plan identifies deer as a priority species and sets out clear performance indicators for all landholders both public and private for the ongoing management of wild deer. Local Land Services and NSW DPI have been collaborating on deer density and population information, together with information provided by landholders, to identify and strategically prioritise areas for broad scale control.

I understand the program has 80 private properties across more than 40,000 hectares, with landholder consent to undertake the broad scale control of the priority pest species identified in the regional plan.

As part of this initiative, the aerial program is conducted in accordance with NSW DPI Aviation Task Profile-Aerial Shooting and the Feral Animal Aerial Shooting Team Procedure which is developed and reviewed by NPWS, NSW DPI, RSPCA and LLS for the humane destruction for pest animal aerial control.

The aerial control program will bring substantial benefits to landholders who are currently managing severe drought conditions, through:

Reduced grazing pressure of pastures, increased recovery when seasonal conditions improve

Increased ground cover

Collection of samples to monitor disease surveillance in deer population

Increased biodiversity in the landscape

Reduced competition for pasture with livestock

LAND CONTAMINATION

In reply to **the Hon. SHAOQUETT MOSELMANE** (7 June 2018).

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

I stand by my original answer provided to the House during question time on 7 June 2018 in regard to primary producers living along Stony Creek and Swamp Creek being advised not to consume their own home produce.

In regard to the second part of the question relating to Local Land Services, I am advised that LLS attended community information sessions, organised by NSW Environment Protection Authority at Rutherford on Thursday 7 and Friday 8 June 2018. Local Land Services have met with producers from the area and discussed their concerns, providing information and advice on animal management at each site. Local Land Services will continue to provide support to affected farmers in the area.

The LLS office at Rutherford is in close proximity to the affected sites and all affected landholders have been directed to contact this office if they require further information.

STATE BUDGET AND SHOALHAVEN BRIDGE

In reply to **the Hon. PAUL GREEN** (19 June 2018).

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

I am advised:

Design work on the Nowra Bridge project is underway with the Concept Design and Review of Environmental Factors expected to go on display for community and stakeholder comment in the last quarter of this year.

More information will be made available to the community as the project progresses.

LYN DAWSON MURDER CASE

In reply to **Reverend the Hon. FRED NILE** (19 June 2018).

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:

I wish to extend my deepest sympathy to the family of Mrs Lynette Dawson for the decades of uncertainty and grief that they have experienced.

I have discussed this matter with the Director of Public Prosecutions. I understand that he has received a brief recently from the NSW Police Force [NSWPF] relating to the suspected death of Mrs Dawson.

The investigation into the disappearance of Mrs Dawson, and inter-State extraditions, are matters for the NSWPF. I understand that further investigations have occurred in or since 2016.

STATE BUDGET AND DESTINATION NSW

In reply to **the Hon. PENNY SHARPE** (20 June 2018).

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

There have been no funding cuts to the Destination NSW budget. The variation between Destination NSW's total expenditure budget in 2017-18 and 2018-19 is primarily due to unspent funds from 2016-17 carried over into 2017-18.

As part of its mandate to grow the State's visitor economy, Destination NSW will continue to secure and support high value sporting, cultural and business events for Sydney and New South Wales, in addition to encouraging investment, infrastructure development and other leveraging activities to position Sydney as Australia's leading destination for major events. This will include bringing a world-class showcase of musical theatre, exclusive cultural exhibitions and blockbuster sporting events to Sydney and partnering with Business Events Sydney to secure more international conventions, corporate events and exhibitions.

GREYHOUND RACING INDUSTRY

In reply to **the Hon. ROBERT BORSAK** (20 June 2018).

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

A 10 per cent tax rate is appropriate for New South Wales to ensure online corporate bookmakers contribute their fair share. This is lower than the point of consumption tax rates in South Australia, Queensland and Western Australia which are at 15 percent.

The racing industry will receive additional funding equal to 2 per cent of all wagering operators' taxable net wagering revenue in New South Wales, similar to the Victorian model. This additional revenue will be shared across all three racing codes—thoroughbreds, harness and greyhounds.

STATE BUDGET AND ABORIGINAL GIRLS AND YOUNG WOMEN

In reply to **the Hon. LYNDIA VOLTZ** (20 June 2018).

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

I am advised the Department of Education has engaged Role Models and Leaders Australia Ltd to provide mentoring services for Aboriginal female secondary school students. This initiative operates in 13 sites at New South Wales secondary schools. As at May 2018, a total of 817 places are being provided to Aboriginal female students. The Government has committed \$6 million in funding between 2017 and 2019 to support this initiative.

STATE BUDGET AND GRIFFITH BASE HOSPITAL

In reply to **the Hon. ROBERT BROWN** (20 June 2018).

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

This question would be more appropriately addressed to the Minister for Health, and Minister for Medical Research.

SOUTH-EASTERN SYDNEY COMPULSORY LAND ACQUISITION

In reply to **Dr MEHREEN FARUQI** (21 June 2018).

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

Negotiations regarding the acquisition of all properties started in August 2017 and have continued for over 10 months. The Government has extended the original time frame for the small number of parties where agreement has not yet been reached.

STATE WATER MANAGEMENT SYSTEM

In reply to **the Hon. PENNY SHARPE** (21 June 2018).

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 Integrated Surveillance Monitoring, Automation and Remote Technology budget category referred to is associated with monitoring, communications and security equipment for WaterNSW's assets, and other bulk water supply and dam instrumentation. It is not to be confused with budget for metering, hydrometrics or to monitor customer compliance.

The program is a WaterNSW initiative. WaterNSW has recently made the decision to reorganise projects and equipment purchases within this program to better reflect its changing operational priorities and risks, resulting in reassignment to other or complementary programs.

All of WaterNSW's capital spend is overseen by the Independent Pricing and Regulatory Tribunal [IPART] for prudence and efficiency, and for consumer protection. There is no change in the total planned capital expenditure over the period of the price determination.

KEMBLA GRANGE PRISON PROPOSAL

In reply to **the Hon. PAUL GREEN** (21 June 2018).

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

I am advised:

Corrective Services NSW has begun preliminary investigations to determine whether Kemplar Grange would be a suitable location for a correctional facility. A final decision has not been made at this time. Community information sessions were held in the Illawarra between 24 and 26 June 2018. Corrective Services also has a designated phone number and email address set up for members of the community to contact with enquiries about the site investigation.

As a result of the consultation process, Corrective Services has a greater understanding of the local community's key concerns as well as a number of site specific issues.

The community will be informed of any significant developments.

Committees

PORTFOLIO COMMITTEE NO. 4 - LEGAL AFFAIRS

Report: Museums and Galleries in New South Wales - First Report

Debate resumed from 22 May 2018.

The Hon. ROBERT BORSAK (17:03): I am pleased to contribute to the take-note debate on report No. 35 of Portfolio Committee No. 4, entitled "Museums and galleries in New South Wales: First report". I thank committee members Deputy Chair Mr David Shoebridge, the Hon. Scott Farlow, the Hon. Ben Franklin, the Hon. Shayne Mallard, the Hon. Shaoquett Moselmane and the Hon. Walt Secord for their patience and cooperation during what has been a very difficult inquiry.

The Hon. Walt Secord: But challenging!

The Hon. ROBERT BORSAK: But challenging so far, thank you. I also thank the Hon. Trevor Khan for his invaluable contribution to this inquiry. His support of it has been very significant. This inquiry should have been straightforward, but because of a lack of cooperation from this Government it has turned into a massive headache. Never in my wildest dreams would I have believed that a simple inquiry into museums and galleries would spark such controversy, with Ministers, Government members and senior public servants ducking for cover.

On 28 February last year the *Sydney Morning Herald* reported that "Don Harwin's arts start has been a relative breeze", but that has changed as a result of this important inquiry. I have chaired many committee inquiries

and I have to say that I have thoroughly enjoyed chairing this one in particular. It is an excellent committee that is trying to get to the bottom of the future of arts and cultural institutions in New South Wales. A key component related to the billion-dollar-plus relocation of the Powerhouse Museum to Parramatta, including what has happened, why it happened, whether proper processes were followed or it was simply a case of someone's thought bubble, leaving taxpayers to foot the bill. The inquiry is ongoing and we expect to produce a final report later this year. However, the committee has issued this interim report in order for its recommendations to be considered by the Government alongside the final business case relating to the relocation of the Powerhouse Museum.

What was the outcome? The Government continues to obfuscate and has done the exact opposite to what the interim report of this inquiry recommended. The decision to relocate the Powerhouse Museum from its existing site in Ultimo to Parramatta has attracted widespread criticism among the broader community. From all the evidence we have received thus far, it has been a poorly informed decision that was made before a preliminary business case had even been prepared, let alone a final business case having been completed. Curiously, arts Minister Don Harwin and Premier Gladys Berejiklian have refused to release the business case for the relocation of this museum, and I fear that their excuses made in this place and in the media are either misleading or signs of gross incompetence. This was despite the Hon. Don Harwin reporting in an answer to a question without notice on 15 November last year that "...I am pleased that the business case the department is preparing is expected to be received very soon so those assurance processes can commence".

Minister Harwin said in the *Sydney Morning Herald* on Easter Monday 2 April 2018 that he would not release the business case for the museum's relocation until 90 days after the Government had made its decision on the matter. In the article on page 6 of that edition, Minister Harwin said, "The business case was delivered to the government in December". Yet on 26 April, when a call for papers from the Legislative Council was due, Minister Harwin's office, the Department of Premier and Cabinet, Premier Gladys Berejiklian's office, the planning and environment department and Infrastructure NSW all said they had no such documents in their "possession, custody or control". The cynic in me wonders what happened to the documents from the business case in the 24 days between Minister Harwin's quote in the *Sydney Morning Herald* on Easter Monday and when the documents were due to be released on 26 April.

As I said, it has been an excellent inquiry so far. The cooperation between parties that do not often see eye to eye has been unparalleled, particularly between Labor, The Greens, and the Shooters, Fishers and Farmers Party. A key recommendation in the report, recommendation 4, called on the Government to release the full business case for the Powerhouse Museum and all assessed proposals to the committee and the community for full public consultation before making its final decision. Unfortunately, the Government continues to ignore the committee and the wider community. The Government's increasing contempt for committee processes is breathtaking. Its caginess when it comes to the truth is amazing, while the word "accountability" appears to be non-existent in this Government's vocabulary.

Fortunately for the citizens of this State, we have an excellent committee system that has the powers to uncover the truth. As we have seen with many previous inquiries, when different political parties approach issues pragmatically and cooperatively things get done—issues are well ventilated. While this may not serve this Government well, it serves the citizens of New South Wales. These committees would not function without the committee secretariat, and we are fortunate to have an efficient and informed secretariat who are exceptionally good at what they do. Before I touch briefly on some of the recommendations in the report, I thank the entire committee secretariat for their assistance during the inquiry process. I also thank the Hansard staff for ensuring that the hearings were recorded accurately, and I thank all the Legislative Council attendants for making our work that much easier.

The report contains 14 recommendations. Recommendation 1 calls on the Government to ensure that there is an annual event where free entry to all the State's key cultural institutions is promoted and provided to all members of the public. Given the recent scandal relating to the Centre for Fashion Ball, it is the least the Government can offer and do. Recommendation 5 is simply a plea to the Premier to reconsider appearing before the inquiry. While we compelled former Premier Mike Baird to appear and give evidence before the inquiry recently, it is simply not good enough for the current Premier to continue to hide behind her Cabinet and not appear.

Recommendations 6 and 7 recommend that the business case consider establishing a Museum of Applied Arts and Sciences satellite site in Western Sydney, and that the Government consider investing in a cultural precinct proposal for Western Sydney, such as a migration museum or a cultural centre, to be identified during a community consultation period. The committee has also examined issues affecting regional museums and galleries, particularly funding and access to State collections. The committee found that the level of funding available to regional and rural museums is minimal and can be difficult to access. Therefore, recommendation 10 calls on the Government to review and expand funding grants and programs for projects, capital works and

maintenance in rural and regional museums and galleries; recommends that a minimum percentage of grant and program funding be allocated to rural art and cultural facilities; and recommends that consideration be given to expanding the funds available through the Regional Cultural Fund and making it accessible for specific programs and staffing needs.

Furthermore, the committee believes there could be value in having a dedicated centre for Aboriginal art and culture. Recommendation 14 calls on the Government to identify and invest in opportunities to further promote Aboriginal arts, and ensure that the management and control of any Aboriginal art and cultural centre and its collections be in the hands of the Aboriginal peoples of New South Wales. Since the terms of reference for the inquiry were self-referred by the committee on 23 July 2016, the response has been overwhelming. The committee received 173 submissions and 34 supplementary submissions, and it held eight public hearings—seven in Parliament House and one in the Blue Mountains. I thank everyone who provided the committee with a submission, and all the people who appeared before the committee.

Most of the witnesses who were involved in the preparation of the preliminary business case for the proposed relocation of the Powerhouse Museum from Ultimo to Parramatta declined to answer certain questions about the preliminary business case on the basis of Cabinet confidentiality. As a result, advice was sought from the Clerk of the Parliaments regarding the power of committees to question witnesses and compel evidence relating to issues subject to claims of Cabinet confidentiality, and about how the committee could access relevant documents. I do not intend to canvass the issues and the advice received; they can be found in the report.

Due to the changing nature of the Government's proposal for the Powerhouse Museum, changes of Minister and Premier, and consuming public narratives about the reasons for, planning for and commitment to moving the Powerhouse, the inquiry has been extended. There have been many more public hearings and a number of key witnesses have been recalled. It is clear that this Government has made a large financial commitment without proper consideration. In the process, the Government has caused considerable damage to the culturally iconic Powerhouse Museum and it has lost the support of the arts and cultural community in New South Wales.

I have the utmost respect for my deputy chair, Mr David Shoebridge, and the important contribution he makes to our committee work. I am also very thankful to the Hon. Walt Secord for the invaluable insight and understanding he has brought to this inquiry. The hearings can become a bit feisty, particularly when Mr Shoebridge or the Hon. Walt Secord are asking questions and cross-examining witnesses. Once again, I thank all those involved for their assistance during the Portfolio Committee No. 4 inquiry into museums. This Government has a lot to answer for and I will not rest until the public receives the information it deserves. The committee hearings are ongoing. I commend the report to the House.

The Hon. WALT SECORD (17:13): As a member of Portfolio Committee No. 4, shadow Minister for the Arts, and Deputy Leader of the Opposition, I make a contribution to the debate on the committee's first report of the inquiry into museums and galleries in New South Wales. Frankly, a lot has happened since the first report was tabled on 18 December. I look forward to the final report later this year, including a report of activities relating to the cocaine-fuelled MAAS Centre for Fashion Ball 2018. We have seen the Minister for the Arts and Leader of the Government, the Hon. Don Harwin, do everything in his power to avoid scrutiny. In fact, he has earned amongst the arts community the nickname the Hon. Don "Cabinet-in-confidence" Harwin. However, his Cabinet colleagues forced him to see a little bit of common sense and release some of the documents relating to the business case for the Powerhouse Museum. His colleagues saved him from himself.

Sort of like Captain Ahab in *Moby Dick*, Don Harwin's worst enemy was Don Harwin. His colleagues forced him to release some of the materials relating to the business case. The documents released showed that the Berejiklian Government had to cook the books and approve massive development towers at Parramatta to lift the benefit-cost ratio from 0.435 to more than one, resulting in so-called "super towers". I walked around Parramatta yesterday; we know that the Hon. Don Harwin's plan will change the face of Parramatta forever. The committee also found that parts of the Powerhouse Museum will have to be demolished to remove the iconic exhibits and move them into storage or to the Parramatta site. We also discovered that the total relocation cost will be closer to \$2 billion. In addition, we have witnessed the Minister for the Arts mislead Parliament. On 7 March, in an answer to a question from the Shooters, Fishers and Farmers Party member of the Legislative Council, the Hon. Robert Borsak, the Minister claimed that the now infamous and cocaine-fuelled MAAS Centre for Fashion Ball had raised \$70,000, when in actual fact it had lost nearly \$140,000—and New South Wales taxpayers footed the bill.

Shortly afterwards, the Powerhouse Museum director, Dolla Merrillees, resigned after the Berejiklian Government forced her out to save the Minister for the Arts. She was a bit like the Hon. Don Harwin's Lee Harvey Oswald: She became his patsy for his decisions and for his misleading of this Parliament. The black-tie dinner cost more than \$388,000 to stage, including: event production, \$256,062; design and advertising, \$30,000; media coverage, \$5,999; audio production, \$15,000; hospitality staff, \$13,515; signage, \$25,000; and airfares and

transport, \$10,123. In this Parliament the Minister claimed that \$70,000 went to charity, but he did not say that \$140,000 was lost to the taxpayer. At one point in his answer to a question he said, "I am advised", but in his answer to a supplementary question he forgot to say "I am advised"; he used crafty, cagey words to escape scrutiny. But I digress—I will return to that matter later.

While the portfolio committee canvassed challenges for rural and regional galleries and museums and the repeated failure by the current Minister for the Arts to listen to their concerns, the overwhelming evidence to the committee related to the Government's decision to forcibly move the Powerhouse Museum from Ultimo to Parramatta. But in relation to general arts functioning, the disappointment surrounding the distribution of funds from the Regional Cultural Fund is overwhelming and palpable. Projects and community groups across the State were given the expectation that they would be accessing a river of funds. But only last month they started to get their rejection letters. After the dust settled, it was revealed that only six arts organisations were funded this year.

The Hon. Shayne Mallard: Sixty-one.

The Hon. WALT SECORD: Sixty-one is fewer than I have said. It is worse than arts organisations have been saying. I thank the Hon. Shayne Mallard for correcting the record. As I said, after the dust settled it was revealed that only six arts organisations have been funded so far this year. It has been described by a coalition of arts organisations who signed a joint statement as "the poorest funding round in Australian history" for small-to medium-size organisations administered by Create NSW. Of the 222 applications in round two of the New South Wales Arts and Cultural Projects funding, only six were given support. That is an astounding rate of a mere 2.7 per cent. The National Association of Visual Arts said the usual success rates were between 15 per cent and 20 per cent. To give some context, in 2017, 23 projects valued at \$886,341 were funded, with a success rate of 17 per cent; and, in 2016, 41 projects were funded to the value of \$1.5 million, giving a success rate of 27 per cent.

In 2018, \$8.3 million of funding was sought but only \$256,000 was granted. I say again: In 2018, \$8.3 million was sought but only \$256,000 was granted. Serious questions must be answered. There are whistleblowers within Create NSW who have said that the Minister intervened directly to demand and direct funding away from small and medium-size cultural organisations to a major Sydney cultural institution. In coming days the Opposition will reveal the identity of that cultural institution. That Minister stood over the bureaucrats and told them to redirect funds from tiny, small and medium struggling arts organisations and give them to a larger one. Many in the arts community say that arts Minister Don Harwin has shifted funding from small and medium-size organisations to support his favourite cultural institution. Arts Minister Don Harwin is following the lead of his mentor and role model, the failed arts Minister at the Federal level, Senator George Brandis. Senator Brandis is remembered for the Catalyst "slush fund".

Meanwhile, more than \$600 million has been spent within a three-kilometre radius of the central business district, with only \$25 million a year being spent in rural and regional areas. That is shocking. I do not know how those opposite can claim to be "for the regions". The Berejiklian Government has the wrong priorities: It would rather spend \$2.2 billion on stadiums and up to \$2 billion moving the Powerhouse Museum while refusing to support grassroots community-connected small- to medium-sized cultural and arts organisations. Unfortunately, this Minister is using the arts as his own personal fiefdom—as a plaything—and is handing out prestigious arts appointments to his factional mates in the Liberal Party. But some of his colleagues are alarmed and muttering that he is neglecting his Energy and Mining portfolios, preferring lengthy briefings—

The Hon. Shayne Mallard: Point of order: The Hon. Walt Secord has had time to address the report. I am a member of the committee, and those comments are clearly outside the terms of reference of the report. I ask that the member be directed back to the report of the committee.

The Hon. WALT SECORD: I will give an example on the funding of the arts.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): Order! The Hon. Walt Secord will resume his seat. I refer the member to the terms of reference of the committee's report and remind him to stay within them for the remainder of his speech.

The Hon. WALT SECORD: Before I return to the Powerhouse Museum, I thank the committee chair, the Hon. Robert Borsak, and the deputy chair, Mr David Shoebridge, for their efforts and diligence during the deliberations of the committee. Admittedly, it is one of the few occasions when I have undertaken committee work alongside Mr David Shoebridge, and now I have a better appreciation of his skill in the cross-examination of witnesses and his ability to draw out material that otherwise would not have been forthcoming. I now have an appreciation of the Hon. Robert Borsak's tireless pursuit of answers from a government that is deeply committed to a culture of secrecy and cover-up. The Hon. Robert Borsak has been diligent and dogged in pursuit of answers. Yesterday I was at an arts organisation where a member of the public told me that she had a deep and profound

admiration of his desire to get to the bottom of the mismanagement of this project, and she wanted me to convey that to him.

The Hon. Robert Borsak: Will she vote for me?

The Hon. WALT SECORD: No, she will not. A former Premier and his chief of staff reluctantly agreed to appear before the inquiry only after they were threatened with subpoenas. [*Time expired.*]

I seek an extension of 10 minutes.

Leave not granted.

Debate adjourned.

COMMITTEE ON THE INDEPENDENT COMMISSION AGAINST CORRUPTION

Report: Review of the 2014-2015 and 2015-2016 Annual Reports of the ICAC

Debate resumed from 22 May 2018.

The Hon. WALT SECORD (17:24): In my capacity as Deputy Leader of the Opposition, I speak to report No. 5/56 of the Committee on the Independent Commission Against Corruption [ICAC], entitled "Review of the 2014-2015 and 2015-2016 Annual Reports of the ICAC". This is a very important committee and one whose deliberations I follow closely. It is a statutory joint parliamentary committee comprising members of both the Legislative Assembly and the Legislative Council. I note that its chair, the Member for Epping, Damien Tudehope, is drawn from the Liberal Party and the deputy chair, the Member for Tweed, Geoff Provest, is drawn from The Nationals. I will not offer any further comment. I also note that it has eight other members, including the National Party member and Deputy President, the Hon. Trevor Khan, and the Labor member for Heffron, Ron Hoenig. Both are individuals who treat their legal and statutory responsibilities with great dedication and care, so I believe they would be very uncomfortable about the activity within the Government in relation to the ICAC.

That said, I cannot say the same for the leadership of the three conservative governments that have led the State over the past eight years. I am profoundly disappointed that under premiers Barry O'Farrell, Mike Baird and Gladys Berejiklian there has been only one political direction for the ICAC, and that is to wind back the clock. The Liberals and The Nationals have a sorry history with the ICAC. In response to the growing number of Coalition members caught by the ICAC, the Government has sacked the ICAC commissioner, wound back ICAC's powers and slashed its budget. The Liberals and The Nationals take away powers, curb activity or, even worse, refuse to refer their own members who have admitted wrongdoing publicly to the ICAC for further investigation. Make no mistake, the Berejiklian Government is continuing to shield the former member for Wagga Wagga from scrutiny by the ICAC.

The Hon. Wes Fang should be concerned; it is happening to this very day. The former member for Wagga Wagga admitted wrongdoing. This is the man who was heard in secret recordings discussing massive, lucrative commissions with a Canterbury councillor for property deals with a wealthy Chinese developer known as Country Garden. Not once, but twice, the former member for Wagga Wagga apologised for "breaching the very strict code of conduct" required of him. The first occasion was after his appearance at the ICAC and the second on his own Facebook page, which his lawyers told him to remove immediately. This is the man who took his clients into the deepest—and certainly some of the darkest—corridors of the Berejiklian Government.

The Hon. Natasha Maclaren-Jones: Point of order: The debate concerns the report entitled, "Review of the 2014-2015 and 2015-2016 Annual Reports of the ICAC". I ask that the Hon. Walt Secord be brought back to the leave of the report.

The Hon. WALT SECORD: To the point of order: The report refers to 2015-16 annual reports and during that period investigation of the member for Wagga Wagga began. I am being entirely relevant to the report.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): The Hon. Walt Secord will remain relevant to the terms of reference of the report.

The Hon. WALT SECORD: The annual report of 2015-16 referred to the member for Wagga Wagga as a person who shepherded clients into the ministerial suites of the Government to get personalised attention and hearings from senior Ministers and their staff. He was doing this for the entire terms of the O'Farrell, Baird and Berejiklian governments. It is all common knowledge in this House. It is common knowledge amongst Government members. Yet where is the Premier? She is in hiding. Where is the leadership? The Premier is failing to show leadership. Why is there resistance? Sadly, I know why the Premier and the Leader of the Government are resisting the right path so strongly—it is because former member Daryl Maguire was and is a close friend of

the Leader of the Government, the Hon. Don Harwin. They are old dining buddies. You can see them spending hours in smoky corridors—

The Hon. Wes Fang: Point of order—

The Hon. WALT SECORD: —in leather tub chairs discussing business.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): Order! The Hon. Walt Secord will resume his seat.

The Hon. Wes Fang: These matters would not have been canvassed in the committee deliberatives and discussions, and therefore the Hon. Walt Secord's remarks are out of order.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): I again draw the Hon. Walt Secord back to the terms of reference of the report.

The Hon. WALT SECORD: I hope the Hon. Wes Fang has not taken a walk down the lovely country garden with Daryl Maguire.

The Hon. Natasha Maclaren-Jones: Point of order: The Hon. Walt Secord is now reflecting on the Chair's ruling. I ask that he be directed to return to the leave of the committee report.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): I uphold the point of order.

The Hon. Wes Fang: To the point of order: I ask the member to withdraw his previous comments.

The Hon. WALT SECORD: I withdraw the comments. In Parliament last week we saw the excruciating spectre of Premier Gladys Berejiklian refusing to refer the member for Wagga Wagga to the ICAC. We saw the Liberal-Nationals close ranks and vote down a motion to refer Daryl Maguire to the ICAC. The Opposition now has a motion before this Chamber. Government members have a chance to reflect on the failure of the Premier. For three days in the Legislative Assembly the Premier refused to answer questions from Labor on the conduct of the former member for Wagga Wagga. It was a shameless spectacle that led to a shameful vote of 44 to 35. Even the member for Sydney, Mr Alex Greenwich, who always votes with the Government, was unable to stomach the Premier saddling up to defend the former member for Wagga Wagga.

The Hon. Natasha Maclaren-Jones: Point of order: The member is reflecting on a decision of the other House. I ask that he be called to order.

The Hon. WALT SECORD: To the point of order: The standing orders are very clear and refer to reflecting on a decision of this House. The decision that I reflected on was from the other Chamber and involved the Premier.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): The Hon. Walt Secord will resume his seat.

The Hon. WALT SECORD: This is unfair. Two minutes have passed and the clock is ticking down.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): I again refer the member to the terms of reference and ask that he tread carefully going forward.

The Hon. WALT SECORD: I refer to the ICAC annual reports of 2015-16 when matters involving Canterbury council and the former member for Wagga Wagga were directly under its purview. Last week the Premier said that members should take their concerns to the ICAC:

... there is an Independent Commission Against Corruption [ICAC] investigation and the member should refer any issues of concern to that inquiry. That is the appropriate way to deal with these issues.

That is what Opposition members and crossbench members tried to do in the Legislative Assembly, but to no avail. For all her pious talk, Premier Gladys Berejiklian used her numbers to shut down any chance of transparency and to shut down any chance of an investigation into the member for Wagga Wagga or his referral to the ICAC. He is the eleventh member of this Government to resign as a result of an appearance before the Independent Commission Against Corruption since the Liberal-Nationals came to office. Eleven members of this Government have been forced to resign. That is almost enough for a cricket team. Perhaps they could be called the Premier's XI.

The Hon. John Graham: Not almost; it is a cricket team.

The Hon. WALT SECORD: A cricket team. To refresh the memory of members, they were Chris Hartcher, Chris Spence, Darren Webber, Barry O'Farrell, Tim Owen, Andrew Cornwell, Bart Bassett, Craig Baumann, Garry Edwards and now Daryl Maguire. Following revelations on 13 June at the ICAC, only three people in New South Wales thought that the member for Wagga Wagga should remain a member of this Parliament—Daryl Maguire, the Premier and the Leader of the Government in this Chamber. Therefore, it fell to

the Leader of the Opposition and the Deputy Leader of the Opposition to declare that they would move to expel him from Parliament for his action.

The Premier thought that she could skate through until 2019 with Daryl Maguire sitting on the crossbench in the naughty corner. It was not fair to crossbench members that he should be permitted to sit on the crossbench without the need for his resignation or a by-election. The Premier thinks that she can bring a new low standard to government in New South Wales. Last week in question time she said on numerous occasions, "If you have any concerns about probity, go to the ICAC." She knows that the former member for Wagga Wagga is not mentioned in the terms of reference for the inquiry before the ICAC. It has specific terms of reference relating to Canterbury Bankstown Council. Daryl Maguire's other actions on behalf of other clients in other municipalities—*[Time expired.]*

I seek an extension of time.

Leave not granted.

Reverend the Hon. FRED NILE (17:35): In reply: I thank all members who have taken part in this debate. Perhaps the last member digressed from the contents of the report. It was a shameful incident that Mr Maguire engaged in those activities. We support—

The Hon. Walt Secord: You are not defending Daryl Maguire, are you?

Reverend the Hon. FRED NILE: No, we support his resignation.

The Hon. Walt Secord: I am sorry. My apologies.

Reverend the Hon. FRED NILE: I am not defending him.

The Hon. Walt Secord: I apologise; I misunderstood you.

Reverend the Hon. FRED NILE: He was a scoundrel in the House.

Mr Scot MacDonald: Point of order: We are listening to the Hon. Walt Secord's litany of interjections and he is talking over the top of members. I ask that he be called to order so that we have order in the House.

The Hon. Walt Secord: To the point of order: For clarity, I wanted to apologise to Reverend the Hon. Fred Nile because I misunderstood him. I thought I should give him that courtesy. I thought he was defending the former member for Wagga Wagga. I wanted to clarify that I had misunderstood.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): The Deputy Leader of the Opposition was heard in silence. The same courtesy will be extended to Reverend the Hon. Fred Nile.

Reverend the Hon. FRED NILE: In conclusion, I put on record my commendation for the new structure of the Independent Commission Against Corruption [ICAC] with its three commissioners and the work they have done, which has proved the ongoing value of the ICAC. The ICAC commissioners and their staff need our enthusiastic support as they carry out their work. On behalf of the House, I thank them for their work and for handling the Daryl Maguire case without any fear or favour of dealing with the truth. I commend the report to the House.

The PRESIDENT: The question is that the House take note of the report.

Motion agreed to.

PORTFOLIO COMMITTEE NO. 6 - PLANNING AND ENVIRONMENT

Report: Energy from Waste Technology

Debated resumed from 15 May 2018.

The Hon. JOHN GRAHAM (17:37): I speak to the Portfolio Committee No. 6 - Planning and Environment inquiry into energy from waste technology. I was a substitute member on this inquiry and greatly enjoyed serving on it. I recommend the report to the House as a work of substance. The second sentence of the report reveals the shocking fact that currently New South Wales is the second highest producer of waste per capita in the world. That underlines some of the issues that New South Wales faces in this area. I speak briefly to some of the recommendations of the report and commend them to the House. We can do better on the issue of waste. Taken together, the recommendations set out a plan to deal better with waste issues and for the Environment Protection Authority [EPA] to play a significant role in better enforcing its existing powers or using enhanced resources or powers.

Recommendations 1 and 2 in the report outline spending the money that is already allocated for waste programs. Less than two-thirds of the allocated \$465 million, that is, \$292 million, has been spent on the Waste Less, Recycle More program. The committee called for the EPA to audit the program's expenditure to ensure the funds are fully expended to meet the objectives of the program. The committee made other key recommendations, including better liaison with the NSW Police Force and the EPA. There was clearly some good dialogue, which is to be encouraged, but there was confusion about the exact formal protocols and where contacts should occur between them. Unfortunately, criminal elements look to profit from this industry, so it is necessary to have good dialogue and it is important to formalise that.

Recommendations 12 and 13 dealt with the use of trackers on vehicles. In August 2017 only seven vehicles had trackers in this State. There should be more as it is a relatively low-cost way to use surveillance and keep track of vehicles in the industry. Trackers are an effective way to regulate the industry and they should be used more often. The key recommendation is about the Next Generation project at Eastern Creek. This report was published while the Government still had this project in the planning process. Originally the Government had given some nods and said that the project might proceed and then looked to back away from this process. This project was alive in the planning system at the time this committee reported. The Government said it wanted to be cautious about intervening in the planning process. This project should not have proceeded as it would have too big an impact on the residents of Western Sydney. The committee did not take lightly intervening with a live planning proposal on board.

I congratulate the committee and its chair, the Hon. Paul Green, who did a great job of balancing this set of issues. That was an indication of just how significant the concerns were about this project. I note that the project has since been withdrawn and dealt with appropriately and will not proceed through the planning process. I congratulate the committee and commend that recommendation to the House. In relation to recommendation 24, it is appropriate for the Government to allocate additional resources to conduct investigations into large-scale illegal dumping activities, given how much money is being generated from the waste levy. It is about protecting that income stream in some ways. The EPA should calculate the monetary benefit of illegal dumping and illegal landfilling and that should be reflected in the penalties. Regular, up-to-date waste data should be published because that is fundamental to regulate this industry. Many things can be done within the existing system to bring about a more effective regulatory approach. I commend the recommendations to the House. New South Wales has to reduce its status as the second highest per capita waste jurisdiction in the world by tackling people who are trying to break the rules in this area. I commend the report to the House.

The Hon. TAYLOR MARTIN (17:43): I refer to the report of Portfolio Committee No. 6 into energy from waste technology. The inquiry canvassed a number of issues that I will highlight. The committee spent some time looking at the New South Wales Environment Protection Authority [EPA] and its role in regulating the waste industry. During the hearings, the EPA noted that "the waste industry in NSW has many professional and highly organised stakeholders and associations that want to do the right thing" and "the vast majority of stakeholders in the NSW waste industry are law-abiding and committed to ensure it remains innovative and sustainable". However, it also said that "the opportunity for profiting from unlawful activities means that there is a persistent criminal element in the waste industry that is both agile and difficult to neutralise", and I could not agree more.

The committee heard that the EPA is Australia's leading environmental regulator. This is supported by its strong prosecution record. In 2016-17, the EPA had 103 successful prosecutions and \$2.4 million in penalties imposed by the courts. This is in contrast to Victoria's Environment Protection Authority, which in the same period had only 11 successful prosecutions with just \$175,000 in court-imposed penalties. This is in addition to the penalty notice the EPA issues, which delivers a faster regulatory response, reduces pressure on the judicial system and the cost imposed on government and is transparently reported on the New South Wales EPA's public register.

The committee spent some time inquiring into the Mangrove Mountain landfill site located on the Central Coast. The inquiry found that landfilling at the site began in 1998 when Gosford City Council issued a development consent for a minor redevelopment of the Mangrove Mountain Memorial Golf Course. In 2001 the New South Wales EPA issued the site with an environmental protection licence. The licence has since been varied on at least 13 occasions and the site operated as a regional waste facility licensed to accept general solid waste until May 2014. This site sits on the catchment of the Ourimbah Creek which supplies water to both Mardi Dam and Mangrove Creek Dam.

I know that some in the community have genuine and well-founded concerns about the presence of the landfill near the water catchment area, particularly because of how this landfill began its life to use excess building material to fill valleys and voids in the topography of the local golf club course. It is clear that that is not its current use. Nevertheless, I know, and the committee found that there remains significant angst amongst locals of the presence of a fully operational landfill site on top of the Ourimbah Creek system. The committee recommended that the Government establish an independent inquiry into the approval by the council, the operation of the landfill

and the regulatory compliance of the site at Mangrove Mountain. I strongly recommend that an independent inquiry be established.

The committee also inquired into illegal dumping, including the prevalence of this illegal activity as well as the efforts by the EPA to reduce it occurring. The committee heard that illegal dumpers can be forced to install GPS trackers in their vehicles, be fined more than \$1 million for their actions and be required to repay monetary gain from the illegal activity. Further, vehicles can be seized and offenders sentenced to prison. The committee has recommended that the EPA increase the use of vehicle trackers and other surveillance techniques, including drones, to prevent illegal dumping. I support the recommendation to increase the use of vehicle trackers in the licensed waste disposal industry going forward in New South Wales. Tracking devices reduce the opportunity for trucks transporting waste to engage in illegal dumping. The use of vehicle trackers would have flagged to the EPA that illegal dumping was occurring in the case of the alleged illegal landfill and the dumping site at Spencer into the Hawkesbury River system. The use of trackers would draw the attention of the EPA far earlier and would also ensure that the offenders are known to the EPA.

This report acknowledges that the New South Wales EPA has directed various resources to tackling illegal dumping, including funds from the Waste Less, Recycle More initiative. Waste Less, Recycle More is the primary initiative funded through the waste levy. The funding can be allocated in a number of ways, including by providing funding for businesses that are recycling, organics collection, market development, managing problem wastes such as asbestos, and new waste infrastructure. Local councils and programs can tackle illegal dumping and littering through these funds as well. Waste Less, Recycle More is a successful program and we see instances of that up and down the coast. Information and evidence supplied to the committee found that as at October 2016, \$292.3 million had been allocated to 822 projects throughout New South Wales. These projects are expected to process more than 2.2 million tonnes of waste and create 845 jobs as that takes place.

The New South Wales Government is also funding 100 community recycling facilities across the State. In March, I was pleased to officially open the new facility at Summerhill Waste Management Centre in the Newcastle City Council area. The facility was supported by a \$115,000 grant from the New South Wales Government's Waste Less, Recycle More initiative. Community recycling centres play an important role in keeping problem wastes out of landfill and reducing illegal dumping. The Community Recycling Centre accepts the following problem wastes for free: water-based and oil-based paints, used motor oils and other oils, lead, acid and handheld batteries, gas cylinders and fire extinguishers, conventional tube and compact fluorescent tube lamps, smoke detectors, e-waste and mobile phones, and needle sharps. By accepting these items for free, communities are encouraged to recycle problem wastes to help prevent contaminants from entering the local environment.

I commend the Hon. Paul Green on his chairmanship of the inquiry into energy from waste technology. The report makes a number of recommendations that may improve outcomes, particularly with regards to targeting the scourge that is illegal dumping. I look forward to seeing more action on that front, particularly by local councils. Most agree that illegal dumping is a problem that needs to be curtailed, investigated and prosecuted. I commend the report to the House.

Debate adjourned.

PORTFOLIO COMMITTEE NO. 1 - PREMIER AND FINANCE

Report: Alcoholic Beverages Advertising Prohibition Bill 2015

Debate resumed from 15 May 2018.

The Hon. BEN FRANKLIN (17:53): This was an important and valuable inquiry. I pay tribute to Reverend the Hon. Fred Nile for his work in drafting a bill for the Parliament to consider the banning of alcohol advertising. While ultimately the committee did not support that notion, it still performed a great deal of valuable work. I acknowledge and honour that work and particularly the contribution of Reverend the Hon. Fred Nile. The first finding that was part of the recommendations was that regulation of alcohol advertising has an integral role to play in addressing the significant health and social costs that alcohol-related harm causes in our society and in encouraging a healthier lifestyle among Australians. That finding is important because it accepted the intrinsic damage that alcohol causes to Australians.

Committee members had a very interesting debate on whether there is any safe level of alcohol consumption. A number of those who provided submissions contended that there is no safe level of alcohol consumption and that therefore, like tobacco advertising, it should immediately be banned. However, on reflection, the majority of committee members determined that they were not convinced one way or the other whether there was any safe level of alcohol consumption. Therefore, our first recommendation was that NSW Health examine the issue to determine whether there is a safe level of alcohol consumption—whether, as

we have often been told, one or two glasses of red wine a night are, in fact, beneficial for our health or whether that is just a myth.

The committee then looked at a range of issues relating to alcohol consumption and the advertising thereof. Recommendation 3 was important, as it asked the New South Wales Government to consider providing more funding and support towards health promotion and education campaigns regarding alcohol consumption. That is obviously a step short of saying that alcohol should be banned but stating rather that it is clear and apparent that excessive alcohol consumption has an extraordinarily deleterious effect upon our society and therefore health promotion and education campaigns regarding alcohol consumption should be encouraged. This recommendation was supported unanimously across the committee.

The committee also looked at a range of practical measures to be considered, debated and discussed. One of those, for example, was the issue of discount promotions for alcoholic beverages on shopper dockets. There was some discussion about whether that was, in fact, promoting excessive consumption. Again, the committee did not land on a final position but felt it was important enough to ask, under recommendation 6, that the New South Wales Government consider it. I hope that the Government will do so and I look forward to reading its considered response in the fullness of time. In terms of practical recommendations, recommendation 7 was worthy of consideration: that the Government advocate through the Australia and New Zealand Ministerial Forum on Food Regulation for the development of a comprehensive labelling standard, including pregnancy warning labels, on all alcoholic beverages. The committee considered that to be a practical recommendation that was worthy of consideration.

Apart from the bill, the most contentious issues in this inquiry—the ones that provided the most food for thought—where whether alcohol sponsorship in sport should be phased out and what role alcohol sponsorship should have on government-owned buildings. There was a strong view that the New South Wales Government should consider appropriate restrictions and/or exclusions on alcohol advertising on all government infrastructure and property, particularly advertising to which children and young people are exposed. The committee also determined that the Government should consider a strategy to phase out alcohol sponsorship in sport over time but in a way that ensures sporting clubs and organisations are not financially disadvantaged. That was a significant point of contention as well. It was a very good committee and followed the best traditions of the Legislative Council committees structure and framework whereby there was much discussion, consultation and engagement across party lines in order to land on what I think is a reasonable position with which the majority of the constituents of New South Wales would agree. I thank the committee members: the Hon. Scott Farlow, the Hon. Taylor Martin, Mr Justin Field, the Hon. Peter Primrose and the Hon. Adam Searle, with whom I spent some time discussing this issue.

The Hon. Adam Searle: A lot of time.

The Hon. BEN FRANKLIN: A lot of time—and we landed in a sensible and a reasonable place. In particular, I acknowledge and thank Reverend the Hon. Fred Nile for causing this important body of work to be written, considered and determined. I, like he, look forward to examining the Government's response in the fullness of time.

Debate adjourned.

Members

VALEDICTORY SPEECH

The PRESIDENT: I welcome to the gallery Dr Mehreen Faruqi's family—including her husband, Omar, her children, Aisha and Osman, together with other family members—who are here for her valedictory speech.

Dr MEHREEN FARUQI (18:00): I acknowledge the traditional custodians of the land we are gathered on, the Gadigal people of the Eora nation, and I pay my respects to elders past and present. This land was never ceded. I came to this Parliament after growing up in Pakistan and having lived in Australia for 21 years. My two countries—while quite different in culture, language and lifestyle—share a colonial past. I would never presume to speak for what colonialism means for first nations peoples in Australia, but I know of its devastating legacy of conflict, exploitation, oppression and dislocation. I am particularly reminded of this today because it was on 14 August 1947 that Pakistan gained independence from the British raj—72 years ago.

Let us accept once and for all that invasion, occupation, colonisation and settlement are bloody and violent. Let us view this history with eyes wide open and acknowledge that first nations peoples in Australia still face the worst of discrimination, vilification and racism. That must end. Indeed, the start of that end must be a treaty or treaties with the first nations peoples—treaties that recognise the continuing occupation, that

acknowledge the sovereignty of first nations peoples and that respect their right to self-determination. Yeh zamien hamaisha say Aboriginal thi aur hamaisha Aboriginal rahai gee—Urdu for this land always was and always will be Aboriginal land.

I am saying farewell to this House and to the Parliament of New South Wales almost five years exactly to my first speech in the Legislative Council on 21 August 2013. It has been an honour and a privilege to serve the people of New South Wales. Some of those people are in the gallery today and I thank them for being here. More importantly, I thank them for their love and friendship and for always supporting our collective project of making New South Wales a better place for all. I hope I have met their expectations because I have tried my hardest. However, I acknowledge that there will always be more to do and better ways of doing it. I promise to take that same ethic of hard work to the Australian Senate next week. I will take the same burning desire to change the world, to rock the boat and to challenge the status quo that brought me to this place.

When my husband, our one-year-old son and I moved to Australia 26 years ago I hardly knew anyone. I certainly did not have the network of connections that seems a prerequisite for a political career, nor in my wildest dreams could I have imagined that one day I would become a member of the Parliament of New South Wales. My mum often mentions how her daughter, who did not even want to go to school in her early years, has ended up as a member of Parliament. She could not be here tonight but she is watching the live feed from my brother's house in the United States. Assalam-o-alaikum, Ammi. Thank you for trusting your daughter and finally giving in to what you called my "stubbornness"—my stubbornness to fight for the right to fly kites from the roof of our home, to play cricket like my older brothers did or the many other things that girls were not supposed to do. In the political arena those childhood tussles, a strong sense of fairness and the skills I honed persuading my mother have come in handy in my contesting of long-held views that need changing—from decriminalising abortion to a new approach on drugs and fighting racism and inequality.

Sometimes I still pinch myself when I walk in here. Even after five years it sometimes feels surreal to be sitting in the oldest Parliament in Australia amongst the rough and tumble of politics. After all, I grew up a world away in Lahore. I joined The Greens in my thirties. I did not come through the political ranks of student unions, party apparatchiks or political advisors. I joined Parliament after many years of working as an engineer in regional New South Wales, Sydney and Pakistan and as a consultant, an academic and a local government officer. I had very little prior political experience. I did not really know what to expect when I got here. I came in with an open mind and an open heart without too many set ideas about the "who, what and how" of this Chamber.

The late and great Dr John Kaye took me under his wing and helped me as much as he could. It was a pretty steep learning curve, with many unseen and unknown pitfalls. Some encounters and incidents completely rattled me, others pleasantly surprised me, some were disheartening and others were uplifting—and that gave me the strength to keep doing my job. For all the good, bad and ugly of politics, I was determined to be myself, to remain positive and to hold onto my idealism. That has been a challenge but I may have come out the other end intact!

My first year in this place was a rude awakening to New South Wales politics—namely, a staggering 11 Liberal members of Parliament, including then Premier Barry O'Farrell, resigned or went to the backbench in murky circumstances and, almost in parallel, the Independent Commission Against Corruption was investigating previous Labor Ministers who would be found guilty of corrupt conduct. That was pretty appalling for me because one of the reasons my husband and I left Pakistan for Australia was because of the rot of political corruption that had set in over there. It was also an indictment of a State political system where corruption was allowed to go on unfettered.

It is often said that in here we walk in the hallways of power—where the wheeling and dealing happens, where the game of politics unfolds. That notion has never sat well with me. I have struggled with the idea that politics is a game—where politicians are all-powerful and the public mere pawns. The power surely should lie with those that put us here: the people of New South Wales. The conditions that allowed corruption to flourish in our State remain—the corporate money, the lobbying, the political patronage—and they will remain without deep, permanent reform. Indeed, recent events indicate the truth of this. Trust in politics and politicians is the lowest it has been in some time. But we can take a huge step towards restoring that trust by removing corporate donations from our political system and by ending the game of mates.

On the brighter and lighter side, there have been delightful and slightly bemusing moments when I have discovered that I have things in common with unlikely allies—the Hon. Dr Peter Phelps comes to mind, with our shared views on decriminalising drug use, legalising and regulating cannabis, and supporting a decriminalised model of sex work. I have relished my work in the transport and roads portfolios, where I used the skills I acquired as an engineer and academic to investigate and expose flaws in the planning, development and delivery of major infrastructure projects—from WestConnex to the Sydney Metro, the CBD and South East Light Rail and the cutting of the Newcastle rail line. In some cases we completely unravelled the Government's attempts to justify

the unjustifiable. Within a couple of months of starting in this place my motion to force the release of thousands of secret WestConnex papers passed the Legislative Council and of the 38 boxes of information that should have been in the public domain some 16 were privileged. So I went about challenging this privilege claim, and had my challenge upheld. I am not ashamed to admit my inner nerd loved the hours of pouring over the documents which revealed crucial information such as plans for mass outsourcing of Roads and Maritime Services public works.

I was pleasantly surprised that the adversarial argy-bargy of this Chamber thankfully did not make its way to our committee work. For my sins, I sat on seven parliamentary committees—including the Procedures Committee, the Privileges Committee and the Staysafe Committee—and was a member of 22 inquiries into everything from drug rehabilitation services and the performance of the NSW Environment Protection Authority, to the Windsor Bridge and road tolling. The Legislative Council committee system is a robust and powerful mechanism of investigation. It often results in politicians coming out of their party-political positions and paying heed to the evidence provided by submissions and witnesses. Therefore, it seems that we can work together beyond the tribalism of party politics, beyond the adversarial shouting matches, beyond name calling and beyond the one-upmanship so often displayed in this Chamber and the other.

The times I have been most frustrated by the way decisions are made here is when policy, backed by overwhelming evidence, has been discarded to satisfy a narrow political agenda. The devastating land clearing laws which are causing deforestation, the rapid privatisation of public assets and services, and the flow of public money to the gambling industry and cruel greyhound racing are all examples of these kinds of decisions.

While I am talking about parliamentary processes, I take the opportunity to thank every single staff member of the Legislative Council. Sadly, I do not have the time to name every staff member, but they definitely are the real stars. I thank the committee staff who spend endless hours planning and preparing, organising hearings and witnesses, and then writing such fantastic, succinct reports from very complex information. I acknowledge the patience and good humour of Jenelle, Beverly, Liz, Sam and Rebecca, and the procedures and committees teams, throughout the countless questions my staff and I have asked them.

I thank Hansard for making our spoken words so eloquent on paper and online. I thank the Legislative Council attendants, who are always there, smiling and happy to help, even in the wee hours of the morning. I thank the amazing research and reference team of the Parliamentary Library. I think their workload might reduce a little bit with my departure. I thank the cafe and catering team, who deal with us at our pre-caffeinated and over-caffeinated worst. Last but not least, I thank David Blunt, Kate, Steven and others in the Clerk's office for explaining the ins and outs of parliamentary tactics, from legal challenges, to protesting to the governor. They have done this with such grace and professionalism every time I have approached them.

Above all, I have cherished the opportunity to work with hundreds if not thousands of people who live in this great State—people who do extraordinary work every single day just for the love of it; people whose love of natural places, passion for helping others here and elsewhere, compassion for animals, and determination to create a brighter shared future represents an incredible contribution to making New South Wales the best we can be. I have stood with them in the streets demanding the closure of offshore detention centres and an end to our addiction to climate destroying coal. I have stood with them in parks, at market stalls and in pubs celebrating wins. I have stood with them in town halls and community centres, in town squares and outside abortion clinics demanding safe access and the unambiguous right to choose. I have stood with them in camping grounds to protect the Leard forest and on country roads being given "move on" orders by police. I have stood with them in the rain, in the heat, in freezing cold and in strong winds. For me that is the best part of politics—the pure pleasure and privilege of meeting such kind and loving folk, standing alongside them on the frontline and in some small way being part of the activism that is the most powerful way of making change.

So many times people have said to me, "I don't know how you do it, Mehreen." Well, I do it because of their courage, their commitment and their inspiration. That is what keeps me going. Others say, "Better you than me." While this lights a little spark of pride in me, to think that people feel I have the resilience to do something others would not even contemplate, for the most part it troubles me that ordinary citizens in a democratic society feel disempowered to pursue political positions. This must change. Those of us who are already here are responsible for behaving in a manner that encourages people to make the same journey as us, no matter where they come from, their economic capacity, social standing, the colour of their skin, their religion, sexuality or gender identity. If communities across New South Wales are feeling helpless to make their voices heard, then of course there is a problem with the system, but those working within the system are also at fault, especially if they are not using their obligation to listen to the people they represent.

One of the questions that I have been asked repeatedly is this: "Why the Greens? Why not do the hard work in a major party where you could be in Government or a Minister?" And then the clincher: "Why didn't you join Labor?" But here is the deal. Being involved in politics is much more than being a member of Parliament, in the Government or a Minister. It is about making positive change. For me this does not come from positional

power, but the collective power of the people outside this Parliament. That has always been the case and I hope it always will be.

Of course it definitely helps to have people in here who can bring those views and voices to bear on parliamentary debate, but the momentum and spark lie outside these walls. Sure, there have been times when I have questioned why I am here. What is the point when one does not have the numbers? What is the point when decisions are so often made by discarding the facts, no matter how forcefully they are incorporated into the debate? The ban on greyhound racing was a startling exception, where the then Premier did take a stand off the back of a special commission of inquiry and overwhelming proof of systemic animal cruelty. But then the Government backflipped. I cried tears of joy and disbelief when the ban was announced, and tears of rage when it was reversed. That was one of the very lowest points in my time here.

While debating the Government's destructive land clearing laws, I proposed 64 amendments. Some, admittedly, were pushing my luck, but others were entirely reasonable. By the time the bill was passed at 4.00 a.m., not one was supported by the Government. For me, who has lived and breathed the environment for my entire time in Australia, in my profession and as an activist, this was another one of the low points. But highs and lows often come together. The Greens' abortion law reform bill, which would have brought New South Wales from the back of the pack to the front in modernising the laws governing a medical procedure, was an example of this. Deciding whether to bring on the first ever bill to do this was a harrowing process, especially when many accused me of risking making things worse. Twenty-five members of this House voted against decriminalising abortion, but just two members stood here and told the people of New South Wales why. The anger at this lack of accountability was palpable in the community, especially from young women. We may have lost the vote on that day, but we have succeeded in activating tens of thousands of people on an issue that both major parties had ignored for decades.

I will not lie, the personal cost of insults, abusive phone calls and handwritten threats was heavy. But as the Hon. Penny Sharpe mentioned in her contribution to that debate, the right of women to make decisions about their own lives will be back in this Chamber again. This issue will not go away and she was right. We have come together as a Parliament and enacted part of our bill—safe access zones for people accessing pregnancy termination clinics. It is my honest belief that the removal of abortion from the Crimes Act is now not a matter of if, but when.

These moments remind us of exactly why we are here: to represent those who would otherwise not be represented, the thousands in the community who join together to bring their issues to the table, those who want us to say what they think, the voiceless animals, or the one community member who has been failed by the system and wants it to change so that others are spared the same ordeal. Removing pregnancy discrimination from the workplace, securing driver licence disqualification reform, cosponsoring the first marriage equality bill, highlighting the rights of the disabled on public transport, knocking back compulsory identification for cyclists and cosponsoring the first bill to end forced divorces for trans people with my friend in the lower House, Alex Greenwich, are all examples of this.

I am so happy that this particular discrimination has now been removed. Nothing is ever too small or too big to not take on or take up—you just need the will and the passion. It is this collective power and passion that keeps me with The Greens. It is the courage we have to bring issues to the political agenda that no-one else wants to touch that gives me the energy. We feel the fear and do it anyway. We take the risks because it is the right thing to do—with or without being credited for it, with or without being rewarded for it. It is the wonderful people I meet every single day, from all walks of life, that keeps this passion alive.

If someone asked me today how I would describe my experience as a Greens member in the New South Wales Parliament, I would say that I have relished almost every minute of it. The unsavoury moments are still valuable, if for nothing more than the lessons learned. I am grateful for the trust that The Greens members, and then the community, placed in a migrant, Muslim woman with an accent. That trust was a heavy load to bear—I will not deny that—and it was a load made heavier by the level of toxic, racist and sexist attacks and threats I and some members of my family are subjected to, not because of what I am doing, but because of who I am, where I come from and this brown skin colour. No matter how much I brush it aside, it takes its toll.

I think we could all be a bit more aware of the sustained abuse that some of us have to weather. This might go some way to helping encourage others like me to put their hand up. It will help our parties, including my own party, be more representative of the diversity of contemporary Australian society and make this Chamber look a bit more like the streets and suburbs of the country we live in. But, at the end of the day, it was a load so worth carrying, and it was made lighter as more and more people came to help and support the work I was doing.

You cannot do this job alone. You never achieve anything in life on your own, and my life is no different. There is no way I would be able to do my work without the dedicated team of staff I have been so lucky to have:

Matt Hilton, who has been with me from day one and whose wisdom, wit and easy-going nature is unparalleled; and Maliha, Mike, Tamara, Natalie, and Belinda, who have given up their days and nights working on campaigns, policy, events, media, communications, and constituent issues, making sure that our project to help people and change the world kept chugging along. I give a special shout-out to feminist powerhouse Darelle for her unwavering support and sage advice. I have been so blessed to have help from so many interns and volunteers throughout my time here. Thank you to all of you. You are why we have been able to really expand our work and reach out to so many communities.

But there are loved ones who bear the brunt of our time as members of Parliament—our families. I think every single colleague of mine here can vouch for this. The Hon. Bronnie Taylor once told me that she had travelled 100,000 kilometres in just two years. That is a lot of time away from home and on the road. The Hon. Courtney Houssos and the Hon. Sarah Mitchell spend so much time away from their very young families. We all keep telling ourselves it is worth it. So to my family—Omar, Aisha and Osman—I cannot do this without your unconditional love and support. I also cannot do it without the brutally honest advice you give me, whether I have asked for it or not. You have kept me grounded and down to earth by repeatedly telling me not to get a big head or, "Oh, here goes mum again, thinking she is so good."

These sometimes offhand and sometimes deliberate remarks have hopefully been enough to hold my ego in check and keep me on the straight and narrow. You have more often than not graciously accepted the fact that I could not be there for you many times when needed. I know that I can never make up for the time we have lost, but I hope I have made you proud with what I have done with the time I was not able to give you. Thank you for being the rocks in my life. While I am speaking about family, my dearest sister-in-law Naila and her children Nida and Ahmed have made the journey from Pakistan to be here with us today. I am delighted that you have come. Thank you so much.

To my Greens colleagues: make no mistake, we have seen progressive change in New South Wales and you have all been part of that movement. We help bring once fringe issues into the mainstream, whether that be campaigning against coal seam gas, tackling climate change with renewable energy, pushing for Aboriginal justice, defending TAFE or banning plastic bags. Whatever small differences we may have, we all share a commitment to social and environmental justice and taking on the Tories. Without The Greens planting the seeds of bold ideas, many issues would never receive the attention they deserve.

I leave this Parliament with mixed feelings. There is a sense of achievement, a sense of sadness and a sense of excitement. I am proud of what we have achieved together. I am satisfied that I took up the opportunities to connect with and represent a large range of communities across the State, from multicultural, and lesbian, gay, bisexual, transgender and intersex [LGBTI] groups, to school and university students, and many others including the Knitting Nannas of Gloucester, the Country Women's Association in Kyogle, Queer Muslims, FOBGAYS, cannabis activists in Nimbin, the Youth Council in Armidale and the incredible women who run women's refuges and shelters in Bega and Wagga. I am proud to say I even tasted the fertile black soil of the Liverpool plains with some young farmers from Breeza.

Wherever and whenever possible, I opened up the Parliament to people, for community film screenings, Engineers Australia events, the United Nations Evatt debating championships for young people, International Women's Day breakfasts to hear radical feminist voices aloud in the people's House, and many more events. We should not underestimate the symbolism of community events in parliaments. To that end, I do lament the price hikes for room bookings, which make these spaces inaccessible for communities. A Parliament House where only the rich and well-connected can showcase their work is no home to democracy at all.

We also should not forget that the New South Wales upper House has the lowest percentage of women of any House across Australia. As I look around me, I still cannot see the bust of Virginia Chadwick, the first female President of the New South Wales Legislative Council, which a few of us in this Chamber have been pushing for. I hope to see her here soon, because it signals that women have a permanent and enduring role in this place. President the Hon. John Ajaka assures me that he is looking into ways to make this happen. While I am speaking about the President, I would like to thank him for being a friend to me and for providing the opportunity to preside over this Chamber in my role as Temporary Chair of Committees. I did love calling you all to order!

I leave here having failed in one objective, and that is beating the Hon. Mick Veitch in the number of questions asked on notice. I fell short of his admirable 351 questions by a mere six questions at 345. Although, I confess I could not resist cheekily putting in some more questions on notice today. I will miss some of the relationships I have formed with my colleagues in this Chamber. I suspect it will be less easy with the larger number of members in the Senate, where I am heading next week. Overall, I have had a ball. I have learned a lot, I have laughed and I have cried. We have shared secrets, we have sparred, we have worked together and now it is time for me to take a bow, bid you all farewell and start the next chapter. Thank you.

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

Members

LEGISLATIVE COUNCIL VACANCY

The DEPUTY PRESIDENT (The Hon. Taylor Martin): I report receipt of the following communication from the Official Secretary to His Excellency the Governor:

GOVERNMENT HOUSE
SYDNEY

Tuesday, 14 August 2018
Clerk of the Parliaments

Dear Mr Blunt,

I have tonight received the resignation of the Honourable Dr Mehreen Faruqi, MLC, and have conveyed a copy to His Excellency the Governor.

His Excellency notes and accepts the Honourable Member's resignation and will reply personally to the Honourable Member and the President of the Legislative Council in due course.

Yours sincerely,
Michael Miller RFD
Official Secretary to the Governor of New South Wales

I inform the House that the Official Secretary's communication will be acknowledged and that an entry regarding the resignation of Dr Mehreen Faruqi will be made in the Register of Members of the Legislative Council.

Bills

**FAIR TRADING LEGISLATION AMENDMENT (CONSUMER GUARANTEE DIRECTIONS) BILL
2018**

First Reading

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

The Hon. SCOTT FARLOW: I move:

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

Motion agreed to.

The Hon. SCOTT FARLOW: I move:

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

Motion agreed to.

FAIR TRADING AMENDMENT (SHORT-TERM RENTAL ACCOMMODATION) BILL 2018

Second Reading Debate

Debate resumed from an earlier hour.

The Hon. PETER PRIMROSE (20:02): Labor understands that good government must respond sensibly and prudently when armed with data about the impacts of opening up residential homes to the sharing economy while remaining sensitive to conflicting rights and attitudes. The economic impacts and obvious benefits of additional incomes for thousands of New South Wales citizens has to be balanced with the longstanding rights of residents to the quiet enjoyment of their homes. As I have said, any bill must include a prudent response equipped with information and facts. If Parliament is to consider legislating such a contested area of public policy it must have placed before it the entirety of that response. This is what good governments do. Unfortunately, that has not occurred in this case.

The Fair Trading Amendment (Short-term Rental Accommodation) Bill 2018 has been concocted by the Minister for Innovation and Better Regulation and by the Minister for Planning. The bill presents a vague framework backed by insufficient evidence. Some have referred to it as a dog's breakfast. It has been cobbled together in a desperate attempt to get something through the party room after three years of sitting on the matter. But, most concerning, it is a desperate attempt to kick this issue into the long grass and hope that short-term holiday letting disappears for the next nine months. The bill is another "trust us" bill: short on detail and ambiguous

on clarity. Both those Ministers would get a big fail for the final product in other circumstances; it is a failure compared with the original brief of setting out balance, flexibility and clarity for the broader community.

At the centre of the short-term holiday letting debate is a conflict between two rights: the right to do whatever you wish with your property versus the right to quiet enjoyment of your property. There are two liberties, negative and positive—freedom to as opposed to freedom from. The Government has not only torn itself apart on short-term holiday letting but also failed to present a coherent and complete legislative response to it. The objects of the bill are commendable, and set out a broad framework for the regulation of short-term holiday letting in New South Wales. The bill amends the Fair Trading Act 1987 to establish a mandatory code of conduct applying to all participants in the short-term rental accommodation industry.

The bill provides for the code to be introduced via regulation. The code will allow sharing of data between the government and the platforms; implement a "two strikes and you are out" policy to ban for five years hosts or guests who commit two serious breaches of the code within two years; implement penalties of up to \$220,000 for individuals and \$1.1 million for a corporation; establish a dispute resolution process to resolve complaints; grant NSW Fair Trading inspectors the power to police online platforms; set out the rights and responsibilities of participants; allocate responsibility for the funding, administration and operation of the code to the online platforms; and amend the Strata Scheme Management Act 2015 to allow the by-laws for a strata scheme to prohibit, with 75 per cent majority, short-term rental accommodation in the case of premises that are not the principal place of residence.

In making the announcement, the Government has foreshadowed new statewide planning laws that will allow short-term holiday letting as exempt development for 365 days when the host is present, a 180-day cap for Greater Sydney and no cap for other areas in New South Wales when the host is not present. Councils outside Greater Sydney will have the power to introduce a cap of no fewer than 180 days per year, and certain planning rules will apply to properties on bushfire-prone land. This framework is all well and good and, at first blush, would seem comprehensive. But there is little detail as to how it will work, how compliance will be ensured and, importantly, what will be the costs to participants, taxpayers and other affected stakeholders.

I will deal with some of the Opposition's concerns about the bill. This should not be seen as a critique on the principle of short-term holiday letting but on the botched way in which the Government has handled the matter and the complete lack of detail and context received by the Parliament to consider the bill since the Government announced the package of reforms. The Government states that its package will enable data sharing between it and the online platforms. There is no detail on how that will work or whether it will be sufficient to enable compliance with the law. Many jurisdictions in other parts of the world have introduced a mandatory registration scheme for all hosts, allowing government to have ready access to the nature and extent of the industry. Many of the arguments about short-term holiday letting are exacerbated by the lack of information and data.

A compulsory registration scheme would appear to be a relatively simple and transparent way to capture data and information that will ensure critical components of the Government's framework—such as caps, two strikes and you are out, and dispute resolution—can function, given we are dealing with multiple online platforms. In the absence of any information on how data sharing will operate, I ask the Minister—through the Parliamentary Secretary—to provide further detail, including whether and how local government has access to this information, whether strata committees have access to this information and how the sharing will work between government and short-term holiday listings on multiple platforms? The introduction of a cap of 180 days for short-term holiday letting in Sydney and the potential for regional councils to reduce nights to 180 begins to address a great concern about residential housing being transformed entirely into commercial short-term letting. This is an important issue for the State, given housing affordability and the failure of this Government to do anything about it. The Opposition would appreciate advice from the Parliamentary Secretary on how the 180-day cap was reached. The cap is particularly high, given that London has a 90-day cap, France has a 180-day cap, and Amsterdam has a cap as low as 30 days. Again, the lack of data and the testability of data makes it difficult for this House to make an informed decision.

The caps are important because there are obviously thresholds over which it is more financially rewarding to take residential stock offline and use it entirely for short-term letting. Looking at average rents in Sydney's hotspots as well as average per night figures for short-term lettings, it would appear that there is a threshold of approximately 100 days per year when it is more financially rewarding to go down the short-term letting path. Obviously a 90-day cap would have a greater bearing on this threshold than a 180-day cap. Without quality data, the Opposition is concerned that the 180-day cap may work against the availability of housing and rental stock and will not assist efforts to address the cost of housing, which, as we all know, has the greatest impact on the cost of living.

While we appreciate that the Government does not care about cost of living and strategies to bring down such costs, we would appreciate the Parliamentary Secretary's views on the caps and why the 180 days was chosen

against lower caps that operate in similar jurisdictions around the world. The Opposition believes the caps are too high but will reserve judgement pending the subsequent review, which we hope will be informed by quality data. The other concern is the ability of regional councils to introduce a cap but not to have the ability to consider caps lower than 180 days. This has already attracted criticism from a number of councils, which, with some justification, believe they are best placed to regulate activities such as short-term holiday letting. The Opposition believes there may be some merit in allowing a council to seek the approval of the Minister for Planning to apply a cap of lower than 180 nights if it can present evidence of the adverse social or economic impacts that short-term holiday letting is having on its local government area or parts of that local government area.

Such a provision is not to endorse nimbyism, but to provide a stronger local voice on short-term holiday letting and guarantee the amenity of local residents by ensuring that the cost of housing is factored into any decision-making framework. Unlike this Government, Labor supports local government and local decision-making. The Opposition believes a one-size-fits-all approach is not optimal and will look at the planning laws to determine whether greater flexibility can be incorporated into the statewide regulations. We would appreciate advice from the Parliamentary Secretary on whether such laws will be subject to further public scrutiny, whether they will be a disallowable instrument and, most importantly, the precise time frame for the introduction of those laws.

Thousands of residents living in strata buildings have expressed concern. The 75 per cent opt-out rule is unfair and will make it difficult for complexes to ban short-term holiday letting. Even using proxies and recognising that some units such as penthouses may have a larger proportion of votes, there is concern that, while a majority of residents may not wish to have short-term holiday letting, they may be overruled by a minority. The other concern is that the Government chose to make owners corporations opt out of short-term holiday letting rather than provide that an owners corporation must make a positive decision to opt in to short-term holiday letting. The Opposition believes this rule should be reviewed at the earliest opportunity to ensure that the views of the majority are taken into account. Again, I seek the Parliamentary Secretary's advice on why the 75 per cent opt-out rule was chosen as well as clarifying that, if 75 per cent choose to opt out, does it mean that a subsequent vote of 75 per cent support would be required to opt back in?

One of the key objects of this package was to provide greater clarity. Yet when it comes to making by-laws there is probably more confusion than ever. I seek the advice of the Parliamentary Secretary on how new section 137A interacts with existing provisions in new section 136 and new section 139 if an owners corporation can make a by-law prohibiting certain types of activity in new section 136 but cannot make decisions that affect an owner's right to deal in a property. The bill appears to address this aspect when it comes to investors, but there is ongoing uncertainty surrounding the broader application. What if an owners corporation made by-laws preventing the use of common property for short-term holiday letting? Is that reasonable and who would judge the reasonableness of any by-laws? My concern is that those provisions will be challenged and may end up in the courts—which we often see today.

The Government had an opportunity to fix this mess but has chosen not to do so. As I have stated, the Opposition does not have the luxury of looking at the code of conduct or even a draft code when contemplating the bill. It is a major failing. Typically with this Government, we are consistently asked to consider bills without much detail. Again, I ask the Parliamentary Secretary to provide the detail. For example, will the names and details of all the individuals associated with renting a short-term holiday letting be required in order to enforce bans and penalties? What if a group of six individuals take turns to be the contact person for the letting? If one person is banned, can another person who may have been just as responsible for the behaviour resulting in a ban put their name down? This sort of detail must be considered in any code.

Does the Parliamentary Secretary have any idea of the costs of administering the code and has he sought the advice of the Minister's department in determining how the costs will be borne and by whom? Similarly, the House has no real detail on how the planning law will work for short-term holiday letting. We cannot trust the Government to get this detail right because it has not provided it. As I have stated, the Opposition believes there should be an option for councils to go below the relevant caps if there is a strong social or economic case to do so.

I am greatly concerned about the financial impacts on Fair Trading. The investigative and disputes resolution aspects of the bill will need considerable resourcing, yet this year the Government cut Fair Trading to the bone to the point that it can hardly fulfil its existing obligations. If members do not believe me, they should ask the Ombudsman. I ask the Parliamentary Secretary to advise whether the Minister has been allocated additional resources to enable Fair Trading to undertake the extra responsibilities required by it through this package. Will we have a well-resourced Fair Trading so that it can ensure compliance with the law and resolve the inevitable disputes that will emerge, or will we have a further emaciated agency that will not be able to satisfactorily regulate short-term holiday letting in this State?

Organisations such as the Tenants' Union have raised concerns about the lack of rights of renters and about what goes on around their homes. We acknowledge the concerns of flat owners who feel largely disempowered to have a say in what takes place in the buildings in which they live. It is much worse for tenants. Families who live in flats are concerned about people coming in and out of common spaces. Imagine what it must be like for a family who rents. Short-term holiday letting is about balancing respective and often conflicting rights. My concern is that an increasing number of people in this State do not have their rights considered. We know that this Government generally considers renters to be second-class citizens. I would appreciate advice from the Parliamentary Secretary as to whether the Minister has considered tenants' rights to enjoy the quiet of their rented homes and, if so, how will their views be taken into account?

I foreshadow that the Opposition will move a number of amendments to the bill that deal with the code of conduct. While we do not have the luxury of being able to consider the code of conduct itself—not even a draft one—the Opposition is concerned the bill states that various aspects of a code, such as rights and obligations, administration of the code, warnings, bans, exclusion registers, dispute resolution reports and cost recovery, may be included only in any future code. This House is being asked to consider a bill to regulate short-term holiday letting in which key elements of the code of conduct may or may not be included—they are discretionary. This is slippery language from a slippery Government. The Opposition will move an amendment to replace the word "may" with the word "will" in the context of new section 54B (2) and new section 54B (3).

Despite our reservations, and notwithstanding the lack of detail about how this legislation will work, the Opposition will not oppose the bill in this House. It is a shameful indictment of this Government—and of the competencies of the two Ministers involved—that, after two years and a parliamentary inquiry, the House is presented with a fig leaf of a bill. It is a shoddy bill in which the real detail and the issues are not addressed and are pushed out to a process beyond the bill. The bill leaves the public, the industry and the Parliament with more questions than it does answers. The bill was meant to be a key part of a response that would provide clarity and certainty, as well as balance conflicting rights and interests. The Ministers have failed in this respect and have deferred much of the detail of their response to a regulation, a code and a planning law of which we have only scant detail.

Once again, members are being asked to consider a bill that is largely bereft of the detail that is required to make an informed decision. The Government should have presented a draft code and planning laws before the bill passed both Houses. It is only right and fitting that the details of these critically important components of the bill are, in fact, presented to Parliament. A competent government would accompany legislation with the regulations, codes and details of the operation of a new regulatory framework for short-term holiday letting in New South Wales. Once again, the Minister has introduced an ill-conceived, poorly thought out and disappointing bill to this Parliament.

Mr JUSTIN FIELD (20:21): I refer to the Fair Trading Amendment (Short-term) Rental Accommodation Bill 2018. The Government has got this wrong. We should have a regulatory environment in New South Wales for short-term rental accommodation—

The Hon. Dr Peter Phelps: Everything. That is what The Greens want—regulation for everything.

Mr JUSTIN FIELD: I will respond to the interjection. The Hon. Dr Peter Phelps should look at the regulations being proposed and the level of detail and complexity. The lack of detail about how they will be implemented is the critical problem with this bill. We should have a regulatory environment for short-term rental accommodation that ensures the sector does not overwhelm communities; that local communities are empowered to decide the nature of their communities, particularly the residential areas, and to help residents resolve conflicts and protect consumers. But that is not what the bill or the Government's broader policy in relation to Airbnb or any other short-term rental accommodation platforms actually do.

Instead, the Government is taking away the rights of local communities to make those decisions. The Government has thrown under a bus the legitimate accommodation businesses that have invested often tens of thousands of dollars and jumped every hurdle to fit in with local rules and minimise impacts on surrounding neighbours and other businesses—to ensure, for example, that they do not cause parking and traffic chaos and operate safely. The issue is not about renting out your spare room or even renting out your house while you are on holiday—no-one takes issue with that. The issue is that short-term rentals are becoming a business model that is changing the nature of certain communities significantly, removing much-needed longer-term rental properties from the market and turning some major unit apartments in our cities into de facto hotels.

I am an Airbnb user. It is great as a user, and no doubt it is great for many property owners. In many places there are very few issues. But in some areas—such as the North Coast and several other coastal communities as well as parts of Sydney, including the central business district—the proliferation of short-term rentals is a really big deal and has an overwhelmingly negative impact. What is wrong with the Government

recognising that there are differences? The Government has taken a one-size-fits-all approach that will continue to cause friction in many communities. What is wrong with recognising complexity and difference and empowering communities to make individual and independent decisions about how they manage these challenges? We ask them to do that every day when it comes to making decisions about zoning in communities.

The Hon. Dr Peter Phelps: We will determine which tourists come to our council area and the circumstances under which they come.

Mr JUSTIN FIELD: We empower them to do it every day. But on this issue we have the big hand of the State Government; it wants to decide. It is a gift to the big operators because of the level of regulation and the complexity of managing all the different platforms. Many small real estate agencies in local coastal communities will not play in this space. How much additional work will they have to do to ensure that someone seeking to rent a house or to lease their property is not on a register and does not have a strike? That will not happen. The agencies will opt out. The Government has sided with Airbnb on this. That is not how we should proceed.

It is good that people can rent their spare spaces and their homes, even in coastal communities. Where I live on the South Coast parts of our communities have only 30 per cent occupancy. We need an influx of people but it can be done in a reasonable way that recognises local differences. However, that is not what will happen with this legislation. I make it absolutely clear that The Greens support the sharing economy. But this legislation is not about sharing. People are not offering their spare bedroom to their mate's mate. They are not pinning a notice on the board at the local IGA, "Cheap room to rent". There is nothing wrong with doing that. But this is not the sharing economy; we are not sharing a seat in our car. These are businesses. In many instances, people are running businesses, and the businesses are built on these platforms. People are monetising their assets and, like most businesses, it can have an impact on those around them—on their neighbours and other businesses. There is nothing inherently wrong with short-term rentals and there is nothing wrong with the platforms that have enabled them to proliferate. These are innovations that have resulted in change. Some of that is positive and some is negative.

Let us understand the benefits, while acknowledging the challenges that this innovation presents both in terms of impacts on communities and creating a workable legislative framework that enables communities to respond to these challenges. The Government's policy does not do that. It locks in a business model that will allow properties in residential areas to be used as almost permanent short-term rentals and it will strip away any ability for local councils to prevent that, regardless of the wishes of local communities. Many councils have already tried to take action. They know it is a problem. This legislation and the broader policy behind it do not support them to do that. I congratulate my colleague the member for Ballina on her strong advocacy for her community and for local accommodation business owners on this issue. Communities like Byron are the case study for how things can go wrong. Recently the member for Ballina warned:

Whole towns on the North Coast could very quickly transform into transient holidaymaker destinations with very few permanent locals. There would be nothing to stop the whole of West Byron, if it gets developed as a residential site, from being bought by investors for holiday letting. There would be few, if any, permanent residents to put down roots, to contribute to sporting clubs or volunteer to care for the community. That's not a community, that's a theme park.

We cannot dispute that is what has been enabled in some coastal communities by these platforms and a lack of appropriate enforcement mechanisms that allow communities to decide how their residential areas get used. The Greens will not support this legislation as is, despite the fact that many elements of the policy that will result in these negative consequences are not subject to the bill before us.

But this legislation supports a broader policy that we see as undermining local decision-making on these issues. The critical element of that policy, and particularly the critical aspects of its implementation, are not yet even in draft form. The code of conduct is not complete, the State environmental planning policy that will set the number of days that short-term letting can operate without development consent has not been drafted, and how those two documents and all the various platforms will operate within these rules is as yet unknown. It is bad policymaking in the extreme and bad process to ask Parliament to give the Government a blank cheque.

I foreshadow that I will be moving amendments on behalf of The Greens to correct some critical issues by restoring local decision-making, retaining the ability of councils to regulate short-term rental accommodation in their local community interest and changing the level of agreement needed for strata owners to opt out of short-term letting from the unreasonable 75 per cent requirement to a simple majority.

I turn now to the critical elements of the bill. The bill does two key things. First, it amends the Fair Trading Act to allow for a mandatory code of conduct for short-term rental accommodation to be implemented. The code of conduct will introduce a two-strikes policy under which hosts and guests who commit two serious breaches within two years will be banned for five years. It also creates regulation around complaints handling that will be assessed by NSW Fair Trading and, as I understand it, potentially by private operators working on its

behalf. If there is more than one serious breach over two years, a host will be put on an exclusion register and removed from rental platforms. Civil penalties will apply for noncompliance with the code.

The Greens do not oppose the idea of a code of conduct, but the devil is in the detail of how it will operate. I can envisage that the code of conduct will go some way towards weeding out party houses and people who are being deliberately and consistently disruptive and destructive in local communities. However, while the bill sets out what issues may be included in the code, how those aspects will be dealt with under the code when it is drafted are the critical details. The code has not been drafted and it is not before us. The reality is that there are no answers to the questions we asked in the briefing this morning because the code of conduct has not been finalised.

We do not know how the complaints process or the decision-making around strikes and exclusions will be able to factor in the plethora of platforms that operate now and might operate in the future. It will be difficult to implement because local real estate agents might not have the technical support or even the staff to manage how it will operate in effect. Some local businesses might have to opt out of the short-term rental market for that reason. I say again that The Greens support the idea of a code of conduct, but the current level of detail is totally insufficient to assess whether the Government's policy will be workable. I foreshadow that The Greens will support the Labor amendment to require that all the elements listed in the bill must be covered in the code as opposed to the current wording of "may". Even if the amendment is agreed to, the fact will remain that the details are unknown.

I seek clarification from the Government about the operation of new section 54E dealing with development consent conditions and the code of conduct. Will the Government provide clarification as to whether there is any way that the code of conduct could operate to permit short-term rental accommodation where it had previously been prohibited through development consent conditions, or is there any way the code could alter conditions of development consent relating to short-term rental accommodation? It would seem unreasonable to have previous conditions of consent for particular developments simply ruled out by another Act of this Parliament.

Communities who engaged with developers or individuals who developed a property in good faith potentially had conditions issued as a result of their lobbying of council or the Department of Planning. To have those swept aside by another Act of this Parliament seems unfair, particularly when people are dealing with their homes. As I have mentioned, short-term letting has changed the nature of certain communities to a large degree. I understand that the code of conduct will primarily relate to disciplinary action, but I would like an assurance that it will not be used to alter development consent conditions.

The second key part of the bill amends the Strata Schemes Management Act to allow strata by-laws to prohibit short-term rental accommodation. It does not apply to a person's principal place of residence. People will still be able to rent out their spare bedroom or entire property while on holiday, which I think is totally reasonable. The Greens agree that strata groups should have a say in how their buildings are managed. However, the bill makes an assumption that short-term rental accommodation is permitted and becomes the status quo unless a by-law is introduced to expressly prohibit it. The vote would require a 75 per cent majority through the standard process for the creation of a by-law. The Greens believe that is excessively onerous and allows a small minority in the strata group to control the amenity of an entire block.

A small group of investors would essentially be able to block any motion to prohibit short-term rentals in a strata building. That is an issue for small strata blocks—maybe of four, six, eight or even 10 units—where one, two or three owners could maintain conditions to operate effectively permanent short-term rental accommodation from those blocks. That is unfair. For that reason, The Greens will introduce an amendment that reduces the voting requirement to a simple majority. That will ensure a level playing field for owners wanting to prohibit short-term rental accommodation in their building. The principle is ultimately the same as it relates to non-strata buildings. We should be supporting local decision-making about how we live within our local communities.

I now move to the State environmental planning policy [SEPP], which is the most significant part of the Government's reform package. It is not contained in the bill but is directly relevant to this debate. The SEPP, yet to be drafted, will allow short-term rental houses as exempt development—that is, they will not require consent from the council including for circumstances when properties are rented out for as much as half the year, or 180 days. That roughly equates to all weekends, public holidays and school holidays. A 180-day limit exists for properties in the Sydney metropolitan area. In other areas, the default will be 365 days a year—the entire year—unless council takes a specific decision to reduce it. It can go as low as 180 days. Exactly how councils will do that with their planning powers, how it will be recorded on a register, and how it will be communicated to the platforms for compliance is not in the bill and seems not yet to have been determined or understood.

The reality is that the policy locks in the proliferation of short-term rentals. Any powers that councils previously had—despite the challenges of enforcement that are well known—are reduced further. Even at 180 days, this bill will effectively lock out a property from the long-term rental market and contribute to the hollowing out of communities, which is the core issue with short-term rentals. The Government is trying to introduce a one-size-fits-all approach to regulating communities across the State. The Greens believe that short-term rental accommodation belongs in the hands of local government, which can structure regulation around the needs of its communities. The Government's approach further reduces a council's ability to do that. For that reason, The Greens oppose the legislation and will move amendments to correct those deficiencies.

The Hon. PAUL GREEN (20:37): On behalf of the Christian Democratic Party, I contribute to the debate on the Fair Trading Amendment (Short-term Rental Accommodation) Bill 2018. The Christian Democratic Party believes that everyone should have a place to call home that provides stability, security, safety and a connection to family and community. Whether it be a cottage, terrace, studio, bedsit, unit, caravan park or a room in a boarding house, access to affordable, safe and sustainable housing is imperative as it can ameliorate disadvantage and enable people to participate economically and socially in society. That is the foundation to my approach to short-term rental accommodation or holiday letting.

Short-term holiday letting relates to the renting of the whole or part of a private home to a visitor on a commercial basis. As the Minister said in the other place, short-term holiday letting contributes significantly to the New South Wales economy. It creates jobs and boosts tourism, especially in coastal and regional areas. The industry is worth more than \$31 billion to the Australian economy, and therefore I am surprised that The Greens will not support the bill. The Greens in my area are passionate about youth unemployment. Short-term holiday letting helps to address that issue because it leads to people pouring money into local cafes. Many young people work in hospitality to earn a few dollars to help them ease their way through TAFE and university. They can earn enough to put fuel in the car to get to the beach for a bit of surfing or to get into town to go shopping, if that is their choice.

There is no doubt that the accommodation-sharing industry plays a major role in coastal communities. In 2017, Deloitte found that Airbnb guests spent more than \$1.2 billion in New South Wales, which contributed more than \$987 million to the gross domestic product and supported more than 7,300 local jobs. I do not know about The Greens, but the Christian Democrats are all for jobs in regional and coastal communities. There is an unacceptable level of youth unemployment in our coastal communities—an issue that both Mr Justin Field and I are passionate about resolving. I have received numerous calls and emails about the implications of unapproved holiday accommodation within residential areas. Effects on the local community include a reduction in quality of life, constant noise, the loss of housing and, of course, unaffordable or increased rent. I have received a letter from a woman who has made a fair argument about businesses that pay fees as accommodation providers. She said:

Dear Paul,

I am a DA approved accommodation provider in the city of Sydney. I pay gross domestic rates, commercial water rates, New South Wales land tax and GST on all earnings and pay my staff under the Federal hospitality award. Since the Parliamentary Inquiry into Short-term holiday letting began, I have watched my business drop from 80 per cent occupancy to 50 per cent at best since June 2017. I have reduced my staff hours by 50 per cent. As of July 2018, the future is grim. The latest figures from inside Airbnb show over 8,000 Airbnb listings in the city of Sydney, 5,000 of which are whole-home rentals. It is asinine to think that Airbnb has minimal impact on approved accommodation providers. I cannot compete on price with the over 5,000 ghost hotels in my vicinity that are paying residential rates and mortgages without any fire upgrades or class 1B or 3 building or disability access requirements under the BCA [Building Code of Australia]. Nor do these businesses comply with Federal privacy and anti-discrimination laws. One need only look at the flawed review process of Airbnb to see that host peer reviews break most of our Federal legislation.

She went on to say:

I urge the Upper House to reject the Fair Trading Amendment (Short-term Rental Accommodation) Bill and allow councils to retain the short-term home letting controls under their own LEPs.

This person makes a fair point because, like taxis and Uber, it is not a level playing field. For example, taxidriviers have to comply with many conditions in order to carry passengers. For the safety of passengers, taxidriviers are trained and accredited; they are professional drivers. When Uber came along with ridesharing and blew the taxi industry apart, the Parliament wanted to level the field. If anyone was going to be allowed to carry people in their car and charge them for it, why not reduce the charges and compliance costs on taxis? The same should be done with short-term home letting. Accommodation providers should receive a massive discount. They are being charged costs in order to meet requirements that their next-door neighbour does not have to meet—never mind not having to submit a development application to the local council. Many people who operate legal businesses, such as the author of the letter I have just read, have written to me about the playing field not being level.

Businesses with development application approval have paid the appropriate fees. They have met the stringent requirements of council, obtained consent to operate, made the necessary contributions towards local infrastructure and paid taxation. Further, these businesses have ensured that they have disability access, parking,

fire protection and insurance, all of which costs a lot of money. Most of these accommodation businesses pay section 94 fees, which go some way to subsidising ratepayers for the cost of infrastructure used by tourists. The Airbnb industry operates outside that system. Airbnb accommodation providers do not pay towards local infrastructure or asset maintenance upgrades. Some of the money goes to Airbnb and the remainder goes to the accommodation hosts. These issues need to be ironed out.

As has been written to me, it is obviously difficult for approved accommodation providers who pay gross domestic rates. Many people have asked whether the same regulatory processes should apply to short-term rentals. That is a fair question but I do not believe it has been sufficiently addressed. Unregulated holiday letting and short-term rentals have been occurring for some time. Action needs to be taken and that is what this bill does. It is not perfect but this bill makes a start, as the Parliament did with the taxi industry and Uber, to level the playing field.

The Hon. Trevor Khan: Very sensible.

The Hon. PAUL GREEN: I acknowledge that interjection. We must strike a balance between protecting the privacy and serenity of home owners from antisocial behaviour as well as the viability of regulated commercial businesses and maintaining the strong economic benefits of short-term holiday letting. The bill proposes that owners corporations can adopt a by-law with 75 per cent majority to stop short-term letting in their block if the host does not live in the unit. Neighbours Not Strangers has expressed many concerns, one of which is the changes to by-laws. The organisation, with whom I have met, wrote to me:

An amendment to the Fair Trading Act and a by-law must not retrospectively alter the residential status of a property. A bill submitting that a by-law may overturn NSW residential title deed conditions plus leave no participating property owners living in a perpetual "transit" environment plus responsible for major, ongoing financial costs can only be considered "harsh, unconscionable and oppressive".

Neighbours Not Strangers requested that the Government choose a 75 per cent opt-in, not opt-out, scenario—that is, those who want to opt in for short-term holiday rentals must be responsible for costs associated with building upgrades and ongoing 24/7 building supervision charges in line with commercial operations plus ongoing maintenance fees. That is a thought for consideration. Another issue raised for consideration related to a greater monetary contribution from Airbnb hosts to the maintenance of common areas in a unit building. Those are the sorts of issues that need to be ironed out.

The bill introduces a code of conduct that includes a new dispute resolution process for resolving complaints. Guests or hosts who commit two serious breaches of the code within two years will be banned for five years and listed on an exclusion register. NSW Fair Trading will monitor the online booking platforms and letting agents. If the bill is passed, new planning rules will come into force, including allowing short-term holiday letting as exempt development for 365 days per year when the host is present; when the host is not present, setting a limit for hosts to rent out properties via short-term holiday letting of 180 days in greater Sydney, with 365 days allowed in all other areas of New South Wales; giving councils outside greater Sydney the power to decrease the 365-day threshold to no lower than 180 days per year; and applying certain planning rules to properties on bushfire-prone land.

Once again, I think this process is good. Mr Justin Field suggested that we let the grassroots people work this out. To a large degree, I think that is what this bill does. Perhaps 180 days is quite generous, but it still allows councils to have at least some say about holiday letting in their area. The direction of the bill is off to a good start. However, I do not think it goes far enough. We need to look out for small businesses in regional areas. A lot of those people put a lot of money upfront to start their dream businesses in those areas. We need to make sure there is a level playing field for complying businesses and short-term rental accommodation.

While travelling overseas on a study tour to do some investigation into human trafficking, one issue that was brought to my attention in Canada was the role that Airbnb has been playing during major events. Whether it be the Super Bowl in America or major events in Canada, there are opportunities for people to make money illegally by trafficking sex workers or drugs in those units. I asked the Minister what powers the police have to enter premises that are rented on the short-term market that may be used for criminal activities such as drug deals, as brothels, or for some other nefarious use. The answer is that police will continue to have their existing powers of entry to premises where suspected criminal activity is occurring in a short-term rental property. This includes the specific powers of entry related to search warrants and crime scene warrants, to execute a warrant or to arrest the persons. These warrants are typically related to activity, persons and evidential material at the premises, and not the owners.

As well as the warrant-authorized powers of entry, police can enter a premises by invitation or to locate firearms in a domestic violence incident. Police may also enter premises under the Law Enforcement (Powers and Responsibilities) Act 2002 if the police officers believe on reasonable grounds that a breach of the peace is being

committed and it is necessary to enter the premises immediately to end the breach of peace, or if a person has suffered significant harm or there is imminent danger of significant physical injury to a person. These powers would also apply in a short-term holiday rental in the same way that they would apply to any other premises.

Local councils are the primary regulator of brothels and would typically be responding to situations where a brothel may be suspected. With regard to premises being used as drug premises, section 36Y of the Drug Misuse and Trafficking Act 1985 already sets out that it is an offence for a person who is the owner or occupier of a premises to knowingly allow the premises to be used as drug premises—that is, a premises used for either the unlawful supply or manufacture of prohibited drugs or the unlawful commercial cultivation of prohibited plants by enhanced indoor means. In the most extreme circumstances where premises are continually used for serious criminal activity, police could apply to the court to have the premises declared restricted premises under the Restricted Premises Act 1943. That goes some way towards addressing the issue of people who are very creative business operators taking advantage of Airbnb to traffic people during major events.

In the crossbench meeting, I mentioned my concern for vexatious complaints. Having been mayor, it is not unusual for neighbours who want to get rid of particular businesses or situations to make vexatious complaints. The tribunal needs to be set up with some sort of clear indication to cover how many times a particular resident has made a complaint so that vexatious issues are tracked very clearly in the spirit of what this holiday letting is about. On the matter of the for and against of this bill, we think the horse has bolted. It is time to do something about it. The Government is doing something. It is not perfect; there is more work to be done. We commend the bill to the House.

Ms DAWN WALKER (20:54): I commend the contribution made by my colleague Mr Justin Field to debate on the Fair Trading Amendment (Short-term Rental Accommodation) Bill 2018. I wish to stress the dramatic impact of short-term accommodation, including Airbnb, on the traditional rental market in communities across the North Coast, for which I am The Greens spokesperson. Only last week, northern rivers community groups shone a spotlight on our region's mounting homelessness crisis during National Homelessness Week. While the last census counted about 1,500 homeless people across the northern rivers region, we know the situation is much worse on the ground due to a critical shortage of safe, secure and affordable housing in our region. Too many families and individuals have to sleep rough or depend on friends or family for shelter and the situation is getting worse.

While the causes of homelessness vary, there is no doubt that increasing pressure is being placed on many people who are now forced to sleep in their cars, to pitch tents in the sand dunes or to sleep on friends' couches due to the lucrative conversion of rental properties into short-term holiday accommodation for tourists. This problem is most acute for single parents, pensioners without sufficient savings and young people. This bill will exacerbate that problem in places like Byron Bay, Brunswick Heads, South Golden Beach, Lennox Head, Bangalow, Mullumbimby, and Kingscliff.

I recently heard evidence at a public hearing conducted by Portfolio Committee No. 6—Planning and Environment during its inquiry into the music and arts economy in New South Wales. Local artists gave evidence about their experience of being homeless in the Byron area because of the lack of available rental accommodation. These short-term rental accommodation laws being pushed by the Government will not address the negative effects of holiday letting. In fact, this bill will rob local councils of any control of short-term letting by permitting it 365 days a year without regulation, apart from a code of conduct that is yet to be publicly released.

Whole towns on the North Coast could quickly transform into transient holidaymaker destinations with very few permanent residents. Mr Justin Field and Tamara Smith, the member for Ballina, have said there is nothing to stop West Byron from being bought by investors for holiday letting if it is developed as a residential site. Of course, we hope to prevent that happening. A range of local councils have individual controls that apply to short-term accommodation, but this legislation overrides them.

Local councils will no longer be able to customise short-term accommodation for their communities through controls such as no short-term accommodation in properties with more than four bedrooms, or limiting letting to 60 days instead of 90 days or 120 days a year. The Greens believe that local councils should be able to make those decisions based on knowledge of their communities. That is why my colleague Mr Justin Field has foreshadowed a sensible amendment to let local councils decide the maximum number of days a year a house can be made available for short-term holiday letting through their local environmental plan rather than a one-size-fits-all State environmental planning policy.

My colleague Tamara Smith has done excellent work in raising the impacts of this bill on communities in her electorate and also on local guesthouses, bed and breakfast establishments and small hotels. The Hon. Paul Green correctly pointed out that they could go out of business because they simply cannot compete with holiday

accommodation establishments that do not face the same compliance and regulatory costs. We need a fair, level playing field for accommodation providers.

There is no doubt that The Greens support a sharing economy. However, it should not have negative consequences for our communities, compliant accommodation providers and regional small business owners. As the Hon. Paul Green also pointed out, the Government has failed to get the balance right with this bill. Put simply, the Fair Trading Amendment (Short-term Rental Accommodation) Bill will hollow out our communities and lead to uncontrolled holiday letting in our region, and The Greens will oppose it unless it is amended.

The Hon. BEN FRANKLIN (20:59): I speak to the Fair Trading Amendment (Short-term Rental Accommodation) Bill 2018. The reforms proposed in this bill are of enormous value. The system is currently unregulated—no regulation, no enforcement and no rules—but this legislation will provide two critical regulations. A range of potential impacts currently exist around Airbnb and other short-term accommodation as to noise levels, disruptive guests and effects on shared neighbourhood amenities. On the North Coast, particularly in the Byron Shire, those impacts are often exacerbated. This bill will implement a mandatory code of conduct to address a range of issues, including a new dispute resolution process to resolve complaints. NSW Fair Trading will be given powers to police online platforms and letting agents. Importantly, hosts or guests who commit two serious breaches of the code within a two-year period will be banned for five years and listed on an exclusion register. I repeat: Those rules and sanctions are not currently in existence. The new rules and sanctions, which will be the toughest the country, will ensure not only that local residents are protected but also that hosts who do the right thing are not penalised.

Earlier today I was speaking to someone about a stay they had in a Byron Bay property that had four separate apartments. The noise emanating from one of those apartments started to increase as people continued to turn up—a party was clearly going on. They could not sleep and at about 2.00 a.m. they went to Ballina to find alternative accommodation. The mandatory code of conduct in this bill will address exactly those sorts of issues. It will be welcomed and supported in communities across New South Wales. The second good in these reforms from the perspective of my community is that local councils will now have the opportunity to bring the number of days that Airbnb and other short-term holiday accommodation can be utilised down from the current 365 days to 180 days—less than half—if a council wishes. No doubt in some regional areas some councils will not want to support that but other councils, as the Hon. Paul Green pointed out, will welcome the opportunity to have people stay using those platforms. The Byron Shire is unique. Indeed, members have seen the communications that have been received from a range of community leaders, businesses and individuals in the Byron shire. I will return to this shortly.

I am very proud that this legislation not only introduces an extremely strong mandatory code of conduct but also allows a council like Byron Shire Council to reduce the number of days that holiday lettings can be utilised to less than half. For those two reasons in and of themselves, this bill should be supported by those who would oppose it. However, it is a great first step, although it does not fully address two major concerns that I have in my community and two major concerns that are prevalent within the Byron Shire. Other speakers have touched on some of these issues in today's debate.

The first relates to current operators who operate within the environment—those who have done the right thing and have fulfilled all the regulatory requirements as accommodation providers and who now have to deal with new entrants who do not need to comply with the same level of regulation. My colleague the Hon. Paul Green talked about a level playing field, and I think that is a very valid and reasonable concern. I have already had initial discussions within the Byron shire with the person who has become the spokesperson for these operators, Victoria McEwen, who is a genuine, reasonable, intelligent, articulate and passionate woman for the community. I will continue to work with her and the people she represents to ensure that we can achieve excellent outcomes in this area. Operators who have done the right thing should not feel they are being punished for doing the right thing, particularly in a community like Byron Bay. That is something we need to consider and address.

The second issue—and I acknowledge the contribution of Ms Dawn Walker—is about social and affordable housing. I acknowledge the Minister, who cited research showing that a rise in the prevalence of short-term holiday letting platforms does not impact on social and affordable housing, and I suspect that is broadly correct. It is intuitively right and the research that he cites seems to be reasonable to me. However, for a community like Byron Bay, which takes 2.1 million visitors a year—and 2.1 million visitors is more than the number of visitors to the entire country of Sri Lanka in a year—into one little town with 15,000 ratepayers, that will obviously put substantial pressure on the housing market within that little town. Obviously there is substantial impact and we must consider that impact.

There are a range of excellent new organisations, businesses and operations that are doing what they can in this field and I have met with a number of them. In fact, I want to commend one that I met just last week, One Roof Byron, a wonderful company that talks about micro-housing, which I support. Members should google that

company if they are interested in this space. Homelessness is a serious concern and I know that my colleague Ms Dawn Walker cares about this as seriously as I do. The North Coast has an incredibly high preponderance of homelessness and we need to deal with this issue. Having an unfettered run of short-term holiday letting platforms does not assist in providing a solution. I am pleased to acknowledge that in 12 months time there will be a full review of the implementation of this legislation.

I have made a commitment to the community, to the councils, to the operators and to individuals who have raised these issues with me that I will consult broadly over the next 12 months about the impacts of the legislation as it is enacted. I will work with the community and I have spoken to Minister Roberts and Minister Kean and they are well aware of my views on this bill. I will take a set of detailed recommendations, specifically regarding the Byron shire but also looking at the impacts across the North Coast, back to the Government to be considered in that 12-month review. I am passionate about my community and I think everybody in this Chamber knows that. I do not believe that this is the full solution to a challenging issue in our area but it is clearly better than what we have now. It is a strong first step and, within the highest levels of government, I will continue to forcefully represent the views of my community to ensure that its voice is not left unheard and to achieve the best possible outcome. Today is the first step but tomorrow we start to take the next.

The Hon. SCOTT FARLOW (21:10): On behalf of the Hon. Don Harwin: In reply: As members have heard, the purpose of the Fair Trading (Short-term Rental Accommodation) Bill 2018 is to introduce measures to protect the rights of individual home owners, to ensure the continued economic benefit of short-term rental accommodation in the State's economy and to address and deal with bad behaviour by guests. The bill strikes the right balance between preserving the ability of home owners to use their properties as they wish with public concerns about adverse impacts of short-term rental accommodation on neighbourhood amenity. As the Hon. Ben Franklin noted, it is a step in the right direction.

The reforms will provide for a mandatory and enforceable code of conduct for the short-term rental accommodation industry. It will enable the code to establish rights and obligations for all industry participants and a complaint handling process allowing an exclusion register to be implemented under the code for guests and hosts who breach the code. It will allow for the imposition of civil penalties for breaches of the code. It will also allow strata by-laws to prohibit short-term rental accommodation but only for lots that are not the host's principal place of residence. The full reform package includes the development of a new planning instrument to clearly define and allow short-term rental accommodation. The planning instrument is being dealt with separately to this bill and I note that the full reform package includes these details in the planning instrument so I will address only the content of the bill this evening in reply and not those planning issues.

I thank the following members for their contribution to the debate: the Hon. Peter Primrose, Mr Justin Field, the Hon. Paul Green, Ms Dawn Walker and the Hon. Ben Franklin. Those members raised issues of concern about the North Coast of New South Wales and, in the case of the Hon. Ben Franklin, Byron shire. As the Hon. Ben Franklin noted, this is a 12-month program and there will be a comprehensive assessment. As part of that 12-month assessment, we are taking into consideration the unique concerns and challenges of the North Coast and Byron shire. I commend the Hon. Ben Franklin for his advocacy for this bill and for raising the concerns of Byron shire with the Minister and the Government.

I turn to some of the issues raised throughout the debate. First, with respect to data sharing and registration, the Opposition noted its concerns regarding the enforcement of the code and the proposed planning laws. The code will be enforced through a clear dispute resolution system. Complaints will be made to NSW Fair Trading which will then refer the complaints to independent adjudicators. Those adjudicators will assess the complaints after hearing from both parties. If the adjudicator decides to record a strike, it will be done on a disciplinary register. Platforms will be prevented from listings properties and guests with two strikes against them, and stiff penalties will apply for contraventions. The 180-day cap will be enforced in the same way that other planning laws will be enforced through the planning system.

The code of conduct will provide the opportunity to supplement these enforcement options through data sharing. This will be looked at through the development of the code of conduct. However, there are already mechanisms to ensure that planning laws are complied with. The Opposition also raised the idea of a registration system and costs. A registration scheme would add a significant regulatory burden on an industry that has existed for decades in this State without it. The Government does not propose to change that system. It would also be difficult to enforce, with more than 70,000 properties needing to be registered in circumstances where the property may be placed on the short-term rental market and taken off it on a regular basis.

With respect to the 180-day cap, the Opposition raised concerns regarding this figure. The cap is not the subject of this bill. However, 180 days approximately reflects the number of days of weekends, public holidays and school holidays. It reflects a balancing of the need to ensure that local economies continue to thrive with the need to ensure there is scope to change the policy to reflect local circumstances. The Opposition also raised

concerns regarding strata. There is currently uncertainty in the law, with differing approaches taken by the NSW Civil and Administrative Tribunal [NCAT] and the Privy Council on the issue of whether by-laws can prohibit short-term holiday letting in a building. Members will note the comments in the second reading speech with respect to the legal position. This provision balances the need to ensure that people can supplement their income, whilst allowing owners corporations to make decisions.

The Opposition also raised concerns regarding the 75 per cent threshold. That threshold applies to the making and changing of other by-laws. The opt-out model reflects the status quo and reflects that the starting point should be that people should have the freedom to use their home as they wish so long as it does not negatively impact on others. I also note that the costs of enforcing the code will be borne by the industry. The means by which those costs will be recouped will be set out in the code.

The Greens raised concerns about how the code will interact with planning laws. The Opposition also raised some concerns. The purpose of new section 54E (1) is to ensure that those matters authorised by development consent do not undermine the code. The strata amendments will interact with section 139 and section 136 to allow an owners corporation to prevent a lot being used for short-term letting when it is not the host's principal place of residence. The rights of tenants under the Residential Tenancies Act will continue to be protected as the provisions of the bill only apply to situations where a room or home is being let out for less than three months.

The Hon. Paul Green raised concerns about the ability of police to enter premises if it is a property that is rented on the short-term market which may be being used for criminal activities such as drug deals or as a brothel. I think he also outlined to the House the position with respect to police access to properties. The police will continue to have access with their existing powers of entry to premises where suspected criminal activity is occurring in a short-term rental property.

I note with respect to what the Government is doing to ensure safety standards and regulatory requirements are similar between properties captured by this bill and traditional accommodation providers that a number of proposed safety standards will be compulsory for all short-term holiday rental accommodation and that will help to ensure the people of New South Wales can expect the same levels of health and safety protection from their holiday accommodation irrespective of whether they are staying in a bed and breakfast, motel or privately owned home. The prerequisite safety protections that are being proposed range from a compulsory fire extinguisher and fire blanket to evacuation diagrams, smoke alarms and lighting to assist with evacuations. There is a long and proud history of rental accommodation in this State. These protections will ensure that there is greater consistency across all the different forms of holiday rentals that make such a valuable contribution to our economy.

The Hon. Paul Green also raised concerns about vexatious complaints from his experience as a councillor in the Shoalhaven. As we have all seen, neighbourly disputes erupt from time to time. The code will address the issue of vexatious claims being made in a similar way to NSW Civil and Administrative Tribunal [NCAT]. However, this will be addressed in the development of the code in conjunction with stakeholders. The Hon. Paul Green also referred to the contribution of short-term holiday letting, particularly in regional communities, and he referred to youth unemployment. As we have already discussed, it is a \$31 billion boost to our economy in New South Wales. That is something we all treasure, would like to see continue in this State, and would like to see grow even stronger to provide more employment opportunities in regional communities in particular. As has been noted during this debate, short-term holiday letting has been going on in this State for many years. This bill is addressing some of the challenges that we face as well as some of the opportunities that are provided by having online platforms. On that note, I conclude my comments and commend the bill to the House.

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

Motion agreed to.

In Committee

The CHAIR (The Hon. Trevor Khan): There being no objection, the Committee will deal with the bill as a whole. I have two sets of amendments: The Greens amendments on sheet C2018-096A and Opposition amendments on sheet C2018-092.

Mr JUSTIN FIELD (21:21): By leave: I move The Greens amendments Nos 1 and 4 on sheet C2018-096A in globo:

No. 1 **Short-term rental accommodation provisions in LEPs prevail over SEPPs**

Page 2. Insert after line 6:

Section 3.28 Inconsistency between instruments

Insert after section 3.28 (4):

- (5) To the extent that the provisions of a LEP that relate to short-term rental accommodation are inconsistent with the provisions of a SEPP, the provisions of the LEP prevail.

No. 4 Long title

Insert "; and for other purposes" after "cases".

As I mentioned in the second reading debate, these amendments would ensure that local governments retain the power to regulate short-term rental accommodation in their local areas. As has been discussed today, the Government intends to introduce a State environmental planning policy [SEPP] that will override local planning controls for councils including Shoalhaven City Council, which has sought to take some action on this; Blue Mountains City Council, which has already taken time to consult and regulate through its own local environment plans; and many North Coast councils.

It is important to be clear that the SEPP has not been drafted, it has not been consulted on. There will be a review in a year—as mentioned by the Government—and we do not even have draft documents on either the code or the SEPP. When that SEPP is finally implemented it will not be the subject of review by this House because it is not an instrument that we could disallow; it is a planning instrument that will simply override what councils have done previously. The Greens' amendments would ensure that any provision in a local environmental plan that relates to short-term rental accommodation will prevail over that SEPP.

Essentially, the amendments stop the Government from having a one-size-fits-all rule that will permit short-term letting for up to 365 days a year without consent. I know that it can be reduced to 180 days, but the status quo will be 365 days. These amendments will give power back to communities and back to local government, which knows the needs of their local area. I reflected on the contribution in the second reading debate of the Hon. Ben Franklin, who recognised that there were some shortfalls in this legislation and that there will be a review. But if the Government's plans allow the ability to differentiate across councils—365 days somewhere, 180 days somewhere else and anything in between—why could we not just ensure that all the various types of local decision-making in this area were provided for within the policy that the Government is setting?

If the platforms have to have ways to recognise who is on the register and who is not—as someone who seeks to rent a property or put a property on the market with all the different platforms and players; there is so much complexity in this—why not add a couple more levels to that massive spreadsheet? That would ensure that where a local government wants to reduce the number to zero, maybe in an exclusion area—each property could have a latitude and longitude; it could be noted on a map somewhere—we could do that. If you chose to empower local communities you could do that. This amendment would do that. Just to be clear, The Greens amendment No. 4 would amend the long title of the bill to enable this to happen. That is why I sought to move amendments Nos 1 and 4 in globo. It would add to the end of the long title to ensure that we could take this step. My advice was that we could not do it otherwise. I commend the amendments to the Committee.

The Hon. SCOTT FARLOW (21:25): The Government opposes The Greens amendment No. 1. It is the intention of the Government that the State environmental planning instrument for short-term holiday letting will have a consistent, statewide application. Allowing local environmental plans to overrule the State planning instrument would be inconsistent with the Government's approach. It would maintain the current confused situation that we are trying to resolve. The whole-of-government policy for short-term rental accommodation supports home sharing while managing potential impacts through a statewide planning framework, amendments to strata regulations and a mandated code of conduct.

The Greens amendment proposes that where the provisions for the local environmental plan [LEP] relating to short-term rental accommodation are inconsistent with the provisions of a State environmental planning policy [SEPP], the provisions of the LEP would prevail. The proposed amendment is not supported. Section 3.28 of the Environmental Planning and Assessment Act 1979 states that there is a general presumption that a SEPP will prevail over an LEP or other instrument made before or after a SEPP. This is an appropriate approach. The proposed amendment would disrupt this general principle of planning and would set an unfavourable precedent, which could have significant implications for planning law in this State. Additionally, it was not what the Government intended when announcing the short-term rental accommodation policy. In making its decision the Government considered the issues, needs and expectations of councils, and what the industry and community expressed during an options paper process. The policy will provide a consistent planning framework and improve certainty.

The need for local variations has been considered and will be managed through the planning process. As such, the proposed amendment to allow for local variations is unnecessary. The Government has already

announced how and under what circumstances it will allow local variations. These include, first, when the host is not present, short-term rental accommodation to be allowed with a limit of 180 days in greater Sydney and 365 days in other areas of New South Wales; and, secondly, councils outside Greater Sydney will also be able to decrease the 365-day threshold to no fewer than 180 days per year. This has been included to allow local variations as required by councils and communities to meet local needs. The Department of Planning and Environment will work with councils to ensure no inconsistencies between any environmental planning instruments. The proposed amendment is not required to deliver good outcomes for the people of New South Wales.

The Hon. PETER PRIMROSE (21:27): The Opposition supports both amendments. As has been stated, we support The Greens amendment No. 4, which simply amends the long title to allow amendment No. 1 to be enacted. The Opposition supports amendment No. 1 on the basis that it is absurd that we are being asked to consider this legislation without the benefit of even a draft State environmental planning policy that will address many of the critical components of the Government reforms, including night caps. Labor supports local decision-making, and believes councils are best placed to make these types of decisions. We do not believe in a one-size-fits-all approach. Some parts of the State may wish to restrict short-term holiday letting, whereas in other parts of New South Wales short-term holiday letting is an important part of the local tourism infrastructure. Accordingly, because the Opposition supports local councils making decisions about local communities, we support The Greens amendment No. 1.

The CHAIR (The Hon. Trevor Khan): Mr Justin Field has moved The Greens amendments Nos 1 and 4 on sheet C2018-096A. The question is that the amendments be agreed to.

The Committee divided.

Ayes 14
Noes 21
Majority 7

AYES

Buckingham, Mr J
Graham, Mr J
Primrose, Mr P
Sharpe, Ms P
Voltz, Ms L

Donnelly, Mr G
Mookhey, Mr D
Searle, Mr A
Shoebridge, Mr D
Walker, Ms D (teller)

Field, Mr J (teller)
Moselmane, Mr S
Secord, Mr W
Veitch, Mr M

NOES

Amato, Mr L
Clarke, Mr D
Fang, Mr W (teller)
Green, Mr P
Maclaren-Jones, Mrs
(teller)
Mason-Cox, Mr M
Phelps, Dr P

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

Mitchell, Mrs
Taylor, Mrs

Brown, Mr R
Cusack, Ms C
Franklin, Mr B
MacDonald, Mr S
Martin, Mr T

Nile, Revd Mr
Ward, Ms P

PAIRS

Houssos, Mrs C
Wong, Mr E

Ajaka, Mr
Blair, Mr

Amendments negatived.

The Hon. PETER PRIMROSE (21:36): By leave: I move Opposition amendments Nos 1 to 6 on sheet C2018-092 in globo:

No. 1 **Code of conduct**

Page 3, Schedule 1, proposed section 54B (2), line 39. Omit "may". Insert instead "must".

No. 2 **Code of conduct**

Page 4, Schedule 1, proposed section 54B (3), line 17. Omit "may".

- No. 3 **Code of conduct**
Page 4, Schedule 1, proposed section 54B (3) (a), line 18. Insert "is to" before "make".
- No. 4 **Code of conduct**
Page 4, Schedule 1, proposed section 54B (3) (b), line 20. Insert "is to" before "authorise".
- No. 5 **Code of conduct**
Page 4, Schedule 1, proposed section 54B (3) (c), line 24. Insert "may" before "exclude".
- No. 6 **Code of conduct**
Page 4, Schedule 1, proposed section 54B (3) (d), line 27. Insert "may" before "contain".

The CHAIR (The Hon. Trevor Khan): Order! I ask members to show the Hon. Peter Primrose the courtesy of listening to him. Those members who wish to have private conversations will do so outside the Chamber.

The Hon. PETER PRIMROSE: New section 54B deals with the proposed code of conduct, which is one of the central components of the Government reforms. When it comes to the code, these are weasel words—may contain rights and obligations of participants, may provide for the administration of the code, may provide for registration, may provide for dispute resolution. The list of what may be contained in the code goes on. It is not good enough. The Government complains that they are robust rules, but it will not support an amendment that ensures a code, which the Parliament has not seen, must include key aspects of such a registration system. It sets out rights and obligations, provides for dispute resolution and, importantly, must provide for persons excluded from participating in short-term holiday letting. I am aware that the Parliamentary Secretary has not yet spoken, but I believe I am prescient on this matter. We can understand why many in the community are nervous about this Government's reluctance to set in concrete anything to do with short-term holiday letting. We are yet to see anything of the planning regulations, which will again play a key role in regulating short-term holiday letting across the State.

The bill already provides flexibility for additional matters to be considered in the code. New section 54B (2) clearly states, "Without limiting the matters for or in respect of which a code of conduct may make provision." Therefore there is no defence should the Parliamentary Secretary claim that the Government wants flexibility. That flexibility already exists. The Opposition wants the core elements of any code locked into the legislation, not left to the discretion of the Minister or the department. All six amendments seek to do so. This is simple, goes to the heart of the trustworthiness of this Government and should be supported by the Committee.

The Hon. SCOTT FARLOW (21:39): The Hon. Peter Primrose is indeed prescient. The Government opposes these amendments. First, the amendments reduce the flexibility in developing the code. In saying that the code must deal with certain matters, this reduces the flexibility in how the code, which has not yet been developed, will deal with the evolving short-term letting industry. Secondly, the Government also, at this stage, does not intend to establish a register of short-term rental properties for the following reasons: First, the regulatory framework will be effectively enforceable without a registration system. Action will be taken following a proven complaint about a platform, agent, host or guest.

Secondly, a register that would host the information on tens of thousands of properties and usage details, such as is being proposed, would be extremely resource intensive to establish and maintain. To fully establish the register would most likely take years and not months. Thirdly, the Government has committed to a review of the new framework once the code of conduct has been in operation for 12 months. When the review is conducted, the need for any additional measures, such as the establishment of a register, will be carefully considered by the Government. Lastly, mandating a range of issues that the code must deal with creates a risk that, if provisions on any of these issues are struck down by a court, the entire code may fail. The purpose of setting out the different matters the code may include is to ensure that the regulations are made validly by making clear the matters the code may deal with. These amendments would defeat that purpose. A far better alternative is the bill as it is currently drafted, which provides flexibility on matters that the code can cover.

Mr JUSTIN FIELD (21:41): The Greens support Labor's amendments Nos 1 to 6. These amendments go to the heart of the challenge in having this debate, both in public and in the Parliament. The Government has not made clear what will be contained in the code. It is not clear whether the code will be a regulation or simply referred to in the regulations. The Parliament may or may not have the ability to look at and potentially amend the code in the future. The code will link into a State environmental planning policy [SEPP], which we have not seen, we may not be consulted about and the Parliament may not be given an opportunity to test or question. We know generally what the Government intends to put in the code, because that was part of the Government's policy announcement.

My question is: Why does the Government need to include any of these points in the legislation? The Government could just state that, without limiting matters, it wants the right to create a code of conduct relating to short-term holiday letting and leave it at that. However, the Government has produced legislation that is more of an exercise in public relations. It seems to be designed to give a sense that the Government is maybe going to do something to protect the community from the effects of short-term holiday letting. The Government has given no real indication of how this legislation will work in practice, because embedded in the law is only a commitment to do certain things. Potentially this Parliament, without the support of The Greens, will be passing legislation that is quite meaningless. This is particularly so because the Government intends to review this legislation in 12 months, and yet I understand it is nowhere near developing the code of conduct.

The Greens are taking the responsible step of supporting these Labor's amendments, which are aimed at locking the core elements of the code into the legislation. The Government has told the community the code of conduct will ensure the industry is regulated in the community's interest. I call on the Government to own this commitment by supporting Labor's amendments and ensuring that the code of conduct contains the necessary elements.

The CHAIR (The Hon. Trevor Khan): The Hon. Peter Primrose has moved Opposition amendments Nos 1 to 6 on sheet C2018-092. The question is that the amendments be agreed to.

The Committee divided.

Ayes14
Noes21
Majority.....7

AYES

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

NOES

Blair, Mr	Borsak, Mr R	Brown, Mr R
Clarke, Mr D	Colless, Mr R	Cusack, Ms C
Fang, Mr W (teller)	Farlow, Mr S	Franklin, Mr B
Green, Mr P	Harwin, Mr D	MacDonald, Mr S
Maclaren-Jones, Mrs (teller)	Mallard, Mr S	Martin, Mr T
Mason-Cox, Mr M	Mitchell, Mrs	Nile, Revd Mr
Phelps, Dr P	Taylor, Mrs	Ward, Ms P

PAIRS

Houssos, Mrs C	Ajaka, Mr
Wong, Mr E	Amato, Mr L

Amendments negatived.

Mr JUSTIN FIELD (21:51): I seek leave to move The Greens amendments Nos 2 and 3 on sheet C2018-096A in globo.

The CHAIR (The Hon. Trevor Khan): Leave is not granted because the amendments are in conflict. The Greens amendment No. 3 can only be moved if amendment No. 2 is unsuccessful.

Mr JUSTIN FIELD: I move The Greens amendment No. 2 on sheet C2018-096A:

No. 2 **Prohibition by strata by-laws of short-term rental accommodation in certain cases**

Page 6, Schedule 2, line 6. Omit "special resolution". Insert instead "resolution passed by a majority".

As I mentioned in the second reading debate, the amendment would replace the 75 per cent vote that will be required for an owners' corporation to opt out of allowing Airbnb accommodation or short-term rentals with a simple majority vote. As it stands, even if an owners' corporation had previously put in place by-laws that prohibit short-term renting in a building or put different controls around it, these laws would simply override that. That is inherently unreasonable. The status quo will be that all properties in a strata building will be available for short-term rentals and a 75 per cent majority will be required to overturn that and ban short-term letting. That is unreasonable. A minority of 25 per cent or more of owners would be able to dictate to the rest. That seems unfair, particularly in small lots.

The Hon. Greg Donnelly: Point of order: It is hard to hear the contribution of the honourable member. Chair, I ask you to ask members to give him an opportunity to say what he has to say.

The CHAIR (The Hon. Trevor Khan): Order! The noise is primarily coming from members on his own side, and I ask them to keep it down. The member will be heard in silence.

Mr JUSTIN FIELD: In this place we know how a simple majority works. It is a fair rule; everyone can abide by it. This is not a fair rule. I call on all members to support The Greens amendment.

The Hon. SCOTT FARLOW (21:53): The Government opposes The Greens amendment No 2. A special resolution effectively ensures that the clear majority view of an owners' corporation is heard and appropriately represented. It is important to the democratic decision-making process. All by-laws, changes or new by-laws require a special resolution. That is the accepted process that is well known and understood by the strata sector. By-laws that have been passed by special resolution cover many important matters relating to a strata scheme. It would be inappropriate for New South Wales legislation to allow by-laws on short-term letting to require a lower threshold.

The Hon. PETER PRIMROSE (21:53): The amendment reduces the vote required to either allow or ban short-term holiday letting from a special resolution of 75 per cent to a simple majority. We believe that has merit and note it will work both ways—a lower threshold will be required to reinstate short-term holiday letting as well. A 50 per cent vote will ensure tighter controls over the way leasing occurs and the behaviour of short-term tenants. This is a democratic vote and Labor supports the amendment.

The CHAIR (The Hon. Trevor Khan): Mr Justin Field has moved The Greens amendment No. 2 on sheet C2018-096A. The question is that the amendment be agreed to.

Amendment negatived.

Mr JUSTIN FIELD (21:54): I move The Greens amendment No. 3 on sheet C2018-096A:

No. 3 **Prohibition by strata by-laws of short-term rental accommodation in certain cases**

Page 6, Schedule 2. Insert after line 10:

- (2) Subsection (1) extends to a by-law made by special resolution of an owners corporation and in force immediately before the commencement of this section.

I take from the Government's reply to The Greens' last amendment that it recognises that existing strata by-law requirements require a 75 per cent majority. As the Government said, it would be inappropriate to change that. I take that at face value. It is certainly inappropriate to overturn those requirements by way of legislation of this House. The amendment would seek to ensure that, if by-laws relating to short-term rentals were in place, they would remain irrespective of the laws changed through this bill before the House. That seems fair, even by the Government's own arguments. I call on members to support The Greens amendment.

The Hon. SCOTT FARLOW (21:55): Retrospectively validating by-laws seeking to prohibit short-term holiday letting made before the commencement of the bill does not take into account that these by-laws do not refer to a principal place of residence as the basis of the restriction. Allowing by-laws made in the absence of this element to remain in force has the potential to create greater confusion about the operation of short-term letting in strata schemes and may cause additional costs to owners' corporations for legal advice and assistance to clarify the matter. Owners' corporations may have no choice other than to redraft and once again to go through the required process to adopt short-term holiday letting by a law that is valid. As such, the Government opposes the amendment.

The Hon. PETER PRIMROSE (21:56): For the reasons that were outlined by the mover, the Opposition supports the amendment.

The CHAIR (The Hon. Trevor Khan): Mr Justin Field has moved The Greens amendment No. 3 on sheet C2018-096A. The question is that the amendment be agreed to.

Amendment negatived.

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

Motion agreed to.

The Hon. SCOTT FARLOW: I move:

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

Motion agreed to.

Adoption of Report

The Hon. SCOTT FARLOW: On behalf of the Hon. Don Harwin: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. SCOTT FARLOW: On behalf of the Hon. Don. Harwin: I move:

That this bill be now read a third time.

The House divided.

Ayes33
Noes4
Majority.....29

AYES

Amato, Mr L	Blair, Mr	Borsak, Mr R
Brown, Mr R	Clarke, Mr D	Colless, Mr R
Cusack, Ms C	Donnelly, Mr G	Fang, Mr W (teller)
Farlow, Mr S	Franklin, Mr B	Graham, Mr J
Green, Mr P	Harwin, Mr D	Khan, Mr T
MacDonald, Mr S	Maclaren-Jones, Mrs (teller)	Mallard, Mr S
Martin, Mr T	Mason-Cox, Mr M	Mitchell, Mrs
Mookhey, Mr D	Moselmane, Mr S	Nile, Revd Mr
Phelps, Dr P	Primrose, Mr P	Searle, Mr A
Secord, Mr W	Sharpe, Ms P	Taylor, Mrs
Veitch, Mr M	Voltz, Ms L	Ward, Ms P

NOES

Buckingham, Mr J (teller)	Field, Mr J (teller)	Shoebridge, Mr D
Walker, Ms D		

Motion agreed to.

Adjournment Debate

ADJOURNMENT

The Hon. DON HARWIN: I move:

That this House do now adjourn.

DROUGHT ASSISTANCE

Mr SCOT MacDONALD (22:06): One hundred per cent of New South Wales is in drought and 100 per cent of the community is supporting our farmers and regional towns. Last week I was in Moree listening to our farmers and speaking at a drought forum. Of course, drought is not new.

The Hon. Robert Brown: Point of order—

The PRESIDENT: Members will take their conversations outside. Mr Scot MacDonald has the call.

Mr SCOT MacDONALD: After living in Guyra for nearly 30 years I can attest to the fact that country people know that prolonged dry spells are part of life on the land. But this drought is extraordinary because of its geographic spread and the length of time of below seasonal rainfall. Our farmers are resilient and structure their businesses to accommodate dry conditions, but I believe the community reaches a point where it recognises that the best preparation and management decisions are not enough. I believe Australians have a big heart and recognise when their countrymen could do with a bit of a helping hand.

The New South Wales Liberal-Nationals Government has been responding with a range of preparedness and response measures. Farm preparedness for our range of seasonal challenges will always be the best form of help. Ensuring water systems are adequate and having infrastructure to store feed and fodder for lean times is the essence of the farm innovation grants, and now the \$1 billion plus package includes freight subsidies. The Government has also directed that there be flexibility for trucks and trailers carting hay and a number of fees and charges have been waived, including Local Land Service [LLS] rates, fixed water charges in rural and regional areas and class 1 agricultural vehicle registration costs. Premier Berejiklian, Deputy Premier Barilaro and Minister Blair have continually said, "If the Government needs to do more, we stand ready."

Having seen graziers in my region of New England battle these challenges in the past, my strong plea to farmers is not to self-assess. They should go through the DroughtHub on the Department of Primary Industries website or telephone 02 6391 3100, contact their LLS, speak to the Rural Assistance Authority hotline on 1800 678 593, or seek the help of the Rural Financial Counselling Service on 1800 686 175. I am heartened by the empathy of Australians in these trying circumstances. At a political level we can debate the merit, form and scale of assistance for agriculture and farming families. At a personal level, everyone I meet just wants to help. Many organisations are stepping up and members of the media are doing a great job. In the Hunter Belinda-Jane Davis, a journalist with Fairfax and a farmer herself, is leading a campaign to raise money through Buy a Bale, which has been incredibly successful.

The ABC and Sydney metro media are also assisting, in conjunction with Rural Aid and the Australian Red Cross. Groups such as Rotary and the Country Women's Association are everywhere, including at the drought forums that are underway in western New South Wales. Tonight I acknowledge a spontaneous grassroots organisation in Port Stephens that has mobilised Medowie and the surrounding community to raise money for Rural Aid. Port Stephens Councillor and Deputy Mayor Chris Doohan and Ben Niland started "Medowie Bale Out the Drought" in early July. On Sunday 12 August more than 1,500 people turned up to the Bull n Bush Hotel in Medowie to pitch in for the campaign.

The fundraising day saw a pie drive, car show, motorbike show, shearing demonstration, raffle prizes, auctions, face painting, a petting zoo, cooking demonstrations, the obligatory sausage sizzle and much more. The day was supported by fantastic Port Stephens businesses, including the Bull 'n' Bush, Pacific Dunes golf pro, BP Medowie, Mace Family Kustoms, Les Crandell Jewellery, Dowling Real Estate, Century 21, Coates Hire, Flamin Firewood Fellas, Vege Fairy, Medowie Hardware, Medowie Meats, Supercheap Auto, AJ Equine, Tilligerry Bridge Club, Riviera Gardenscapes, Medowie physio, Drew Shearman shearing, Get it Off Barber Shop at Raymond Terrace, Daisy Belle Flowers, Archer Maintenance, Hennessy Coffee, Medowie Social Golf Club, Big W, Bunnings, Splash Pool Maintenance, Williams Pet Produce, Impact Pet and Produce, Hunter Valley Trucks, MG Fencing, Spencers Gully Whips, Quad Bike King, Koro Earthworks, Medowie Social Riders, Returned and Services League, Canterbury Bulldogs, Onya Screenprinting, Phoenix Embroidery and many others. Local sporting clubs joined in and supported the day.

To date, more than \$70,000 has been raised by Medowie Bale Out the Drought, with more coming in. That will buy approximately 700 large bales of hay. The New South Wales Liberal-Nationals Government is fully funding the freight of donated fodder. Along with the other wonderful fundraising events, it will make a huge difference to farming families. I congratulate Councillor Chris Doohan, Ben Niland and the many great Port Stephens locals, including Councillor Jaimie Abbott, who lent her support at the 12 August Medowie drought fundraiser.

PUBLIC LIBRARIES

The Hon. PETER PRIMROSE (22:11): More people are using our great public libraries than ever before, with approximately 35 million visits every year—more than three times the number that use Sydney stadiums. That is why it made no sense when the New South Wales Liberals and Nationals slashed funding for libraries in their most recent budget. They just have the wrong priorities. The response from local councils, the NSW Public Libraries Association and the community throughout New South Wales has been overwhelming. As the Renew Our Libraries campaign states, libraries were at crisis point even before these funding cuts. Unlike the New South Wales Liberals and Nationals, they support the vital roles that public libraries play in our State.

They also know that this is another cynical move by the State Government, shifting more of the funding burden onto already overstretched local councils. The next New South Wales Labor Government will double the allocation made by the New South Wales Liberals and Nationals before their cuts in this year's budget, including doubling the per capita grant from \$1.85 per person to \$3.70. New South Wales Labor will also ensure that this new per capita subsidy maintains its real value into the future by linking it to the consumer price index for the first time. Labor loves our local libraries, and I continue to enjoy visiting libraries throughout the State.

Last Wednesday, I joined the Labor candidate for Wollondilly, Jo-Ann Davidson, to meet with Mayor Judy Hannan. We then visited the wonderful Wollondilly Library & Information Service. I then had the privilege of joining the Labor candidate for Goulburn, Ursula Stephens, in meeting with Wingecarribee shire councillors and Mayor Ken Halstead at the council chambers in Moss Vale. We also took the opportunity to meet with the dedicated librarians at the Moss Vale branch library and were shown the diverse services that the library provides, including assisting people who need to log in to access government services, helping community members become tech savvy, and preparing the mobile library branch for outlying villages and towns.

Later in the day, Ursula Stephens and I had the pleasure of visiting the Goulburn Mulwaree Library in Goulburn, which has more than 50,000 items for members and visitors to browse through, while members are able to use the library computers or use unlimited wi-fi with their own devices. A combination of books, DVDs, CDs, audiobooks or large print books can be borrowed for free, or people can access extensive online resources such as ebooks, e-magazines and e-audiobooks that can be downloaded in the comfort of their own homes. There is also a dedicated space and a variety of library materials for younger library users so that, whatever one's age, the library is a welcoming space for all.

On Thursday, the Labor Party candidate for Wagga Wagga, Councillor Dan Hayes, and I met with Lockhart Mayor Rodger Schirmer to discuss the issues in his local community and the invaluable branch on wheels that the Riverina Regional Library operates throughout the shire using an enormous truck. The mobile library has been designed to deliver the same range of services that are available in branch libraries, including a wide variety of books, CDs and videos, and also internet access. Later Councillor Hayes and I visited the great Wagga Wagga City Library, which provides services including public access computers, photocopying, faxing and scanning, free wi-fi, housebound services, a language cafe, community learning, story time and even a knitting group. On Friday, I visited the very popular library in Cootamundra. Renew Our Libraries materials were prominently displayed outside and, like all the other libraries we visited, inside there were many people of all ages using the library's facilities and seeking the expertise of the dedicated librarians to gain access to the services they needed.

The importance of libraries in our communities across New South Wales is reinforced with every visit. They provide a service, a community hub, a learning site and, of course, a repository of books. I look forward to continuing to visit libraries throughout the State and to supporting the Renew Our Libraries campaign. After next March, I look forward to being part of a State Labor government that recognises the unique contribution and value of our public libraries and also to doubling the State funding that they receive so they can continue their wonderful work.

DROUGHT ASSISTANCE

The Hon. PAUL GREEN (22:16): Just last week the New South Wales Government confirmed that 100 per cent of the State is now in drought. Farmers across New South Wales and Queensland are calling it the worst drought in living memory. Farmers across our State have been doing it tough. We have all seen the reports, read the news stories and watched on Facebook as our farmers struggle to keep stock alive with dwindling water, fodder and hay supplies. Many landholders are running out of water. In fact, the Chairman of the Australian Fodder Industry Association, Frank McRae, has said that New South Wales has practically run out of feed for its animals.

Figures from the Department of Primary Industries indicate that every part of the State is affected by the dry conditions. Less than 10 millimetres of rain was recorded in western, north-western and central areas of New South Wales last month. I acknowledge that New South Wales Government drought assistance has now tipped over \$1 billion, and at the Federal Government level farmers hit by the drought can now apply for \$12,000 of assistance under its drought assistance scheme. Unfortunately, the application forms contain hundreds of questions to plague farmers, as if their spirit needs to be further broken by having to answer intrusive questions to qualify for desperately needed funds. While the assistance will benefit our farmers, we must do more to alleviate the pressures that droughts cause. Of course, they draw our attention to the real price of water. We must ensure that we do not force farmers off their farms in rural and regional New South Wales because of the price of water.

I recently joined the Portfolio Committee No. 5—Industry and Transport inquiry into water augmentation. The committee sought to produce a report that would ensure the implementation of an appropriate

long-term strategic plan with a 50-year-plus outlook. It also recommended development of the required infrastructure to guarantee an adequate water supply for both current and future generations. The committee asked a number of irrigators and regional bodies what their production would be if the supply of water were not a concern. Figures provided to the committee indicated that with greater access to water the potential output of New South Wales irrigators would be much higher than current production levels. This State must have certainty in planning for our future water needs.

Water is required not only to drink but also to ensure that agricultural production is sustainable. Agricultural production not only feeds our people but also provides an economic backbone for our rural and regional communities, and New South Wales as a whole. Therefore, the committee recommended that, as a matter of urgency and in consultation with regional communities, the Government should develop by March 2020 a comprehensive water plan for supply and demand in New South Wales for the next 50 years. It is simply not enough to respond when we are in the midst of drought. We need to futureproof and drought-proof our State as best we can. If we build our capacity to harvest, store, recycle and access water in dams, as well as drill more bores, that will go some way towards securing the farming future of New South Wales. We need to ensure that our food, fibre and farming industries are able to use water efficiently and that they are given an incentive or help in times of drought.

In conclusion, I acknowledge all farmers who are currently doing it tough throughout the State. I commend them for their commitment and resilience. Indeed, at this time we should all be doing whatever we can—no matter how small—to support them and I invite all those who are listening to my contribution to consider what they can give. Anyone who wishes to make a donation can get in touch with organisations such as the Australian Red Cross, Rural Aid and the Buy a Bale campaign, Drought Angels, Aussie Helpers, Lions clubs' Need for Feed, Foundation for Rural and Regional Renewal and the Salvation Army. Tomorrow the Parliament of New South Wales will host a drought relief fundraiser in the Speaker's garden. I will be cooking the barbeque, and I encourage everyone to come along. Finally, given my pastoral experience, I say that when all else fails, pray. If no answer comes forward, then fast and pray again that the good Lord will show his mercy on the Great South Land. The rains will come again; let us hope that it will be very soon.

SCHOOL MAINTENANCE FUNDING

The Hon. NATASHA MACLAREN-JONES (22:21): The Berejiklian-Barilaro Government understands that delivering quality education for our children will set them up for success. We are determined to provide the safest and most comfortable schooling opportunities for our children today and into the future. We came to office in 2011 and at that time New South Wales had the worst performing economy in the nation, with the slowest employment growth. Since then, we have made the State's finances sustainable and turned the economy around. With a strong economy, we can now invest in the infrastructure needs of our communities. Labor was in power for more than 16 years. In that time it neglected families, closed our schools and failed to provide basic maintenance and plan for the future. Labor had the chance to invest in education and support young Australians but it choose to do nothing. In fact, Labor cut \$1 billion in funding for schools and axed 7,500 teachers. It sold the land when schools were closed and slashed programs for disadvantaged students.

Labor claims to have built and opened an average of five new schools per year when it was in office—more Labor lies. In fact, it closed more than 90 schools, including Macquarie Boys High School, Maroubra High School and Beacon Hill High School. This Government is tackling the school maintenance backlog left by Labor after years of neglect. We are investing a record \$6 billion over four years to deliver more than 170 new and upgraded schools. Our population is growing, and the government of the day has a responsibility to plan and provide the infrastructure to support our growing communities. Labor did nothing to plan for that growth. This Government will not hide from the difficult decisions. We are committed to delivering the infrastructure required to improve people's lives and to empower families. Right across New South Wales, we have been working hard to ensure that children have access to the best educational facilities.

In May this year the Labor member for the electorate of Granville, Julia Finn, claimed, "there is no air-conditioning for school kids". That broad statement was just another lie spread by Labor. The New South Wales Government has delivered record investment in schools not only in Granville but across New South Wales, including the Cooler Classrooms Program—namely, a \$500 million investment in air-conditioning up to 1,000 public schools in New South Wales. Parents and school communities have been calling for this and, thanks to our strong economic management, we can deliver. Indeed, we are the only government capable of delivering what our State needs. We have worked hard to repair the damage left by Labor by strengthening our economy and delivering the infrastructure and services that the people of New South Wales deserve. As well as providing air conditioning for existing schools, all new schools and school upgrades delivered by this Government will have air conditioning installed in all classrooms and libraries.

This Government has also made school safety a priority. Instead of creating proposals to cut funding for our schools as Labor did, we are working with local councils and schools to ensure that our children are safe in their commute to and from school. Schoolchildren are some of the most vulnerable people to use the road, and we are investing in making school zones as safe as possible. Unlike Labor, we have consulted with stakeholders to identify the safety infrastructure projects that communities want and we are delivering projects fairly across New South Wales in seats held by the Liberals, The Nationals and the Labor Party.

The people of Granville electorate have benefited from this initiative, with a raised pedestrian crossing installed at Merrylands East Public School. Thanks to the Berejiklian-Barilaro Government, the children at Merrylands East Public School will now be a little safer walking near their school. Furthermore, in this year's budget three other schools across the Granville electorate have also benefited from upgrades to their facilities. Merrylands Public School, Parramatta West Public School and Wentworthville Public School were all recipients of funding to upgrade their facilities. As a Government, we can never lose sight of the fact that we have a responsibility to make our State the best place to live, work, raise a family and run a business. This is undoubtedly an incredibly exciting time for infrastructure development across the State as we continue to deliver record investments to shape the future of New South Wales for generations to come.

DROUGHT ASSISTANCE

The Hon. MICK VEITCH (22:24): I, too, make a few comments and observations about the drought in New South Wales. Like a number of other members, I spent the winter recess travelling around particularly western New South Wales but also other parts of the State talking to farmers, their families and communities about the impact of the drought. Like Mr Scot MacDonald, I have had an opportunity in my life to live through a drought or two in regional New South Wales.

Mr Scot MacDonald: Too many.

The Hon. MICK VEITCH: In fact, probably too many. In the mid-1960s, when I was a younger fellow—I was going to say a little tacker, but I am still little—I spent a bit of time with my dad droving on travelling stock reserves with a pretty significant herd of cattle. In the 1980s, particularly during the 1983 drought, I remember as a shearer having to shear sheep before the farmers shot them. That is quite harrowing for people to see and to live through. One becomes quite emotional when looking at Facebook and seeing media reports. It is important to put on the public record some observations about the drought, and in no way am I being disrespectful to farmers when I say some of these things.

The issue of subsidies is a vexed one. Not all farmers want subsidies, and I have to say that the current discussions around subsidies raise some concerns for me about their potential use and misuse. They have their place, but it would be fair to say that a number of farmers in this State do not support the use of subsidies. I think we should acknowledge that. We should also acknowledge that the drought is quite a difficult time for farmers but it is also a difficult time for their communities. Often lost in the conversation we have around drought is the fact that our communities are also doing it pretty tough.

Recently I spoke to a fellow who works at an abattoir that is downsizing—they have already started downsizing—in preparation for what we all know will happen when there is not enough stock. His issue is: Where does he get a job? He will have to move. The risk is that the labour force will be lost because people have to move. These are issues that politicians need to address. We must pull the right policy levers to ensure that people have a job to go to that will keep them in their community. Some organisations also get forgotten in the conversation around drought. I remember during the millennium drought spending a bit of time with Riding for the Disabled [RDA]. They have horses that need to be fed, so they need feed. When people start raising money for feed stock, the local RDA is often forgotten. The well-intentioned volunteers need a bit of help, so it would be great if we could put a bit of money towards assisting some organisations like that as well.

Town water supplies are critical. We all recall during the millennium drought that towns ran dry, and I note the Minister's answer to a Dorothy Dixier in the House today. Right now many New South Wales communities are facing serious issues around their water supply. To put it in context: Level 6 water restrictions are pretty horrific if one has to live through them. Let us cast a broader eye than the farming sector. I am not being critical of the farming sector; others are being impacted by conditions across New South Wales at the moment and we should spend some time reflecting on them. The conditions in New South Wales and Australia raise a much bigger public policy discussion that has to take place—that is, food security. It is perhaps the wrong time and, as I said at the NSW Farmers Conference, people probably do not want to have this conversation or hear people talking about it. But we have to talk about climate change and what is happening to our climate because food security for the population of the Australia is critical. We can export all we want but if we cannot feed our own people it is a problem and we need to have those conversations. The last thing I say is that a lot of what I am

talking about should be a discussion for intergovernmental agreement on drought reform. I urge everyone to pursue that.

DROUGHT ASSISTANCE

Mr JUSTIN FIELD (22:30): All of New South Wales is in drought—the entire State. Almost a quarter of the State is experiencing intense drought. It is one of the worst and most widespread droughts on record. It follows another of the worst droughts on record just a decade ago. Of course communities in regional and rural New South Wales are feeling the impact of the drought most directly. My neighbour on the New South Wales South Coast is currently selling 40 head a week from his dairy operation. It is more expensive for him to buy feed for his stock than he gets for the milk that they produce. Many farmers across my region are now actively talking as though they think this drought might be the one that finally breaks them—that finally makes them have to leave their land, their businesses and what they have known, sometimes for generations. I know our region is not the hardest hit by a long way. In other areas not enough feed is available even if farmers could afford it and winter crops will not go in the ground. This drought will take years and years to recover from.

The drought might be felt most strongly on the land, but none of us in the cities and coastal communities can hide from its impact. Droughts put food supply at risk and undermine the viability of farmers and our regional communities. They disrupt the natural environment and the water flows needed for ecosystem health and farming and also for our urban water supply. More common and more severe droughts are consistent with the estimates of global warming and climate disruption. We know from the Government's own assessments that the majority of New South Wales is set to get drier and hotter as a direct result of climate change.

In the next few decades, western New South Wales is expected to face one-third of every year with daily maximum temperatures of more than 35 degrees. We need to support farmers and regional communities to get through this period. The Greens support them. But that will not address the existential risk of climate change and the next drought and the one after that that we are inviting by failing to cut our carbon emissions and invest in building the resilience of communities to adapt to the changing climate. In the past few days Marine Science Professor Ove Hoegh-Guldberg from the University of Queensland said:

... we really need to compel our political leaders to stop treating climate change like a second-tier irritation and start treating it as a global emergency.

Even with the symptoms of climate change such as the drought across New South Wales, the extreme heatwaves and mega fires in the Northern Hemisphere, our political leaders and our parliaments show no such urgency. At the Federal level there is still a ridiculous debate about whether a 26 per cent reduction in energy-related emissions is enough. It is not enough. It is nowhere near where we need to be and nowhere near where the science and the evidence show we need to be. The ongoing political game playing with climate policy will set our country up for failure and the slap in the face at the end is the absurd proposal for governments to underwrite new coal-fired power in this country. It is ridiculous. In the face of a lack of credible Federal action, the response from the Government is almost nothing. We hear of new coal exploration licences and of budget estimates showing that coal production rates are expected to continue growing. As the community embraces renewables, the Government is running a protection racket for coal and gas. The most recent State budget was conspicuous in its lack of investment in climate action and a shortfall in investment in its own climate change fund.

The Government is not even spending the money it has put aside for climate action. The Government has no credible plan or adequate funding to reach its own goal of net zero greenhouse gas emissions by 2050—and that is the absolute minimum. We have no way of meeting it and there is no legislated target. The plans are not there; they are eight months behind. All we get is the sleight of hand from this Government that masks that inaction. The people the Government is selling out are the people on the land, the farmers. They know that it is not enough. Government members are supposed to represent those people, and they are not doing their job. This is not the first time I have spoken about climate change in this place and I can tell it is not going to be the last because nothing is shifting except our climate and the future of the entire country and the entire planet, particularly for our farming communities. I will keep talking about climate change. I will give a voice to the community and their concerns that without urgent action we and our planet will not pull through the challenge of living with climate disruption.

RIVERINA REGIONAL MOBILE LIBRARY

The Hon. Dr PETER PHELPS (22:35): I listened to the extraordinary contribution of the Hon. Peter Primrose earlier in relation to the mobile library from Riverina Regional Library. I refer the Hon. Peter Primrose to an article in LIBERO News from March 2013 with the heading "A New Branch on Wheels", which talks about how the Riverina Regional Library has a brand-new mobile library trailer which was "launched this month". It is 14.5 metres long, there are 1,500 users and in a single month they will have 27,000 borrowings. It goes on 28 stops on a weekly or fortnightly basis throughout the Riverina.

Unfortunately, the one thing that the Hon. Peter Primrose did not mention was that it was funded by the New South Wales Government's library development program in March 2013. I think we all know who was in government in March 2013 in New South Wales. It is typical of Labor members. They criticise something they would never have done themselves. We on this side were the ones who provided the money for the service to be provided to people in rural and regional New South Wales and the Hon. Peter Primrose has the temerity to come into this place and complain about that service. The people of Wagga Wagga need to be very clear about this: Labor is not sincere about their needs and desires. Those opposite simply want to score political advantage, and they cannot even get that right.

The PRESIDENT: The time for the adjournment debate has expired. The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 22:36 until Wednesday 15 August 2018 at 11:00.