



New South Wales

Legislative Council

PARLIAMENTARY DEBATES (HANSARD)

**Fifty-Sixth Parliament
First Session**

Wednesday, 15 August 2018

Authorised by the Parliament of New South Wales

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LEGISLATIVE COUNCIL

Wednesday, 15 August 2018

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

The PRESIDENT read the prayers.

Members

LEGISLATIVE COUNCIL VACANCY

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

By Deputation from
His Excellency

T Bathurst

I, General the Hon. David Hurley AC, DSC (Ret'd), in pursuance of the power and authority vested in me as Governor of the State of New South Wales, do hereby convene a joint sitting of the Members of the Legislative Council and the Legislative Assembly for the purpose of the election of a person to fill the seat in the Legislative Council vacated by Dr Mehreen Faruqi, and I do hereby announce and declare that such Members shall assemble for such purpose on Wednesday the 15th day of August 2018 at 3.45 pm in the building known as the Legislation Council Chamber situated in Macquarie Street in the City of Sydney; and the Members of the Legislative Council and Members of the Legislative Assembly are hereby required to give their attendance at the said time and place accordingly.

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

Government House
Sydney, 15 August 2018

Bills

PAINTBALL 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.

Motions

INDIA INDEPENDENCE DAY SEVENTY-SECOND ANNIVERSARY

The Hon. TAYLOR MARTIN (11:03): I move:

(1) That this House notes that:

- (a) on Saturday 11 August 2018, the Indian Association of Newcastle held a reception at the West Club, Newcastle to celebrate the seventy-second anniversary of India's independence;
- (b) special guests at the reception included:
 - (i) Mr Bawitlung Vanlalvawna, Consul General for India;
 - (ii) Mr Scot MacDonald, MLC, Parliamentary Secretary for Planning, the Central Coast and the Hunter;
 - (iii) the Hon. Taylor Martin, MLC, representing the Hon. Ray Williams, MP, Minister for Multiculturalism;
 - (iv) Councillor Wendy Harrison, representing Councillor Kay Fraser, Mayor of Lake Macquarie; and
 - (v) Councillor Kanchan Ranadive, Maitland City Council;

- (c) the Indian Association of Newcastle Committee consists of Mrs Promila Gupta, President, who was recently named Regional Communities Medal Winner at this year's Premier's Harmony Dinner; Councillor Kanchan Ranadive, Vice President; Mrs Kalpana Rameshchandran; Mr Sachin Joshi, Treasurer; Mr Shumank Deep, Youth representative; and General Committee members Mrs Anna Babu, Mr Ashish Prasher and Mr Rahul Arora.
- (2) That this House:
 - (a) acknowledges and commends the work of the Indian Association of Newcastle's Committee; and
 - (b) extends its congratulations and best wishes to the Indian-Australian community on the occasion of the seventy-second Independence Day.

Motion agreed to.

BALLINA FOOD AND WINE FESTIVAL

The Hon. BEN FRANKLIN (11:04): I move:

- (1) That this House notes that:
 - (a) the ninth annual Ballina Food and Wine Festival was held on Sunday 1 July 2018 at the Ballina Jockey Club;
 - (b) the festival showcased the North Coast's best produce, products, restaurants, and culinary expertise as well as the best premium wines, craft beer, cider and spirits from around Australia and the world;
 - (c) this year the festival also included the Asahi—After Dark Gala Dinner where Ballina RSL Executive Chef Blake Seymour prepared and served a four-course gourmet dinner made from the finest local produce; and
 - (d) each year, proceeds from the festival are donated to local community groups, with this year's proceeds going to the Ballina Shire Rural Fire Service, Ballina Lighthouse and Lismore Surf Life Saving Club, Paradise FM, Ballina's Marine Rescue Unit, Ballina Meals on Wheels and Ballina Rotaract.
- (2) That this House congratulates festival Chair Col Lee and members of the Rotary Club of Ballina-on-Richmond on all their work in organising this year's festival, and allowing the region's quality local produce, products and skills to be showcased and celebrated.

Motion agreed to.

PAKISTAN PRIME MINISTER IMRAN KHAN

The Hon. SHAOQUETT MOSELMANE (11:04): I move:

- (1) That this House notes that:
 - (a) on Saturday 18 August 2018, Imran Khan will officially be sworn in as Prime Minister of the Islamic Republic of Pakistan following his election on 25 July 2018;
 - (b) Mr Khan is the founder and leader of Pakistan Tehreek-e-Insaf which describes itself as centrist; and
 - (c) Mr Khan's election is a landmark event in that it marks the second consecutive peaceful handover of power from one democratically elected government to another in Pakistan.
- (2) That this House congratulates the people of Pakistan on their continued support for representative democracy in their country and on their seventy-second Independence Day celebrations.

Motion agreed to.

Documents

BUDGET FINANCES 2018-2019

Report of Independent Legal Arbiter

Mr JUSTIN FIELD: I move:

- (1) That the report of the Independent Legal Arbiter, the Hon. Keith Mason, AC, QC, dated 19 July 2018, on the disputed claim of privilege on documents relating to the order for papers regarding the 2018-2019 budget finances, be laid on the table by the Clerk.
- (2) That, on tabling, the report is authorised to be published.

Motion agreed to.

Motions

INDIA DAY FAIR

The Hon. DAVID CLARKE (11:05): I move:

- (1) That this House notes that:

- (a) on Saturday 11 August 2018, the Federation of Indian Associations of New South Wales held an India Day Fair at Parramatta Park, Parramatta to celebrate the 2018 Independence Day of the Republic of India which was attended by approximately 20,000 members and friends of the Indian Australian community; and
- (b) those who attended as special guests included:
- (i) the Hon. Gladys Berejiklian, Premier;
 - (ii) Mr Luke Foley, MP, Leader of the Opposition;
 - (iii) the Hon. Ray Williams, MP, Minister for Multiculturalism;
 - (iv) Councillor Andrew Wilson, Lord Mayor of the City of Parramatta;
 - (v) Ms Jody McKay, MP, shadow Minister for Transport, Roads, Maritime and Freight;
 - (vi) the Hon. Scott Farlow, MLC, Parliamentary Secretary to the Premier and Leader of the House in the Legislative Council;
 - (vii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (viii) Mr Julian Leeser, MP, Federal member for Berowra;
 - (ix) Ms Julie Owens, MP, Federal member for Parramatta and shadow Assistant Minister for Small Business;
 - (x) Dr Geoff Lee, MP, Parliamentary Secretary to the Premier, Western Sydney and Multiculturalism;
 - (xi) Ms Michelle Rowland, MP, Federal shadow Minister for Communications;
 - (xii) Mr Jihad Dib, MP, State member for Lakemba and shadow Minister for Education;
 - (xiii) Mr Damien Tudehope, MP, State member for Epping;
 - (xiv) Ms Julia Finn, MP, State member for Granville;
 - (xv) Mr Mark Taylor, MP, State member for Seven Hills;
 - (xvi) Dr Hugh McDermott, MP, State member for Prospect;
 - (xvii) Dr Harry Harinath, Chair, Multicultural New South Wales;
 - (xviii) Councillor Suman Saha, Cumberland Council;
 - (xix) Councillor Lisa Lake, Cumberland Council;
 - (xx) Councillor Bill Tyrrell, Parramatta Council;
 - (xxi) Ms Susan Clunie;
 - (xxii) Ms Pallavi Sinhai, AIBC New South Wales; and
 - (xxiii) representatives of numerous Indian-Australian cultural, religious, social and business organisations.
- (2) That this House commends:
- (a) the Federation of Indian Associations of New South Wales for its organising of the highly successful 2018 India Day Fair at Parramatta, particularly its President Dr Yadu Singh and his team comprising:
- (i) Mr Kumar Madappa;
 - (ii) Dr Naveen Shukla;
 - (iii) Mr Surinder Singh Bhogal;
 - (iv) Mr Vipul Goyal;
 - (v) Mr John Niven;
 - (vi) Mr Neeraj Yadav;
 - (vii) Mr Vithal Maddala;
 - (viii) Mr Dhruv Jolly;
 - (ix) Mr Baljit Khare;
 - (x) Mr Navneet Verma;
 - (xi) Dimple Hartaj Banga; and
 - (xii) Mr Mahesh Raj.
- (b) the Indian Australian community for its ongoing positive contribution to the cultural, social and economic life of our State.

Motion agreed to.

COUNCIL OF INDIAN AUSTRALIANS INDEPENDENCE DAY CELEBRATION

The Hon. DAVID CLARKE (11:05): I move:

- (1) That this House notes that:
 - (a) on Saturday 11 August 2018 at the Bowman Hall, Blacktown, the Council of Indian Australians Inc. celebrated the seventy-second anniversary of the Independence Day of the Republic of India with a dinner and cultural performance which was attended by several hundred members and friends of the Indian-Australian community; and
 - (b) those who attended as guests included:
 - (i) the Hon. Ray Williams, MP, Minister for Multiculturalism representing the Hon. Gladys Berejiklian, MP, Premier;
 - (ii) Councillor Stephen Bali, MP, member for Blacktown and Mayor of Blacktown City Council representing Mr Luke Foley, MP, Opposition Leader;
 - (iii) Mr S. K. Verma, Vice Consul-General of India in Sydney;
 - (iv) the Hon. Phillip Ruddock, Mayor of Hornsby Shire Council;
 - (v) the Hon. Scott Farlow, MLC, Parliamentary Secretary to the Premier and Leader of the House in the Legislative Council;
 - (vi) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice; and Mrs Marisa Clarke;
 - (vii) Dr Geoff Lee, member for Parramatta and Parliamentary Secretary to the Premier, Western Sydney and Multiculturalism;
 - (viii) Ms Jodi McKay, MP, member for Strathfield and shadow Minister for Transport, Roads, Maritime and Freight;
 - (ix) Mr Damien Tudehope, MP, member for Epping and Mrs Diane Tudehope;
 - (x) Mr Kevin Conolly, MP, member for Riverstone;
 - (xi) the Hon. Daniel Mookhey, MLC;
 - (xii) Mr Mark Taylor, MP, member for Seven Hills;
 - (xiii) Ms Julia Finn, MP, member for Granville;
 - (xiv) Councillor Reena Jethi, Hills Shire Council;
 - (xv) Councillor Susai Benjamin, Blacktown Council;
 - (xvi) Councillor Sameer Pandey, Parramatta Council;
 - (xvii) Councillor Moninder Singh, Blacktown Council;
 - (xviii) Councillor Suman Saha, Cumberland Council;
 - (xix) Mrs Gael Kennedy representing the New South Wales Jewish Board of Deputies and Mr Kennedy; and
 - (xx) representatives of numerous Indian-Australian community organisations.
- (2) That this House:
 - (a) commends the Council of Indian Australians Inc. for its ongoing cultural and charitable initiatives in New South Wales and particularly its office bearers comprising:
 - (i) Mr Mohit Kumar, President;
 - (ii) Mr Nitin Shukla, Vice President;
 - (iii) Mr Sanjay Deshwal, Secretary; and
 - (iv) Mr Keyur Desai, Treasurer.
 - (b) extends its congratulations and best wishes to the Government and people of India and the Indian Australian community on the occasion of the seventy-second anniversary of the Independence Day of the Republic of India.

Motion agreed to.

The PRESIDENT: Order! The Hon. Walt Secord will come to order. He is directing his remarks through the Chair. He will not scream at me. It is sufficient for him to say, "I object".

TRIBUTE TO REVEREND VERA ISABELLA BOURNE

The Hon. MARK PEARSON (11:06): I move:

- (1) That this House expresses its condolences to the family and friends of Reverend Vera Isabella Bourne who died on 7 August 2018 in Lismore at age 83 after a long illness and who is survived by her long-term companion, Sue, her three children, Pam, Rose and Tom, and her grandchildren and great-grandchildren.
- (2) That this House recognises that Reverend Bourne was:
 - (a) a dedicated advocate and carer for the LGBTI community for more than 50 years;
 - (b) a founding member of the Gay and Lesbian Counselling Service in Sydney and of the Campaign Against Moral Persecution Inc. in the early 1970s, in an era when gay male sexuality was illegal, and gays and lesbians could lose their employment or custody of their children because of their sexuality;
 - (c) instrumental in establishing the social group, Northern Rivers Gay Group, which later evolved to become Tropical Fruits which is now one of the largest and best known LGBTI groups in Australia; and
 - (d) a community radio presenter with Michael Bray on the 1980s ground-breaking weekly radio program Gaywaves which was dedicated to the news, music and events of the Northern Rivers LGBTI community.
- (3) That this House notes:
 - (a) Reverend Bourne practised her Christian beliefs by opening her home to young LGBTI people whose families had rejected them;
 - (b) during the 1980s she was one of the first women to volunteer with ACON caring for many gay men who contracted HIV/AIDS at a time when community fear and loathing of HIV/AIDS sufferers had reached fever pitch;
 - (c) in recent years Vera has dedicated herself to raising funds for children in out of home care and to collecting toys throughout the years to ensure that children of our poorest families received presents at Christmas; and
 - (d) firmly believed that Christianity and LGBTI lives were not incompatible and to this end undertook her theological training and was ordained as a Minister in the Metropolitan Community Church and pastored to many people in the gay and lesbian community both in Australia and overseas.

Motion agreed to.

Committees

REGULATION COMMITTEE

Reference

The Hon. SCOTT FARLOW (11:06): I move:

- (1) That the Regulation Committee inquire into and report on the impact and implementation of the Cemeteries and Crematoria Amendment Regulation 2018.
- (2) That the committee report by 24 October 2018.

Motion agreed to.

The PRESIDENT: According to paragraph 3 (a) of the resolution establishing the Regulation Committee, Business of the House Notice of Motion No. 3 relating to the disallowance of the Cemeteries and Crematoria Amendment Regulation 2018 now stands postponed until the committee has tabled its report on the regulation.

Motions

RACIAL DISCRIMINATION COMMISSIONER DR TIM SOUTPHOMMASANE

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

- (1) That this House notes that:
 - (a) Dr Tim Soutphommasane was appointed the Australian Human Rights Commission's Racial Discrimination Commissioner in August 2013;
 - (b) since his appointment Dr Soutphommasane has been a fearless advocate for multiculturalism and social justice;
 - (c) over his five years of service, Dr Soutphommasane has consistently spoken out against racism and bigotry, often in the face of staunch public criticism; and
 - (d) Dr Soutphommasane, who is 36 years of age, has also held academic posts at the University of Sydney and the University of Monash; and has published a total of four books.
- (2) That this House notes that a number of institutions and community organisations which have worked with Dr Soutphommasane over his period of service have honoured him by hosting farewell events including:
 - (a) Arab Council Australia, which hosted a farewell event on Tuesday 31 July 2018;
 - (b) Chinese Australia Forum, which hosted a farewell dinner on Tuesday 24 July 2018; and

- (c) the Whitlam Institute, which hosted Dr Soutphommasane's final speech as Race Discrimination Commissioner on Monday 6 August, followed by a panel discussion featuring the Hon. Mark Dreyfus, MP, and Dr John Hewson, AM.
- (3) That this House congratulates Dr Soutphommasane on his five years of tireless service to Australia and its multicultural communities as Racial Discrimination Commissioner.

Motion agreed to.

BYRON BAY RAILROAD COMPANY RAIL INDUSTRY AWARD

The Hon. BEN FRANKLIN (11:08): I move:

- (1) That this House notes that:
 - (a) the Australasian Rail Industry Awards were held on 5 July 2018;
 - (b) the awards recognise outstanding individual and company achievements in the rail industry;
 - (c) the Byron Bay Railroad Company received the Rail Sustainability Award for their Modification of Diesel Multiple Unit Rail Cars to Solar Powered Electric Operation;
 - (d) the Byron Bay Railroad Company converted a 1949 heritage diesel rail car to operate on sustainably generated electric traction using high voltage lithium ion batteries which are charged from solar panels on the train's roof;
 - (e) this train is the world's first solar powered conventional train and is leading the way in the use of sustainable energy resources in the rail industry; and
 - (f) the train currently runs a number of services each day between North Beach Station and Byron Beach Station.
- (2) That this House congratulates the Byron Bay Railroad Company on being recognised with this award and for being leaders in sustainability.

Motion agreed to.

POLISH COMMUNITY COUNCIL CONCERT

The Hon. DAVID CLARKE (11:08): I move:

- (1) That this House notes that:
 - (a) on Friday 1 June 2018 the Polish Community Council of Australia, under the Presidency of Mrs Margaret Kwiatkowska, hosted in the Sydney Town Hall a concert entitled "Tribute to Freedom" which was attended by over 1,500 members and friends of the Polish-Australian community;
 - (b) the concert, which was organised to pay tribute to those who sacrificed their lives for the freedom of Poland and to honour the centenary of Polish Independence featured:
 - (i) the Manly-Warringah Orchestra with conductor Carlos Alvarado;
 - (ii) Ms Daniela Leska, soprano;
 - (iii) Mr Konrad Olszewski, Mr Krzysztof Malek, Mr Alan Kogosowski and Mr Benjamin Burton, pianists;
 - (iv) Ms Julia Williams, manager of the Manly-Warringah Orchestra assisted by Mr Kowalik who facilitated in arranging the participation of the orchestra;
 - (v) Mrs Marta Kaczmarek, master of ceremonies of the concert; and
 - (vi) Mr Grzegorz Machnacki, artistic director of the concert.
 - (c) those whose support allowed this concert to take place included:
 - (i) the City of Sydney;
 - (ii) the Senate of the Republic of Poland;
 - (iii) Sisters of the Holy Family of Nazareth;
 - (iv) Holy Family Services;
 - (v) the "Wspolnota Polska" Association;
 - (vi) the Embassy of the Republic of Poland in Canberra;
 - (vii) the Consulate General of the Republic of Poland in Sydney;
 - (viii) the Polonia-Polish Association of Queensland;
 - (ix) Polish Foundation in New South Wales;
 - (x) Polish Society of Polish Culture in Victoria and New South Wales;
 - (xi) Eugeniusz Zebrowski; and

- (xii) Polish Media: Radio SBS, Puls Polonii, *Polish Weekly* and *Bumerang Polski*.
- (d) those who attended as guests included:
 - (i) His Excellency Mr Michal Kolodziejski, Ambassador of the Republic of Poland;
 - (ii) Ms Malgorzata Gosiewska, member of Parliament, Poland;
 - (iii) Mr Wojciech Ziemniak, member of Parliament, Poland;
 - (iv) Mrs Regina Jurkowska, Consul-General of the Republic of Poland in Sydney;
 - (v) Mrs Dorota Preda, Vice-Consul of the Republic of Poland in Sydney;
 - (vi) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice also representing the Hon. Ray Williams, MP, Minister for Multiculturalism and the New South Wales Government; and Mrs Marisa Clarke;
 - (vii) Mr Jason Falinski, MP, Federal member of Mackellar and Ms Nicola Constant;
 - (viii) the Hon. Robert Borsak, MLC, and Mrs Cheryl Borsak;
 - (ix) Councillor Stephen Bali, MP, State member for Blacktown and Mayor of Blacktown City Council;
 - (x) Ms Nancy Benites, Consul General of Colombia;
 - (xi) Mr Adam Gajkowski, President of the Federation of Polish Organisations in New South Wales various Polish priests and sisters of the Holy Family of Nazareth in Sydney;
 - (xii) various Polish priests and sisters of the Holy Family of Nazereth in Sydney;
 - (xiii) representatives of numerous Polish organisations around Australia including Sydney, Canberra, Brisbane, South Australia, Victoria and Tasmania; and
 - (xiv) representatives of various ethnic and other community organisations.
- (2) That this House congratulates and commends:
 - (a) the Polish Community Council of Australia on its organising and hosting of the "Tribute to Freedom" concert held in Sydney Town Hall on Friday 1 June 2018 paying tribute to those who sacrificed their lives for the freedom and independence of Poland; and
 - (b) those who participated in the "Tribute to Freedom" concert and those who sponsored and assisted in making its presentation possible.
- (3) That this House congratulates the Republic of Poland and the Polish-Australian community on the occasion of the centenary of Polish Independence.

Motion agreed to.

ARRAIAL DO BRACCA FESTIVAL

The Hon. DAVID CLARKE (11:08): I move:

- (1) That this House notes that:
 - (a) on Sunday 24 June 2018 at the Sydney Portugal Community Club, Marrickville the Brazilian Community Council of Australia Inc. hosted its twelfth annual "Arraial Do Bracca" Festival attended by nearly 5,000 members and friends of the Brazilian Australian and Portuguese-speaking communities;
 - (b) this Brazilian-style country harvest festival dates back hundreds of years and celebrates the start of the rain season with an abundance of food, music and dancing; and
 - (c) those who attended as guests included:
 - (i) Mr Carlos Henrique de Abreu, Consul General of Brazil in Sydney;
 - (ii) Mr Joaquin Pedro Penna, Deputy Consul General of Brazil in Sydney;
 - (iii) Mr Paulo Domingues, Consul General of Portugal in Sydney;
 - (iv) Mr Cherich Rafael Dorattioti, President, Brazilian Community Council of Australia Inc.;
 - (v) Mr Maucir Nascimento, former President, Brazilian Community Council of Australia Inc.;
 - (vi) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice representing the New South Wales Government;
 - (vii) the Hon. Anthony Albanese, MP, Federal member for Grayndler, shadow Minister for Infrastructure, Transport, Cities and Regional Development and Tourism;
 - (viii) Councillor Darcy Byrne, Mayor, Inner West Council;
 - (ix) Councillor Sam Iskander, Inner West Council;
 - (x) Mr Miguel Vairinhos, President, Sydney Portugal Community Club;

- (xi) Ms Betriz Wagner, Executive Producer SBS Radio, Portuguese Program;
- (xii) Ms Susana Teixeira-Pinto, Co-ordinator for the Portuguese Language Program;
- (xiii) Ms Lucia John, General Co-ordinator, ABCD;
- (xiv) Ms Cristina Talacko, New South Wales Director, Australia Brazil Chamber of Commerce; and
- (xv) representatives of numerous Brazilian Australian and Portuguese-speaking community organisations; and
- (d) the Brazilian Community Council of Australia Inc., a non-profit body has for 24 years promoted Brazilian culture and operated social programs to help members of the Brazilian and Portuguese-speaking communities in Australia and is currently running a volunteer-operated suicide prevention program called BRACCA MIND with the aim of helping Brazilian Australians who suffer from depression.
- (2) That this House:
 - (a) congratulates and commends Cherich Dorattioti, President of the Brazilian Community Council of Australia Inc., together with his Executive Committee on organising a successful 2018 "Arraial Do Bracca" Festival in Sydney and for their work in promoting suicide prevention programs within the community; and
 - (b) extends best wishes to the Brazilian Australian community and commends it for its ongoing contribution to the cultural and social life of our State.

Motion agreed to.

NEW SOUTH WALES PACIFIC AWARDS DINNER

The Hon. DAVID CLARKE (11:09): I move:

- (1) That this House notes that:
 - (a) on Wednesday 13 June 2018, the New South Wales Council for Pacific Communities hosted the 2018 New South Wales Pacific Awards Dinner at the Campbelltown Convention Entertainment Centre, Campbelltown Catholic Club, which was attended by more than 600 members and friends of the Pacific communities in New South Wales;
 - (b) Pacific communities in New South Wales include people from Papua New Guinea, Fiji, Samoa, the Cook Islands, Tonga and those of other origins in Micronesia, Melanesia and Polynesia;
 - (c) the New South Wales Pacific Awards Dinner is held annually to recognise the achievements and efforts of the New South Wales Pacific communities and those who have contributed significantly to the Pacific community and to the State of New South Wales; and
 - (d) those who attended as guests included:
 - (i) the Hon. Ray Williams, MP, Minister for Multiculturalism, also representing the Hon. Gladys Berejiklian, MP, Premier;
 - (ii) Councillor George Bricevic, Mayor of Campbelltown;
 - (iii) Councillor Meg Oates, Deputy Mayor of Campbelltown;
 - (iv) the Hon. Lou Amato, MLC;
 - (v) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (vi) Mrs Anne Stanley, MP, Federal member for Werriwa;
 - (vii) Mr Anoulack Chanthivong, MP, State member for Macquarie Fields;
 - (viii) Mr Greg Warren, MP, State member for Campbelltown;
 - (ix) Mr Albert Vella, OAM, President, New South Wales Federation of Community Language Schools, also representing Dr Hari Harinath, Chairman of Multicultural New South Wales;
 - (x) Mr Laurie Ferguson, retired Federal member of Parliament;
 - (xi) Mr Matthew Tukali, Chairman, National Coalition for Suicide Prevention, and keynote speaker;
 - (xii) Mr Ivan Wellington, Aboriginal elder;
 - (xiii) Mr Billie Moore, New Zealand Consulate-General in Sydney;
 - (xiv) Freddy and Cecilia Kula representing Louise Waterhouse, Consul-General of the Kingdom of Tonga;
 - (xv) Councillor Masood Chowdhury, Campbelltown City Council;
 - (xvi) Councillor Rey Manoto, Campbelltown City Council;
 - (xvii) Councillor Charishma Kaliyanda, Liverpool City Council;
 - (xviii) Elder Jonny Leota representing The Church of Jesus Christ of Latter Day Saints;
 - (xix) Patsy Nai and Rick Manu, Masters of Ceremonies;

- (xx) Hafa Utatao, who gave the opening prayer;
- (xxi) Joseph Gatahau and Rebecca Hatch who sang the National Anthem; and
- (xxii) representatives of numerous Pacific community organisations.
- (e) those who comprise the Committee of the New South Wales Council for Pacific Communities are:
 - (i) Chairperson, Malaemie Fruean;
 - (ii) Vice Chair, James Munro;
 - (iii) Treasurer, Marlene Utatao-O'Brien;
 - (iv) Secretary, Tania Munro;
 - (v) Public Officer, Joy Kahotea;
 - (vi) youth representatives: Ieti Sionetali, Rebecca Hatch, Hyrum Strickland and Tristan Strickland;
 - (vii) media representative, Ron Inu; and
 - (viii) Pacific Awards Events Team: Richard Kahotea, Fallon Warren and Ron Inu.
- (f) those who comprised the New South Wales Pacific Award winners for 2018 were:
 - (i) Environmental Award: Pacific Climate Warriors Sydney;
 - (ii) Best Initiative Practice Working With Pacific Communities: West Tigers, Shaun Spence (Fan Engagement and Community Manager);
 - (iii) Community Event, Arts: Matilda Lama;
 - (iv) Community Event, Employment and Education: Paulina Alone, Briar Road Public School;
 - (v) Community Event, Youth: Joe Tau—Pacific Waves;
 - (vi) Community Event, Strong Families: Amy Ropitini—The Movement;
 - (vii) Community Event, Culture and Heritage: School Spectacular, Pacific Students;
 - (viii) Community Event, Sports: Rolly McKay;
 - (ix) Community Event, Health: Paul Whatuira;
 - (x) Community Event, Public Relations: Susana Perez;
 - (xi) Community Event, Entrepreneurship: Victor Tutuila IMAC FIT;
 - (xii) Education: Sienna Tutani (Primary), Tevin Henry (High), Ida-Marie Samuela (Tertiary), Natasha Hanisi (Open);
 - (xiii) Performing Arts: Tiria Taufa (Juniors), Rebecca Hatch (Seniors), Jay Laga'aia (Open);
 - (xiv) Visual Arts: Lynis Kepu (Juniors), Grace Henry (Seniors), Wendy Alo-Sefo (Open);
 - (xv) Sports: Damita Jada Behtam (Juniors), Caitlin Montgomery (Seniors), George Francis (Open);
 - (xvi) Professional Sports: Ato Plodzicki-Faoagali (Open);
 - (xvii) Volunteer: Chellcey Porter (Seniors), Doreen McKibbin Agno (Open);
 - (xviii) Business Award: Natasha Hanisi (Open);
 - (xix) Overall Outstanding Award: Pacific Climate Warriors Sydney; and
 - (xx) Chairperson's Award: Joe Tau (Aligned Partner), Marlene Utatao-O'Brien (Board member).
- (2) That this House congratulates and commends:
 - (a) the New South Wales Council for Pacific Communities for its organising of the 2018 New South Wales Pacific Awards Dinner and for its ongoing service to Pacific communities and to the wider New South Wales community as well; and
 - (b) award winners honoured at the dinner for their achievements.

Motion agreed to.

AUSTRALIA CHINA ECONOMICS, TRADE AND CULTURE ASSOCIATION ANNUAL GALA

The Hon. SHAOQUETT MOSELMANE (11:09): I move:

- (1) That this House notes that:
 - (a) on Sunday 24 June 2018, the Australia China Economics, Trade and Culture Association held its annual gala at the Star Event Centre, Pyrmont;

- (b) the Australia China Economics, Trade and Culture Association is a not-for-profit community organisation that promotes Sino-Australian economic and trade development as well as cultural and technological exchange;
 - (c) the Australia China Economics, Trade and Culture Association is also committed to supporting victims of natural disasters in both China and Australia, supporting victims of the Ya'an earthquake in China, as well as the New South Wales Rural Fire Services and St John Ambulance; and
 - (d) the annual gala dinner was well attended with honoured guests including: the President of the Legislative Council, the Hon. John Ajaka, MLC; Leader of the Opposition, Mr Luke Foley, MP; shadow Minister for Transport and Roads, Maritime and Freight, Ms Jodi McKay, MP; shadow Minister for Water, Chris Minns, MP; Federal member for Grayndler, Mr Anthony Albanese, MP; the Hon. Ernest Wong, MLC; Parliamentary Secretary to the Premier and Treasurer, Mr Jonathan O'Dea, MP; and Parliamentary Secretary for Transport and Infrastructure, Mr Mark Coure, MP.
- (2) That this House congratulates the Australia China Economics, Trade and Culture Association on another highly successful Annual Gala Dinner and on its continued support and promotion of better cooperation between China and Australia.

ASSYRIAN CHURCH OF THE EAST RELIEF ORGANISATION CHARITY BANQUET

The Hon. DAVID CLARKE (11:09): I move:

- (1) That this House notes that:
- (a) on Sunday 10 June 2018 the Assyrian Church of the East Relief Organisation [ACERO] held its annual Archbishop's charity banquet at the Edessa Reception Hall, Greenfield Park attended by approximately 800 members and friends of the Assyrian-Australian community;
 - (b) ACERO Australia is a non-profit institution and the Australian arm of the international aid agency of the Assyrian Church of the East and directs all funds raised directly for the provision of humanitarian aid and relief to those in desperate need, particularly across the Middle East;
 - (c) the charity banquet was held under the patronage of His Eminence Mar Meelis Zaia, AM, Metropolitan of Australia, New Zealand and Lebanon of the Holy Apostolic Catholic Assyrian Church of the East; and
 - (d) those who attended as special guests included:
 - (i) His Eminence Mar Meelis Zaia, AM, Metropolitan of Australia, New Zealand and Lebanon of the Assyrian Church of the East;
 - (ii) His Grace Mar Awa Royel, Bishop of the Diocese of California, United States;
 - (iii) His Grace Mar Paulis Benjamin, Bishop of the Diocese of Eastern United States;
 - (iv) His Grace Mar Abris Youkhanan, Bishop of the Diocese of Erbil, Iraq;
 - (v) His Grace Mar Benyamin Elya, Bishop of Victoria and New Zealand;
 - (vi) Reverend Father and Archdeacon William Toma, Chicago, United States;
 - (vii) Councillor Frank Carbone, Mayor of Fairfield City Council;
 - (viii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice, representing the New South Wales Government; and Mrs Marisa Clarke;
 - (ix) Mr Guy Zangari, MP, State member for Fairfield and shadow Minister for Justice and Police, Corrections and Emergency Services;
 - (x) Dr Hugh McDermott, MP, State member for Prospect;
 - (xi) Mr Chris Hayes, MP, Federal member for Fowler and Chief Opposition Whip, and Mrs Bernadette Hayes;
 - (xii) Professor Diane Speed;
 - (xiii) Professor Peter Bolt;
 - (xiv) Professor Rifaat Ebeid;
 - (xv) Mr Llaval Syan, international guest;
 - (xvi) charity directors of ACERO comprising Deacon Ramen Youkhanis, Natalie Moshi, Ashur Varde and Berta Eisho;
 - (xvii) Reverend Fathers of the Assyrian Church of the East;
 - (xviii) representatives of numerous Assyrian church, educational, cultural, social, civic, sporting and political organisations; and
 - (xix) representatives of charity sponsors.
- (2) That this House:
- (a) congratulates ACERO on the occasion of its annual Archbishop's charity banquet 2018 and commends it for its ongoing charitable work; and

- (b) extends greetings, best wishes and heartfelt sympathies to the Assyrian-Australian community at this time when the Assyrian community in the Middle East has in recent years suffered accelerated persecution and genocide.

Motion agreed to.

SPECIAL BROADCASTING SERVICE NEWS PRESENTER LEE LIN CHIN

The Hon. SHAOQUETT MOSELMANE (11:10): I move:

- (1) That this House notes that:
 - (a) on 29 July 2018, Special Broadcasting Service news presenter Lee Lin Chin presented her final news bulletin after almost 40 years with the broadcaster;
 - (b) Lee Lin Chin was born in Jakarta to Chinese parents but migrated to Australia in 1980;
 - (c) for many years, Lee Lin Chin was one of the only news presenters from a multicultural background on Australian television screens; and
 - (d) in 2016, Lee Lin Chin was the first Special Broadcasting Service personality in the station's history to be nominated for the Gold Logie.
- (2) That this House congratulates Lee Lin Chin on her stellar television career and her ongoing commitment and service to diversity in Australian television and on her contribution to the success of multiculturalism in Australia.

Motion agreed to.

AASHA AUSTRALIA FOUNDATION LIMITED COMMUNITY INFORMATION FORUM

The Hon. DAVID CLARKE (11:10): I move:

- (1) That this House notes that:
 - (a) on Saturday 2 June 2018 the AASHA Australia Foundation Limited, in collaboration with the Senior Rights Service and the New South Wales Elder Abuse Helpline and Resource Unit, held a community information forum at the Blacktown Senior Citizens Centre, Blacktown;
 - (b) the purpose of the event was to help senior members of Western Sydney's Indian and South Asian communities to better understand their legal and financial rights and was attended by approximately 200 participants;
 - (c) a panel of experts which led the information forum comprised:
 - (i) Ms Diana Bernard, Senior Rights Service and Chair of the event;
 - (ii) Ms Nalika Padmasena, lawyer, New South Wales Senior Rights Service;
 - (iii) Senior Constable Jason Roughly, New South Wales Police Force, Hills Police Area Command;
 - (iv) Raji Selvakumar, Department of Human Services;
 - (v) Dr Praful Valanju, Director and Co-Founder, AASHA Australia Foundation; and
 - (vi) Vivienne Duval, New South Wales Elder Abuse Helpline and Resource Unit;
 - (d) those who also addressed the forum included:
 - (i) Councillor Stephen Bali, MP, member for Blacktown and Mayor of Blacktown City Council;
 - (ii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;
 - (iii) Mrs Bijinder Dugal, AASHA Director; and
 - (iv) Dr Sunder.
 - (e) those who attended as special guests included:
 - (i) Councillor Mohinder Singh, Blacktown City Council;
 - (ii) Councillor Reena Jethi, Hills Shire Council;
 - (iii) Mr Rohitas Batta, Indian Lions Club of Sydney; and
 - (iv) representatives of numerous Indian and senior citizens' organisations and Indian media outlets;
 - (f) those who provided entertainment for the forum included:
 - (i) Vinrod Rajput;
 - (ii) Shivali dance group;
 - (iii) Davinder Dharia; and
 - (iv) vocalists Vinod, Daxa, Prag, Seema and Kedar.

- (g) the AASHA Australia Foundation Limited is a non-profit organisation which assists seniors from Indian and South Asian communities in Australia to bridge the gap between them and Australian Government health services and aged-care providers.
- (2) That this House commends the AASHA Australia Foundation Ltd for its service to the senior citizens community.

Motion agreed to.

WOLLONGBAR TAFE AWARDS OF EXCELLENCE

The Hon. BEN FRANKLIN (11:10): I move:

- (1) That this House notes that the Wollongbar TAFE Awards of Excellence were held on Tuesday 29 May 2018, to recognise the hard work, diligence and achievements of the Wollongbar TAFE students.
- (2) That this House congratulates the following award recipients:
 - (a) Production Horticulture Award of Excellence Semester 1 - Ian Crisp;
 - (b) Production Horticulture Award of Excellence Semester 2 - Jordi Ostler;
 - (c) Natural Area Restoration Award of Excellence - Janelle Shackel;
 - (d) Agriculture Award of Excellence - Eliot Hodges;
 - (e) Animal Studies - Certificate II Award of Excellence - Michelle Harris;
 - (f) Animal Studies - Certificate III Award of Excellence - Mitchell Summers;
 - (g) Captive Animals Award of Excellence - Rachael Smith;
 - (h) Companion Animal Services Award of Excellence - Frank Keitel;
 - (i) Automotive Student of the Year - Brock Eastlake;
 - (j) Spray Painting Student of the Year - Jack Nicholson;
 - (k) Panel Beating Student of the Year - Sam Rooney;
 - (l) Tradesperson of the Year Award for Body Repair/Panelbeating - Sam Mooney;
 - (m) Motorcycle Student of the Year - James Castelli;
 - (n) Aviation Ground Operations Student of the Year - Leo Enright;
 - (o) Aviation Protection Student of the Year - Sonya Dusi;
 - (p) Aviation School-based Student of the year - Meghann Rice-Finlayson;
 - (q) Beauty Services Award of Excellence - Kristen Rogers;
 - (r) Commercial Cookery - Student of the Year - Ian Rahmann;
 - (s) Commercial Cookery Award of Excellence - Tien Nguyen;
 - (t) Carpentry Award of Excellence - Izaak Ziedan;
 - (u) Formwork/Falsework Award of Excellence - Nate Holley-Donoghoe;
 - (v) Certificate III in Early Childhood Education and Care Award of Excellence - Marites Gibson;
 - (w) Children Services - School-based student of the Year - Ella Penhey;
 - (x) Children Services - School-based Trainee of the Year - Makayla Stevenson;
 - (y) Children Services - Trainee of the Year - Luka Robertson;
 - (z) Certificate III in Education Support Award of Excellence - Vicki Mangan;
 - (aa) Certificate IV in Education Support Award of Excellence - Deanne Read;
 - (bb) Certificate IV in School Aged Education and Care Award of Excellence - Michelle Woods;
 - (cc) Tertiary Preparation Humanities Award of Excellence - Tara Rosewood-Robinson;
 - (dd) Tertiary Preparation English Award of Excellence - Paris Watson;
 - (ee) Electrotechnology Apprentice of the Year - Jakson Gardnir;
 - (ff) Electrotechnology Stage 1 Award of Excellence - Ethan Reilly;
 - (gg) Electrotechnology Stage 2 Award of Excellence - Myles Burgess;
 - (hh) Electrotechnology Stage 3 Award of Excellence - Guy Lopes;
 - (ii) Electrotechnology Stage 4 Award of Excellence - Jiah Mack Reiners;
 - (jj) Engineering - Fabrication Trade Stage 1 Award of Excellence - Lester Moran;
 - (kk) Engineering Aboriginal and Torres Strait Islander Award of Excellence - Lester Moran;

- (ll) Engineering - Fabrication Trade Stage 2 Award of Excellence - Hayden Cormick;
 - (mm) Engineering - Drafting Award of Excellence - Dereck Searle;
 - (nn) Events Student of the Year - Lucy Amey;
 - (oo) Costume Student of the Year - Tree Rivva;
 - (pp) Hairdressing - School based Student of the Year - Mikayla Hyslop;
 - (qq) Hairdressing - Apprentice of the Year- Stage 1 - Isabelle McIntyre;
 - (rr) Hairdressing - Hair Craftsmanship Stage 1 Award of Excellence - James Joblin;
 - (ss) Hairdressing - Hair Craftsmanship Stage 2 Award of Excellence - Elouise Sears;
 - (tt) Barbering - Apprentice of the Year - Stage 1 - Zak Galbraith;
 - (uu) Barbering - Apprentice of the Year - Stage 2 - Andrew Daniels;
 - (vv) Barbering Craftsmanship Award of Excellence - Andrew McDonald;
 - (ww) Barbering Award of Excellence - Jay Aarts;
 - (xx) Up and Coming Barber of the Year - Wesley Lampard;
 - (yy) Hairdressing - Customer Service Award of Excellence - Grace Reidy;
 - (zz) Hairdressing School Based Trainee of the Year - Isabella Carey;
 - (aaa) Parks and Gardens Award of Excellence - Jade Buckland;
 - (bbb) Sports Turf Management Award of Excellence - Jack O'Connor;
 - (ccc) Production Nursery Award of Excellence - Aliya Daley;
 - (ddd) Hospitality Student of the Year - Nicole Knapp;
 - (eee) Networking School Based Student of the Year - Bailey Kent;
 - (fff) Animation School Based Student of the Year - William McKenzie;
 - (ggg) Certificate III Networking Student of the Year - Lucy McCormack;
 - (hhh) Certificate IV Networking Student of the Year - Matthew Morris;
 - (iii) Certificate IV Web Student of the Year - Samantha Baldwin;
 - (jjj) Diploma Networking Student of the Year - Jacob Porter;
 - (kkk) Diploma Networking Student of the Year - Jamie Hutton;
 - (lll) Local Government Information Technology Outstanding Achievement - Patrick Writer;
 - (mmm) Local Government Information Technology Outstanding Achievement - Ian Johnson;
 - (nnn) Local Government Information Technology Outstanding Achievement - Graham Creighton;
 - (ooo) Local Government Information Technology Outstanding Achievement - Ian Brown;
 - (ppp) Laboratory Operations Award of Excellence - Catherine Jarrett;
 - (qqq) Engineering - Mechanical Trades Apprentice of the Year - Joshua Robinson;
 - (rrr) Engineering - Mechanical Trades Stage 1 Award of Excellence - Noah Winnel-Wallace;
 - (sss) Engineering - Mechanical Trades Stage 2 Award of Excellence - Darcy Patton;
 - (ttt) Tourism School Based Student of the Year - Taylor Watson;
 - (uuu) Tourism Student of the Year - Alara Barnes;
 - (vvv) TAFE NSW Wollongbar Student of the Year - Stewart Archie;
 - (www) Beauty Therapy Aboriginal and Torres Strait Island Student of the Year - Emma-Louise McTigue;
 - (xxx) Beauty Services Award of Excellence - Bianca Menke; and
 - (yyy) Tertiary Preparation Science Award of Excellence, Tertiary Preparation Maths Award of Excellence, Tertiary Preparation Student of the Year - Billie Standfield.
- (2) That this House wishes all award recipients and students of Wollongbar TAFE all the best for their future studies and careers.

Motion agreed to.

*Documents***TABLING OF PAPERS**

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

- (1) Guardianship Act 1987—Report 145 of the New South Wales Law Reform Commission entitled "Review of the Guardianship Act 1987", dated May 2018.
- (2) Mental Health Commission Act 2012—Report entitled "Review of the Mental Health Commission of New South Wales: Report to Parliament 2018".
- (3) Report of the Social Policy Research Centre entitled "OCHRE Evaluation Synthesis Report: Stage 1 Final Report", dated June 2018.

I move:

That the reports be printed.

Motion agreed to.

UNPROCLAIMED LEGISLATION

The Hon. SCOTT FARLOW: According to Standing Order 117, I table a list detailing all legislation unproclaimed 90 calendar days after assent as at 14 August 2018.

BUDGET FINANCES 2018-2019**Tabling of Report of Independent Legal Arbiter**

The CLERK: According to resolution of the House this day, I table the report of the Independent Legal Arbiter, the Hon. Keith Mason, AC, QC, dated 19 July 2018, on the disputed claim of privilege on documents relating to the order for papers regarding 2018-2019 budget finances.

*Notices***PRESENTATION**

[During the giving of notices of motions]

The PRESIDENT: Order! Members will cease interjecting. Those members who continue to interject will be called to order.

[Later,]

[Interruption from gallery]

The Hon. Dr Peter Phelps: Point of order—

The PRESIDENT: Order! I thank the Hon. Dr Peter Phelps. With regard to interruptions from the public gallery, I indicate to visitors in the gallery that they are most welcome to be here. But just as there are rules for members in the Chamber, there are also rules for people in the public gallery. We ask you not to comment, applaud or otherwise intervene in the proceedings of Parliament. We hope that you enjoy your time here and we welcome you, but I ask you to refrain from interrupting proceedings.

[Interruption from gallery]

Madam, you cannot ask me questions. You cannot talk to me. Please sit in silence. If there are further disruptions, I will ask the attendants to clear the public gallery—although I would hate to do so.

*Business of the House***POSTPONEMENT OF BUSINESS**

Mr JUSTIN FIELD: I move:

That Business of the House Notice of Motion No. 2 be postponed until Wednesday 19 September 2018.

Motion agreed to.

The Hon. DON HARWIN: I move:

That Government Business Notice of Motion No.1 be postponed until a later hour.

Motion agreed to.

*Disallowance***CROWN LAND MANAGEMENT REGULATION 2018**

The PRESIDENT: By resolution of the House of 20 June 2018, the motion will proceed as business of the House.

Mr DAVID SHOEBRIDGE: I move:

That the matter proceed forthwith.

Motion agreed to.

Mr DAVID SHOEBRIDGE (11:40): I move:

That, under section 41 of the Interpretation Act 1987, this House disallows item 4 of clause 13 (1) of the Crown Land Management Regulation 2018, published on the NSW Legislation website on 16 March 2018.

New South Wales has a proud history of democracy and vibrant protest. Whether it was the green ban movement or our forest defenders, citizens of this State have gone into our forests and stood at the barricades and outside Parliament House to protest for their fundamental rights. Whether they have protested about the right to clean water or a clean democracy, the urgent need to address climate change, the damage that is being done by the fossil fuel industry, developer donations or the corruption of this institution, there has been a proud right of protest in this State. However, this Government, through a series of ugly attacks, some of which have been deliberately and openly directed by the mining industry, has been crushing the right to protest through whatever means it can.

Ugly laws were passed in 2016 criminalising the right to protest against the fossil fuel industry and laws have been abused to try to put the Wollar Three in jail for seven years. It is shameful. Additional move-on powers have been provided to police to break up people who are gathering in peaceful protests. Previously these laws had not been extended to public protest. Recently the Government tried to sneak in through the back door regulations, which have been promulgated and are now on the statute books, that will allow a police officer or any public official in charge of Crown land—and 40 per cent of New South Wales is Crown land—the power to break up any persons, without having to give a reason and without any concerns for public safety, from, as the regulation states, "taking part in any gathering, meeting or assembly".

Since when did police have the power to break up "any gathering, meeting or assembly"? For example, a gathering of three or more people at Bondi Beach or in Hyde Park or, as is happening right now in Lismore, out the front of Thomas George's electorate office can be moved on by police. The community is sick of it. This morning the community gathered in front of Parliament House, with support from across the board—for example, the Maritime Union of Australia, the Nurses and Midwives Association of New South Wales, the NSW Council for Civil Liberties, Lock the Gate, Greenpeace, Reclaim the Streets from Fire, the Knitting Nannas—to defend their right to protest. People across the State are saying enough is enough.

This disallowance motion, which is quite narrow, is directed to the most offensive part of the regulation, that is, division 2, clause 13, item 4, which relates to "Taking part in any gathering, meeting or assembly". But there are a series of other offensive elements in the regulation that are equally troubling for democracy. For example, a police officer can move on a person if they are "Displaying or causing any sign or notice to be displayed". The protest signs that display "Enough is Enough" or portray a take on Mike Baird or this Chamber or any notice can be sufficient reason for people to be moved on. Never before has this power been provided under a New South Wales statute.

The Government may say that previously there was a power to erect notices to prevent these kinds of activities. But under this law, for the first time ever, under the Crown Land Management Act an authorised officer can direct a person to move on or can break up a meeting without reason and issue a move-on order if those people have gathered without prior written permission. A citizen or a protester, or even somebody gathering with their family for a picnic on Bondi Beach, who does not comply can face a \$11,000 fine, and they have no defence. For the crime of not breaking up a family picnic or a protest when police tell people to move-on, they face a penalty up to \$11,000. That is a shameful attack on democracy.

The New South Wales Parliament does not have many human rights protections. The New South Wales Parliament's Legislation Review Committee is meant to be the human right oversight for this Parliament but it does not do a particularly good job. As a member of that committee, I can say that it has very short meetings and almost uniformly its recommendations are ignored by this Parliament. Really, New South Wales has no human rights framework. The Legislation Review Committee commented on these proposed regulations:

The Committee noted that the Regulation provides that taking part in any gathering, meeting or assembly on Crown land may be prohibited by direction or notice. There is no guidance on what basis a decision to prohibit activity on Crown land may be made.

Prohibiting individuals from taking part in any gathering, meeting or assembly may unduly trespass upon the right of individuals to peacefully assemble for a common purpose and express their views.

That was the consensus reported by members of Parliament from across almost all the political parties. The word "may" is very much an understatement in relation to "unduly trespass upon the right of individuals to peacefully assemble for a common purpose and express their views". No doubt the Government will ignore, as it always does, any recommendations from that human rights oversight body. The NSW Young Lawyers sent an excellent submission to Minister Paul Toole, with copies to the Premier, the Leader of the Opposition and the shadow Minister for Lands, which set out very clearly the kind of an attack this is upon on democracy. The NSW Young Lawyers stated:

NSW Young Lawyers considers that the power to prohibit certain political activities on Crown land in the *Regulation* is so broad as to go beyond what is necessary or proportionate for the protection of public order. Such a broad power permits the NSW government to prohibit peaceful political activities that pose no threat to public order. For instance, peaceful political activities often take place at Sydney's Hyde Park, which is Crown land. We do not consider it necessary or proportionate for the NSW Government to have the power to prohibit such peaceful political activities.

We are concerned that the power may be used to prohibit peaceful political activities on Crown land including:

- Political gatherings, meetings or assemblies;
- Displaying or causing political signs or notices to be displayed;
- Distributing political circulars, advertisements, papers; and
- Operating an audio or audio visual device—such as a megaphone—at a volume necessary for a political gathering or assembly. The power to prohibit these activities may have a chilling effect on the exercise of the right to freedom of expression and the right of peaceful assembly.

I endorse those strong and clear views from the NSW Young Lawyers. I also note that in their correspondence, they deal with the limited constitutional protection that we have at a Federal level. I will not read it in detail, but they commence by saying:

The Australian Constitution implicitly affords freedom of political communication. The freedom may only be burdened by laws that are reasonably appropriate and adapted, or proportionate, to the pursuit of a legitimate purpose in a manner compatible with the maintenance of the system of representative and responsible government for which the Constitution provides.

A fair summary of the balance of their letter would be that this regulation breaches that implied limitation. I thank all the people from across the State who have come out to oppose this law and I indicate that I stand with them in defiance of it. I will not follow a direction by a New South Wales police officer or anybody else that is given under this illegitimate law. We have a right to protest, and if this Government thinks it can take that away from us it will get a surprise on the streets. If it ever exercises this power, it will get a surprise in the courts. It is a fundamental right.

This is an ugly move from the Government but it follows a pattern. The Government knows it is losing the argument on the streets. It knows that it is losing the argument for the hearts and minds of people across this State. It knows that opposition to its signature projects—WestConnex, the light rail, the aggressive pursuit of coal mining—is growing across the State. The citizens of Sydney are sick of seeing the place destroyed for the profit of private corporations. We want our city back, we want our State back and we want to protect nature, and we will do it regardless of these laws.

The Hon. RICK COLLESS (11:51): I oppose this motion of disallowance moved by The Greens. The aim of the new Crown Land Management Regulation and legislation is to ensure that the Crown estate is managed so that it can continue to provide significant social, economic, environmental and cultural benefits to the people of this State. The Government is committed to protecting and preserving Crown land for future generations. Crown land belongs to the State of New South Wales. It is owned and managed by the State for the people of New South Wales. The disallowance of item 4 of clause 13 (1) of the Crown Land Management Regulation 2018 would inhibit the management of the Crown land estate for the benefit of all people.

The regulation prescribes the activities that can be prohibited on Crown land by direction or notice. While the people of New South Wales should have access to Crown land, there are some activities that may create a hazard to other users or to the environment. This regulation ensures that Crown land managers have the ability to prohibit activities that are unsafe. The prescribed list of activities set out in the Crown Land Management Regulation ensures that the public's right to use the land can be balanced against the need to protect that land. It also ensures that Crown land is sustainably maintained in appropriate circumstances. This could be for environmental, social and cultural heritage protection reasons.

Across New South Wales, there are 580,000 individual Crown land parcels covering some 33 million hectares, with an overall value of \$11 billion. This valuable asset supports and generates significant social, environmental and cultural benefits in every community in New South Wales. The people of New South Wales,

businesses, and community organisations depend on fair and transparent access to Crown land. Crown land should not be dominated by one group of people for a singular use that prevents access by other groups or other users. Item 4 of clause 13 (1) of the regulation will ensure that the use of the land is not inappropriately dominated by groups to the exclusion of others. The use of and access to Crown land should never come at the expense of public safety.

The PRESIDENT: Order! Mr David Shoebridge was heard in silence when he made his contribution. The Hon. Rick Colless is entitled to the same courtesy.

The Hon. RICK COLLESS: This regulation is necessary to ensure public safety as it also allows for the prohibition of dangerous activities such as lighting fires, entering structures and buildings that are not open to the public, discharging fireworks, and using firearms.

Mr David Shoebridge: Point of order: The member's contribution is irrelevant. He is speaking about a series of other clauses in the regulation that are not the subject of this disallowance motion.

The Hon. Dr Peter Phelps: To the point of order: In his contribution, Mr David Shoebridge mentioned and critically reflected on a number of clauses which are not subject to this disallowance motion. What is good for the goose should be good for the gander.

The PRESIDENT: Members are permitted wide latitude in debate. The Hon. Rick Colless is being generally relevant to the regulation. At this stage, the member is in order.

The Hon. RICK COLLESS: It is important to note that the clause in question does not prohibit all gatherings, meetings and assemblies on Crown land. Rather, it gives authorised officers the discretion to prohibit these types of activities if they consider it necessary. We envisage that this would happen in circumstances where the land is being used inappropriately or poses a danger to other land users or is damaging to the land itself. Similar clauses existed under the previous legislative framework; this is nothing new. It is important to ensure that this important function is retained. The Crown Land Management Act and regulations are the result of an extensive community and stakeholder consultation process.

The PRESIDENT: Order! The Hon. Rick Colless will resume his seat. Stop the clock. There are three members in the public gallery who have their back to the Chair. I appreciate that they are not making any noise. However, I take it as a discourtesy to the Chair and to the Chamber that they have their backs to the Chair in a sign of protest. I ask them to resume their seats and cease their protest. If they are not prepared to resume their seats, I will ask them to leave the public gallery. I thank them for adhering to my request.

The Hon. RICK COLLESS: The stakeholder consultation process included the Crown Lands Legislation White Paper, which received more than 600 submissions, the parliamentary inquiry into Crown land, and a public submission process on the draft regulation which ran for six weeks in 2017. The Act went through a full parliamentary process with significant and detailed debate in this Chamber. The Government is committed to ensuring that the people of New South Wales have safe and equal access to Crown land and that this land is protected and preserved for future generations. The Government opposes the motion.

The Hon. PAUL GREEN (11:57): I have received a lot of emails on this issue and I will draw on matters raised with me. This regulation is not new. Similar clauses existed under the previous legislative framework and they have been brought under this framework to ensure continuity. They have been in place since 2006 and have simply been carried forward. It is nothing new. The regulation does not prohibit all gatherings or meetings. It gives authorised officers the discretion to prohibit these types of activities if they consider it necessary, such as, if the land is being used in an inappropriate way or if the activities pose a danger to other land users or are damaging the land in some way.

The use and access of Crown land should never come at the expense of public safety and it should not be dominated by one group that prevents access by others. Many years ago when I was mayor of the City of Shoalhaven, I was trying to make safe the parks around that city. The council legislated for no alcohol zones, which were enforced at the discretion of the police. If members of a family on a picnic have a glass of chardonnay or sauvignon blanc, the police will not go down there and rip them up.

Mr David Shoebridge: If they are white and middle class, they'll be protected?

The Hon. PAUL GREEN: They are all from Newtown, I think. The spirit of it is that the police know how to police and they have discretionary powers.

[Interruption]

I can appreciate that protesters would have a different view.

Mr David Shoebridge: That is the point.

The Hon. PAUL GREEN: That is exactly the point. It is discretionary and the police have that power. For us, the major point is that only a month or so ago, a bill before this House referred to the opportunity to either pray or protest within 150 metres from a health clinic; yet a buffer zone of 150 metres was okay for all parties in this House, except for a couple of us in the Christian Democratic Party and, I think, the Shooters, Fishers and Farmers Party. The point is that there cannot be one rule for a couple of people praying for those accessing a health clinic and then another rule for people who may be protesting for some other good cause. I come back to what Mr David Shoebridge said: It is a human right to be able to protest peacefully, wherever that may be. We concur on that point, but this is a double standard. The Christian Democratic Party does not support the disallowance motion.

[Interruption from gallery]

The PRESIDENT: Order! I will not give any more warnings to the people in the public gallery. I will ask the gentleman to leave the gallery if he in any way makes a comment to a member or any other person in this Chamber.

The Hon. MICK VEITCH (12:00): I speak in debate on Mr David Shoebridge's motion to disallow item 4 of clause 13 (1) of the Crown Land Management Regulation 2018, which was published on the New South Wales legislation website on 16 March 2018. It is important to look at the context in which this debate takes place. Clause 13 in Division 2 of the Crown Land Management Regulation 2018 reads:

13 Activities that can be prohibited on Crown land by direction or notice under Part 9 of Act

- (1) Each of the activities specified in the following Table is prescribed for the purposes of sections 9.4 (1) (b), 9.5 (1) (b) and 9.5 (2) of the Act:

Then there are a number of items. Number 4 states:

- 4 Taking part in any gathering, meeting or assembly (except, in the case of a cemetery, for the purpose of a religious or other ceremony of burial or commemoration)

That is the context in which this disallowance motion has been moved. Picking up on some of the items that the Parliamentary Secretary mentioned in the contribution that had been provided to him, Crown lands administration has undergone a long journey to get to this point. There was a paradigm shift in the administration of Crown lands in New South Wales when the new legislation came into play. It took a couple of years after the legislation for some of the regulations to be brought in. The regulations have been part of a couple of other disallowance motions, one of which Labor moved in this place as well; not the whole regulation. These are quite extensive regulations, applying to a broad range of matters in the administration of Crown land in New South Wales.

In his contribution to the debate, the Parliamentary Secretary raised the issue of public safety. A number of items are raised here but I am not sure how public safety comes into it or what is the nexus between that contribution and the disallowance motion regarding item 4. There should be some clarity around how item 4 will be applied and enforced if public safety is one of the things that needs to be taken into consideration by the officer authorised under this legislation. It is not clear and so it was interesting that the Parliamentary Secretary would put that on the record.

The administration of Crown land in New South Wales has a fundamental principle that I believe should be put in place: Crown land is not government land. It is not the Government's land. It is actually the land of the people of New South Wales, administered by the government of the day. It is important that we keep in context just what that is, because in lots of discussions I have had, that is not the view that people take. It is land owned by the people but administered on behalf of those people by the government of the day.

The Hon. Rick Colless: It is owned by the Crown on behalf of the people.

The Hon. MICK VEITCH: On behalf of the people. I think we need to do that. Over many generations, the administration of Crown land in New South Wales has been the subject of debate across both sides of politics. A number of decisions have caused angst in society about how both sides of politics have administered Crown land in this State. I am not here to take a holier-than-thou position on this, as both sides have skin in the game when it comes to making errors in the administration of Crown land in New South Wales. It is the Opposition's view that these regulations are a missed opportunity to modernise the regulations that were in place for Crown land in New South Wales. The new Act was a missed opportunity as well.

The Hon. Paul Green noted that this provision was in the previous regulations and that is correct. There was an opportunity to review the regulations to make sure that they meet the expectations of modern society. Just because a provision was in previous regulations does not mean that it is right. Part of the process of administration is that when the Government reviews regulations and tables new ones, it updates and modernises them. These

regulations are a missed opportunity. Upon reflection, item 4 could have been excluded; just because it was there before does not mean it should be there now.

People have the fundamental right to protest. In efficiently operating democracies around the world, the right to protest is a fundamental right. Whether it is my comrades in the union movement or organisations such as the Knitting Nannas, a broad range of organisations appreciate the capacity and the right to protest. We should not stymie that. I think it is wrong that we in any way stymie or hinder that right. I acknowledge that in a modern democratic society, the right to protest comes with responsibilities. We on this side of the House support responsible protest. Because of that, I give the Chamber this undertaking: that come April next year, if Labor is in government and I am the Minister, I will review the capacity of this provision and how it is applied in New South Wales. Labor supports The Greens' disallowance motion and will oppose the implementation of this regulation.

The Hon. MARK PEARSON (12:07): The Animal Justice Party supports the motion to disallow item 4 of clause 13 (1) of the Crown Land Management Regulation 2018. This particular clause strikes at a fundamental principle that has already been referred to, and that is the right to protest. It is particularly important that the right to protest peacefully and peaceably is maintained and that to break up a protest there has to be very good reason, which has to be substantiated by the authorities. This is Crown land. This is the land that belongs to the people of New South Wales, even though the protection of the land is administered by the Parliament that has been elected by the people of New South Wales. Crown land is a special place for people, where they can go and enjoy the land that belongs to them right across New South Wales.

The concerns raised by the Hon. Rick Colless are not concerns at all. There is already legislation in place and powers given to police and regulators to deal with any situation where a protest or activity on Crown land becomes unsafe for other people. There is already legislation and police powers to ensure that there is free passage, that nobody is harmed, that there is not violence or harm to other people who may not be participating in the protest. This particular clause has the menacing and troubling nuance of what Joh Bjelke-Petersen did in Queensland when that Government was becoming uncomfortable with the activities of people who were speaking up for what they believed in and they formed a gathering to give volume, power and strength to what they were trying to say. But rather than a democratic upholding of principle, the Bjelke-Petersen Government tried to crush it. When people see that sort of behaviour they become nervous—for example, they start to think about what is still happening to people in China and Russia. What would have happened in India if the crushing of the many protests led by Mahatma Gandhi were successful and those people were pushed into silence?

Crown land is a space for all of us to enjoy. We should be able to communicate to the government of the day that Crown land may be given to those who have owned, managed or lived on it many years ago. Crown land must be protected so that the people this State are free to visit it. They should also be able to express their views on how to protect Crown land so that activities continue to be freely undertaken on it. This draconian clause is menacing and of grave concern. It is also unnecessary because we already have legislation that deals with the powers of police to ensure the safety of people on Crown land while the freedom of democratic speech and discussion continues. The Animal Justice Party supports this disallowance motion.

Mr DAVID SHOEBRIDGE (12:11): In reply: I thank the Hon. Rick Colless, the Hon. Mick Veitch, the Hon. Paul Green and the Hon. Mark Pearson for their contributions to this debate. In this debate a number of elements in the Government's contribution were plainly false. The Government suggested that the power to break up any gathering was designed to be used in circumstances where, for example, there was a threat to public safety, there was an inappropriate gathering, land was being damaged or groups were inappropriately occupying land. Let us be clear: there is no limitation on the power. This is not related to public safety, environmental damage or obstruction. Any meeting or gathering—even a family picnic at Bondi Beach where one happens to gather together with three or more people—can be broken up by will, without reason, by an official from the government of the day. But the Government has suggested that we do not need to worry because the police will exercise this power nicely. The Hon. Paul Green also said that anyone who gathers with a nice middle-class family whilst enjoying a glass of chardonnay would not have to worry.

When these kinds of discretionary powers are abused the usual suspects will be the first ones targeted—our First Nations people, Aboriginal people, homeless people, the people the Government does not like—and before long they will be shutting down those who protest and democracy. Today we are drawing the line because that is the way these things happen. I agree that there were elements of this in a previous set of regulations but this is the first time express statutory power has ever been given. Section 9.4 of the Crown Land Management Act states, "An authorised officer may direct a person, within a specified period, to stop ... carrying on an activity on Crown land of a kind prescribed by the regulations." So no reason has to be given, no rationale and no public safety—they are just directing people to stop. What does the law then say? If people do not stop they face being

fined up to \$11,000 and they will be fined \$1,100 a day if they continue. That is shameful. It is plainly false for the Government to suggest that this is all about public safety and that there is nothing to be seen here.

It is hard to know how to respond to the contribution of the Christian Democratic Party to this debate. At the time, the party ran a passionate argument about the right to protest within tiny, little pockets of this State—within 150 metres of places where women were going for sexual services and medical terminations. At that point if people were protesting against women and trying to shut down abortion clinics then the right to protest was an absolute tangible thing that had to be protected at all costs. But when it comes to the right to protest against 40 per cent of the State and we take out the ideology about women's rights, the right to protest is expressly rejected by the Christian Democratic Party. What kind of political thinking feeds that kind of result? Pretty awful political thinking. It should be called out for what it is.

Today this Parliament can do some good: Reinstate the right to protest. We can live up to the right that we should have as a democratic Chamber to respect democracy not only in this place but also across the rest of the State—on our streets, parks, beaches and reserves. I again thank the Hon. Mick Veitch for his contribution to this debate. I am hoping that next April when this rotten mob is thrown out of office that rather than reviewing the regulation it will be repealed. I note the shadow Minister is nodding at me and that I am also getting an acknowledgement from the Leader of the Opposition in this House. This regulation has to go. If we do not get rid of it today, clearly this Government has got to go.

The ASSISTANT PRESIDENT (Reverend the Hon. Fred Nile): The question is that the motion be agreed to.

The House divided.

Ayes 16
Noes 20
Majority..... 4

AYES

Buckingham, Mr J
Graham, Mr J
Moselmane, Mr S (teller)
Searle, Mr A
Shoebridge, Mr D
Wong, Mr E

Donnelly, Mr G (teller)
Houssos, Mrs C
Pearson, Mr M
Secord, Mr W
Veitch, Mr M

Field, Mr J
Mookhey, Mr D
Primrose, Mr P
Sharpe, Ms P
Walker, Ms D

NOES

Amato, Mr L
Cusack, Ms C
Franklin, Mr B
Khan, Mr T
Mallard, Mr S
Mitchell, Mrs
Taylor, Mrs

Clarke, Mr D
Fang, Mr W (teller)
Green, Mr P
MacDonald, Mr S
Martin, Mr T
Nile, Revd Mr
Ward, Ms P

Colless, Mr R
Farlow, Mr S
Harwin, Mr D
Maclaren-Jones, Mrs (teller)
Mason-Cox, Mr M
Phelps, Dr P

PAIRS

Voltz, Ms L

Blair, Mr

Motion negatived.

[*Interruption*]

The PRESIDENT: Order! I have given numerous warnings to people in the public gallery. The attendants will arrange for the public gallery to be cleared. I will leave the Chair until the ringing of the long bell.

[*The President left the chair at 12:25. The House resumed at 12:28.*]

*Members***DISORDERLY CONDUCT BY MEMBERS**

The Hon. Dr Peter Phelps: Point of order: Mr President, I ask you to review Standing Order 190, Disorderly Conduct by Members. I ask you to give your opinion in relation to the behaviour of Mr David Shoebridge. I ask whether his incitement of the public gallery during his speech and whether his encouragement to people to attend the Chamber today—when he had reason to believe, or at least could possibly have believed, that that sort of behaviour would have occurred—represents disorderly behaviour on his part.

The PRESIDENT: I thank the Hon. Dr Peter Phelps. I note that Mr David Shoebridge is not in the Chamber. I will reserve my decision in relation to this matter. I will look at the transcript of proceedings and come back to the House tomorrow in relation to the matter.

*Bills***ROAD TRANSPORT LEGISLATION AMENDMENT (PENALTIES AND OTHER SANCTIONS)
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.

RESIDENTIAL TENANCIES AMENDMENT (SOCIAL HOUSING) BILL 2018**Second Reading Speech**

Mr SCOT MacDONALD (12:31): 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 bring before the Legislative Council, the Residential Tenancies Amendment (Social Housing) Bill 2018 that seeks to create a fairer, safer and more sustainable social housing system in New South Wales, by ensuring that those who commit fraud or damage their public housing property are held accountable for their actions.

This bill also represents the next stage in implementing key aspects of the *Future Directions for Social Housing in NSW* strategy, which aims to deliver an improved experience for social housing tenants, along with more supply and opportunities for tenants to engage with supports that will break the cycle of disadvantage once and for all.

I note that the Minister for Family and Community Services, and Minister for Social Housing covered much of the important content of the bill in both her second reading speech and speech in reply. My speech today reiterates the important detail and key points of this bill.

First, from the outset, let me stress that the provisions of this bill only apply to tenants that do the wrong thing by the benefit and privilege that has been provided to them.

The majority of social housing tenants are good, law-abiding citizens that take care of their property and are grateful for what they have been provided.

They understand the benefits that they have received and acknowledge by their actions that public housing should be used as an opportunity to rebuild their lives and once this is achieved, the same opportunity should be offered to someone else.

The vast majority of social housing tenants have nothing to fear from this legislation. Instead, I know that many would support the actions that the Government is taking as our tenants are sick and tired of being given a bad name by those that take advantage of the system.

The facts are simple.

Where a person commits fraud to the public housing system, they have prevented someone that is more vulnerable from receiving that housing support.

Where someone deliberately damages their property they force money that otherwise could be spent elsewhere in the social housing system on repairs and maintenance costs.

These changes proposed in the bill will ensure that tenants who do not respect and honour their responsibilities or seek to take advantage of the system are held accountable.

The bill does this by allowing the creation of a risk-based rental bonds scheme; imposing mandatory termination of social housing tenancies by the NSW Civil and Administrative Tribunal, where a tenant has been convicted of fraud under the Housing Act 2001 by a Local or District Court, unless exceptional circumstances apply; allowing the Secretary of FACS to investigate and prosecute private rental subsidy fraud; and providing power to authorised Community Housing Providers to terminate the tenancy of a registerable person on the recommendation of the Commissioner of the NSW Police and with approval of the Secretary of FACS.

To firstly discuss rental bonds, the bill inserts new provisions into the Residential Tenancies Act to allow the Land and Housing Corporation and the Aboriginal Housing Office to require tenants to pay a rental bond at any time before the end of a residential tenancy agreement, whether that agreement is a fixed-term tenancy or a continuing tenancy, if they belong to a class of tenant specified in Ministerial Guidelines. I understand that as referenced by the Minister in the other place, a tenant will be required to pay a bond if they have caused significant damage to their property from the date that these amendments commence and the publishing of the Ministerial Guidelines or when the tenant has not reported damage for which they are or were responsible for before that date.

I am advised that the risk-based rental bond scheme has been designed based on stakeholder feedback that the proposed bonds approach under Future Directions, in which all new tenants would have to pay a bond, would have unfairly impacted tenants unlikely to cause damage, including the elderly.

Instead, only those that cause significant damage as defined under Ministerial Guidelines will have to pay a bond. I am advised that the use of Ministerial Guidelines is consistent with other sections of the Residential Tenancies Act, in which Ministerial guidelines and procedures are used, including the determination of "criteria" for eligibility, "procedures" for the review of eligibility and "procedures" for alternative premises, which I am further advised were first introduced by the now Opposition when they were previously in Government.

The Government understands that social housing tenants have various complexities and vulnerabilities that may mean that they should not be held accountable, which is why safeguards will be put in place to consider whether there are any extenuating circumstances.

This includes, for example, that no rental bond will be required of a victim of domestic and family violence where the damage is caused by a perpetrator of domestic violence.

It also includes a discretion to consider individual circumstances including whether ill health or an inability to maintain the premises has contributed to the damage, under the existing policy on tenant damage, which is available online. Where that discretion is exercised, a tenant damage charge is not imposed, and accordingly a rental bond will not be required.

To minimise the impact on household budgets, the bond will be able to be paid in instalments of between 24 months or 36 months and payments will be able to be deferred in extenuating circumstances, including where the risk of financial hardship is high. The bond will be set at four weeks market rent but will also have a maximum cap which will be \$1,400 indexed annually at Centrelink CPI. The bond scheme has been designed to ensure that those currently paying 25 per cent of their income in rent will pay no more than 30 per cent of their income on rent and bond.

In order to ensure that the bond is paid by tenants, the bill also inserts a new section 1560 of the Residential Tenancies Act, to allow the Land and Housing Corporation or Aboriginal Housing Office to give a termination notice and make an application to the tribunal to terminate a residential tenancy agreement and for the tribunal to order the termination of that agreement. The failure to pay a bond as required will be treated in a similar way to the non-payment of rent, with the same safeguards including the entry of a repayment plan with the provider, before the social housing landlord can take action to terminate a tenancy agreement for failure to pay a rental bond. Existing provisions relating to the deposit of bonds, claiming the bond at the end of the tenancy, and the resolution of bond disputes by the tribunal, will apply.

The introduction of a risk-based bonds scheme asks no more of tenants than those who are renting in the private market, with modifications made to the procedures for social housing tenants to take into account the particular vulnerabilities of our clients.

The scheme will assist the Government in reducing the cost of tenant damage on the Department of Family and Community Services so that this money can instead be spent elsewhere in the social housing system and to reduce delays in housing for vulnerable social housing applicants, as the damage must be fixed before a property can be re-let.

These reforms will only impact a small minority of tenants who do the wrong thing and will reinforce tenant responsibility and behavioural change to minimise future damage.

The bill also creates fairness and equity in the social housing system, by mandating the termination of a social housing tenancy by the tribunal where the tenant is convicted of rental rebate fraud under the Housing Act 2001, irrespective of the nature of their tenancy agreement—whether it be a fixed term or periodic. When someone cheats the system, they have prevented someone more vulnerable from receiving housing support and assistance. The community quite rightly expects that where someone has been convicted by a court of fraud, they should lose their right to public housing and lose it quickly.

However, currently, whilst the Land and Housing Corporation is able to initiate criminal prosecutions for rental rebate fraud, it does not have the power to seek an immediate termination of the tenancy if a tenant is convicted of fraud. Instead, the corporation must first backdate the rent rebate to its correct level and then take civil action in the tribunal to seek a termination of the tenancy agreement on the grounds of failure to pay rent on time.

This process is cumbersome and time-consuming, taking in some cases, over a year to terminate a tenancy. Additionally, the tribunal has the discretion not to make a termination order for rental arrears and the tenant may also pay back the rental arrears, which allows them to continue residing in public housing despite a criminal conviction.

It is simply unacceptable that the current system advantages those who are found guilty of breaking the law at the expense of those waiting for social housing.

In response, the bill proposes a new section 154FA to be inserted into the Residential Tenancies Act that will require the tribunal to terminate a residential tenancy agreement when the tenant has been convicted of a rental rebate fraud offence under sections 69 and 69A of the Housing Act, unless the tribunal is satisfied that exceptional circumstances exist that justify not making the order.

The definition of what constitutes an exceptional circumstance remains undefined to allow the tribunal discretion to make its own determination on what an exceptional circumstance would constitute, noting, however, that a court has already convicted the tenant of a criminal offence.

Continuing the theme of fairness and equity, the bill also gives the Secretary of the Department of Family and Community Services the power to investigate and pursue prosecution for private rental subsidy fraud.

A private rental subsidy is calculated on the basis of the income and assets of a household. If a tenant fails to properly disclose household income or assets they may be obtaining a benefit to which they are not entitled. This prevents the Government from providing assistance to other people in need, particularly priority-approved applicants on the New South Wales social housing register who are in urgent need of housing support.

Currently, the Secretary of the Department of Family and Community Services does not have the power to investigate or pursue prosecution for private rental subsidy fraud under the Housing Act. This is because the offences under the Housing Act apply only to fraud against the New South Wales Land and Housing Corporation, which is the landlord for public housing tenants.

And whilst these offences can be reported to the NSW Police for investigation, they are often not a priority.

In response, the bill extends the offences, detailed in sections 69 and 69A of the Housing Act 2001, so that they apply to fraud arising in relation to private rental subsidies or other benefits paid by the Secretary of the Department of Family and Community Services to private tenants or their landlords.

The amendments will put the Secretary of Family and Community Services on the same footing as the Land and Housing Corporation

Consequential amendments to section 69B, section 69C, section 73 and section 74 (2A) will enable the Secretary of the Department of Family and Community Services to have the same powers to access and obtain information, documents or evidence to prevent, investigate and prosecute fraud as the corporation, and will enable the Secretary of the Department of Family and Community Services to recover any rental rebate or benefit that was obtained by fraud.

These measures send a strong message to those receiving a private rental subsidy that if they commit fraud, not only will they have to pay the money back but also they will be prosecuted to the full extent of the law.

The final element of the bill relates to terminating a tenancy agreement of a tenant who is a registrable person.

Over the coming 12 months, more than 14,000 properties will be transferred to community housing management under this Government's Social Housing Management Transfer outlined in Future Directions, that will not only improve services for tenants, but also bring \$1 billion of Commonwealth Rental Assistance over the next 20 years into the social housing system.

In order to ensure that those community housing providers are able to effectively manage public housing properties, it is essential that they are able to quickly respond to any safety issues that arise for tenants and the community, where risk of physical harm or injury exists.

The bill therefore amends section 58B of the Housing Act to give approved community housing providers, as defined in section 58A, the same powers as are available to the Secretary of the Department of Family and Community Services to terminate the tenancy of a registrable person who is renting public housing, provided a recommendation from the Commissioner of Police, is given.

An additional safeguard will be to obtain the approval of the Secretary of FACS before the tenancy is terminated.

Where the power is used, a registrable person will not be rendered homeless and it is a requirement of the legislation that alternative accommodation must be found for the person.

The bill will ensure that the social housing system is improved to make it fair and equitable for all.

It reinforces the importance of personal responsibility and respect for public property and the benefits that tenants have received.

It targets only those that do not value the opportunity afforded them and those that disregard the rights of others who are in greater need.

The amendments contained in the bill will not affect the large majority of law-abiding and responsible tenants and applicants.

Instead, they will benefit, by ensuring that those that do the wrong thing by committing fraud are removed from the social housing system and providing an incentive for tenants not to damage their public housing property, and ensure that money can be spent elsewhere in the system.

The bill is a fair and measured approach to tackling several complicated issues in public housing. I commend the bill to the House.

I seek leave to have a document entitled "FACS Housing - Ministerial Guidelines Rental Bonds - 2018" incorporated in *Hansard*.

Leave granted.

FACS HOUSING – MINISTERIAL GUIDELINES RENTAL BONDS - 2018

These guidelines are issued by the Minister for Social Housing under section 156D of the *Residential Tenancies Act 2010* [RTA] and are published on the FACS website. These guidelines are also subject to the Legislative Council of the NSW Parliament, approving the legislation under which the guidelines can be issued.

Purpose

This document specifies the classes of tenants in public housing and Aboriginal Housing Office [AHO] tenancies (together described in this document as FACS tenants) who may be required to pay a rental bond at the commencement of a new residential tenancy agreement or during a residential tenancy agreement, and to provide for the amount of rental bond payable and other associated matters.

Under the *Residential Tenancies Act 2010* (the Act), FACS, may ask a tenant to pay a rental bond as a condition of their residential tenancy agreement at the commencement of the agreement.

Under section 156D of the Act, FACS may also require public housing and Aboriginal Housing tenants living in public or AHO housing (referred to in this documents as FACS-managed properties) to pay a rental bond during the term of their residential tenancy agreement if they belong to a class of tenants prescribed by guidelines approved by the Minister.

Legislative framework

The provisions of the *Residential Tenancies Act 2010* and the *Housing Act 2001* apply to the management of FACS Housing tenancies.

In summary:

- FACS, on behalf of the Land and Housing Corporation [LAHC] and the Aboriginal Housing Office, can require FACS tenants to pay a rental bond of up to four weeks market rent as a condition of their tenancy at the commencement of the tenancy agreement.
- FACS may require current tenants to pay a rental bond during the term of a tenancy agreement in certain circumstances, without the need to terminate or re-sign a tenancy agreement.
- If payment of a rental bond is a term of the tenancy agreement, the non-payment of all or part of the rental bond is a breach of the tenancy agreement.
- FACS may issue a termination notice to a tenant if the tenant fails to pay all or part of a rental bond.

Where there is a breach of the tenancy agreement, NSW Civil and Administrative Tribunal [NCAT] orders can be sought, including performance orders. Reasonable efforts will be made by FACS to support tenants to understand their obligations.

Classes of tenants who will be required to pay a rental bond

The following FACS tenants will be required to pay a rental bond:

(a) current FACS tenants on fixed term or continuous leases at any time after a tenancy agreement has commenced

Current tenants who have not paid a rental bond at the commencement of their tenancy and who cause damage to a FACS-managed property may be required to pay a rental bond at any time during the tenancy. This will apply where the tenant causes significant damage to their property on or from the date of publication of these Guidelines or where the tenant has not reported damage for which they are or were responsible for before the date of publication of these Guidelines.

Tenant damage is intentional damage or neglect, or failure to keep the premises in a reasonably clean condition, after allowing for fair wear and tear.

A rental bond will be required where the costs to repair the tenant damage are assessed at \$500 or more in a single instance, where:

- the tenant accepts responsibility for the cost of damage, in writing, or
- NCAT has ruled that the tenant has caused damage of \$500 or more in a single incident.

A single instance of damage means damage that is discovered and assessed at a single point of time. This may include multiple tenant damaged items that have occurred across a period of time, which are identified

(b) Former tenants returning to FACS-managed housing

Tenants who have previously caused damage to a FACS-managed property, where the repair costs are assessed at \$500 or more in a single instance, will be required to pay a rental bond as a condition of signing a new tenancy agreement.

The damage must have occurred in the six years prior to their new lease being signed.

A rental bond will be required regardless of whether the previous debt was paid or a current payment arrangement is in place to repay the debt.

Classes of FACS tenants who will not be required to pay a rental bond

The following tenants will not be required to pay a bond:

- Tenants where damage was the result of domestic violence. Victims of domestic violence will not be charged for damage caused by perpetrators of violence.

- Tenants over 80 years of age.
- Tenants who are in receipt of a Veteran's Affairs benefit.
- Tenants that are not required to pay a tenancy damage charge in accordance with FACS' Tenant Repair Costs Policy, including where FACS agrees that ill health or inability to maintain the premises has contributed to the damage.
- Clients approved for Emergency Temporary Accommodation. These clients are not eligible for social housing but are approved for emergency temporary accommodation in public housing for a period of up to three months due to being in crisis (as set out in FACS' *Emergency Temporary Accommodation* policy).
- Tenants relocated by FACS on portfolio or tenancy management grounds with a tenant damage debt which is older than six years; or the tenant damage debt was incurred prior to the commencement of these Guidelines. FACS initiated relocations may occur for reasons that include:
 - Land and Housing Corporation [LAHC] or the AHO intends to sell or demolish a property.
 - The property has features, i.e. modifications for people with a disability that are no longer needed by the people living in the property.
 - LAHC or the AHO intends to carry out substantial upgrading work on the property and the property needs to be vacant for the work to be done.
- Tenants who are relocated to downsize to a smaller property, either at the initiative of FACS or the tenant.
- Tenants in the Social Housing Management Transfer Program in whole of location transfer areas.
- Other tenants whom FACS assesses should be exempt from paying a rental bond because of extenuating circumstances.

Rental bond amount payable

The rental bond payable will be four weeks market rent, capped at a maximum payment of \$1400 (indexed annually at the same rate used by Centrelink).

Payment instalment options and plans

Tenants will have two options for payment:

- Paying by a scheduled instalment plan of between 24 and 36 months as set out in FACS Rental Bonds Policy.
- Paying upfront (at a 20% discount)

Payment deferral

FACS may defer payment of a rental bond, or a rental bond instalment, if it is satisfied that the tenant has experienced an increase in costs (and therefore a reduction in housing affordability) due to extenuating circumstances.

Claims

FACS can claim the rental bond from the Rental Bond Board in the same way as any other agent in the private sector, after a tenancy ends, if the tenant causes damage or has other outstanding charges. A bond can be claimed by a client directly with NSWFT or by FACS. Should the tenant have no debt owing to FACS at the end of the tenancy, the tenant will receive the bond back. This also includes any instalments that they may have made before the end of their tenancy.

Appealing Decisions

A tenant can appeal a FACS decision relating to a request for a deferral on their rental bond instalments.

Appeals about decisions relating to rental bonds will be managed in accordance with the FACS Client Service Delivery and Appeals Policy.

Legislation and compliance

FACS manages tenancies in accordance with the provisions of the *Residential Tenancies Act 2010* and the *Housing Act 2001*.

The Rental Bond Board (RBB) administers rental bonds. A Memorandum of Understanding [MOU] between FACS and the RBB, through the Department of Finance, Services and Innovation [DFSI] sets out the management of rental bonds for FACS tenants, and defines roles and responsibilities, to ensure compliance with the Act.

Rental bonds will be deposited with the RBB within the required period and in the required manner, and will be held by the RBB which will be responsible for paying and refunding claims as it does for the private rental sector.

Second Reading Debate

The Hon. ADAM SEARLE (12:32): I lead for the Opposition in debate on the Residential Tenancies Amendment (Social Housing) Bill 2018. The Opposition does not oppose the legislation. However, it has three amendments, which have been lodged with the Clerk for consideration in Committee, that address concerns we have with the bill in its current form. The bill proposes various amendments to the Residential Tenancies Act 2018 and the Housing Act 2001 to allow for a rental bond scheme to be applied retrospectively to existing tenancy agreements under certain conditions and to provide for the termination of existing tenancy agreements in instances of fraud. The bill could exacerbate the incidence of homelessness if it is not implemented properly. Concerns

regarding the legislation have been raised and the Opposition believes that some of them warrant further attention by the Minister and are embodied in the amendments.

There is no question that homelessness is on the rise in this State, as it is in many other jurisdictions. We could never be proud of the 37 per cent increase in homelessness that was revealed in the last census data. The impact that this bill could have on some vulnerable tenants has not been made clear. There will need to be considerable oversight and, indeed, a timely review of the legislation similar to the agreed review regarding the antisocial behaviour legislation in 2015. In seeking to do some good, it is critical that we do not create a situation that exacerbates homelessness or impacts unnecessarily on vulnerable tenants who may be third-party victims of the kinds of behaviours the legislation is seeking to address. That is the substance of Labor's first amendment.

The introduction of this bill comes three years after the introduction of the Residential Tenancies and Housing Legislation Amendment (Public Housing—Antisocial Behaviour) Bill 2015. The three-year statutory review of the 2015 amendments is due to be handed down shortly by the Auditor-General. I understand that the Government is expected to respond to those findings by November of this year. This bill forms part of a broader policy change within the Department of Family and Community Services [FACS] which will see the introduction of bonds for tenants who have intentionally or negligently caused damage of \$500 or more in a Family and Community Services property.

The Opposition does not condone the types of behaviours that the legislation seeks to address nor does it condone tenants wilfully damaging their property in any manner. However, the broader policy does not require legislative change. There is nothing to stop FACS from charging new tenants a bond; all that is required is a policy change. It is understood that FACS intends to introduce that policy change during the course of the year in particular circumstances. The aim of this legislation is to allow FACS to charge a bond to existing tenants who have instigated at least \$500 worth of damage.

As we understand it, those rental bond scheme guidelines are yet to be made public but I note the Parliamentary Secretary incorporated "FACS Housing - Ministerial Guidelines Rental Bonds – 2018" in *Hansard*. I thank the Government for providing those guidelines to the Opposition late this morning. It is good to have it disseminated but one of the flaws in the bill, which we seek to address in an amendment, deals with these guidelines. The guidelines are provided on page 46 of the bill, in proposed section 156D (7), and state:

Rental bond guidelines mean any guidelines approved by the Minister for the purpose of the section.

The problem with that is it means that the Minister has an absolute fiat to provide guidelines or change them and no doubt a prudent Minister and a prudent government would disseminate them publicly. However, they do not have to do so and there is no scrutiny of the guidelines by the Parliament. At the appropriate time we will propose in amendment No. 3 that the guidelines be implemented by way of regulations made under the legislation so that this House, or indeed the other House, may scrutinise appropriately it, either through the Regulation Review Committee or through the deliberations of this House. We think that is a safer and more appropriate institutional course of action.

It is appropriate to have these guidelines available before the legislation is finalised but it comes very much at the heel of the hunt. Although I have seen the guidelines, the Opposition has not had the chance to consult with external stakeholders and we do not know whether they have received them. We have not had the opportunity to determine whether the guidelines are fit for purpose and that is one of the reasons we think it should not simply be an administrative action by the relevant Minister but it should be through a regulatory process.

Concerns have been raised within the sector that seeking a bond could potentially place pressure on specialist homelessness service providers as vulnerable tenants may not be able to financially cope with the imposition of a bond. There are concerns that brokerage would potentially be utilised for the purposes of those tenants providing a bond. We would like the Government to clarify and rule out that specialist homelessness services would be required to use brokerage in such a way and in instances where a tenant is unable to provide a bond following a course of action that FACS might undertake, including a termination notice should the bond not be paid within 14 days of the notice being issued.

As I understand it, the bill provides that a termination notice must state that there is an opportunity for a repayment plan and that repayment plan could be up to 24 months or, in some instances, 36 months. The bill should not make life difficult for specialist homelessness service providers in the instance that tenants seek their assistance at the same time knowing that the maximum market rent will be charged. We understand that will be capped at \$1,400, but the reality of property prices in Sydney is that in most locations that maximum will become the payment and everyone will pay that amount. It is important in that instance that there be a proper repayment plan. Schedule 1 to the bill refers to amending the Residential Tenancies Act 2010 with respect to incorporating provisions relating to the rental bonds scheme. Specifically, it states:

Proposed section 156D enables the Corporation and the Aboriginal Housing Organisation to require a tenant to pay a rental bond at any time after the agreement has commenced.

Adding new section 156D is a retrospective change that will allow the NSW Land and Housing Corporation, which is the landowning entity of the State Government for social housing, and the Aboriginal Housing Office to require existing tenants who have intentionally or negligently caused more than \$500 worth of property damage to pay a rental bond at any time prior to the end of their tenancy agreement. In addition, new section 156C enables landlords to give a termination notice for non-payment of a bond once payment is more than 14 days overdue. We understand that the termination notice given for non-payment of the rental bond scheme if the payment is 14 days overdue makes clear that, on paying the bond or on agreeing to a repayment plan, tenants will not be required to vacate the premises. That is an important qualification.

A collective of stakeholders, including the Tenants' Union of NSW, Homelessness NSW, Shelter NSW, People with Disability Australia, the NSW Council of Social Service and the Combined Pensioners and Superannuants Association of NSW, have issued a statement highlighting a range of concerns regarding the rental bonds scheme. Homelessness NSW Chief Executive Officer Katherine McKernan stated:

This is not only creating further barriers for people in accessing housing but it will also mean that homelessness services will potentially have to use brokerage funding to cover it. The government may end up paying for these costs itself.

Leo Patterson-Ross, Senior Policy Officer of the Tenants' Union of NSW, stated:

The time and money the department will spend on administering the system would be better spent on providing new housing, completing the maintenance backlog or providing more assistance to homeless people.

Dean Price, Senior Policy Officer at People with Disability Australia, identified:

People with disability already face huge barriers in finding an affordable and accessible place to live in. Public housing is one place where many people with disability find a home, and introducing bonds will make this much more difficult to access.

Karen Walsh, Executive Officer of Shelter NSW, stated:

The policy will have a serious impact on those people already doing it tough. There is not adequate protection for people with dementia and other mental health issues, the behaviour of people from outside the household, or decades old damage caused by former occupants which is only recently discovered.

That issue of ensuring that when we are holding tenants to account in the way proposed in this legislation an appropriate benchmark is set, is the subject of Labor's second amendment—that is, a condition report needs to be done at a point in time so that when we hold a particular tenant to account there is a baseline against which to measure their custodianship of the property. If we are going to sling people out of their homes for doing damage, whether recklessly or intentionally, we must ensure that they are responsible for the damage. It is not just fair and just; it is an obligation of government and of us as legislators and policymakers to ensure that that proper step is taken.

The collective statement I just referred to was issued on 21 June, a couple of days after the budget was handed down and on the same day that the Minister in the other place delivered her second reading speech on this legislation. So the Minister did not have the statement to hand. It would be useful if the Government, during this debate or at a subsequent point in time, would respond to the concerns raised in that collective statement. We are mindful that the stakeholders who made that statement have an enormous number of members and that they have access to a large number of persons who are vulnerable, who have concerns about the scheme proposed in the legislation and who might be confused about what it means for them and how it will work.

We believe the absence of guidelines until today will also concern people when we are making a decision on retrospective laws, as we are being asked to do in this case. It would have been preferable if the guidelines had been available earlier, but I ask the Government to promulgate them to affected parties and stakeholder groups as quickly as possible, to consult with them about the contents of the guidelines and to make any necessary adjustments in line with feedback from those stakeholder groups. As I said, if we are going to do this, let us do it properly. We must address any unintended consequences to ensure that, in seeking to do some good, we do not incidentally make life harder for those who are already doing it tough. Earlier in the year the department had discussions with various stakeholders. I note one of the comments that the Minister made in her second reading speech. She said:

... safeguards will be put in place to ensure the needs of vulnerable clients are taken into account as well as any extenuating circumstances faced by social housing tenants. For example, no rental bond will be required of a victim of domestic and family violence where the damage is caused by a perpetrator of domestic violence.

We appreciate and endorse the Minister's comments. We understand that stakeholders could provide a variety of examples, whether they involve domestic violence or people with disabilities or elderly tenants suffering from dementia or Alzheimer's disease. All members in this House—and particularly members in the lower House, who

have direct responsibility for constituents—could give many examples of damage that has been done by tenants but it has not been wilful or even negligent; it has simply been because of the circumstances faced by the tenant.

I imagine the Government will respond that there will be some discretion in the legislation, but I draw the attention of members to page 3 of the bill and new section 154FA relating to termination by the tribunal in certain cases of tenant fraud. New subsection (5) alleviates the tribunal from having to make a termination order if the tenant satisfies the tribunal that there are exceptional circumstances that justify the order not being made. The term "exceptional circumstances" has been judicially interpreted and limited to not entirely unique circumstances but a very narrow range of circumstances. It is the Opposition's view that that safety valve in the legislation is simply not sufficiently robust or broad enough to deal with a variety of unintended circumstances. That is the substance of Opposition amendment No. 1, particularly in subsection 5 (a); subsection 5 (b) in our amendment replicates what is already in the legislation. I ask honourable members to give earnest consideration to that amendment.

In 2015, amendments were passed to the Residential Tenancies and Housing Legislation Amendment (Public Housing—Antisocial Behaviour) Act. Section 154D allowed for hardship considerations. I suggest that similar amendments need to be made with respect to this legislation because we want to ensure that in improving the situation in social housing we do not further escalate rates of homelessness in this State. Some of the responses from the Homelessness NSW survey are quite instructive. The shadow Minister in the other place quoted them quite extensively. I will quote a couple of paragraphs that I believe are particularly pertinent. One reads:

There are so many set-up costs when you get into housing. You go from nothing and need to get furniture, food, fridges. All of these are a massive expense and to put a bond on top of this is going to be too much. Are the government forgetting people are struggling?

Another response reads: If people are unable to re-access social housing, then there are often no options left for them. Generally, they are not a preferred candidate in an overcrowded private rental market and often they end in unsafe situations whilst waiting to re-access housing. Homelessness NSW also raised concerns regarding retrospective penalties for damage that was present prior to the bill being introduced, as well as it creating a disincentive for reporting any property damage that may occur. It expressed concerns about fairness and due process in respect of retrospectively applying a bond for damage made before the policy was introduced. Homelessness NSW stated:

Applying the bond for existing tenants will also create disincentives for current tenants in terms of reporting property damage. This may lead to properties being left in poor condition for lengthy periods of time.

This concern requires the amendment I have outlined to ensure that a condition report is completed for the property in question and that any existing damage is noted and rectified. If landlords are to fulfil their roles and seek rental bonds it is important they understand that they have a duty to ensure the property is up to scratch before instigating a rental bond scheme. The system must not in any way, shape or form prevent tenants from making requests for maintenance or repairs for fear that they might be held responsible for the damage, especially in instances of normal wear and tear. A provision should be inserted in this legislation or the guidelines—or perhaps both—to ensure that tenants, particularly elderly tenants, who wish to have simple repairs come forward without fear and announce that they require repairs to their property. This is because the legislation is retrospective.

Let us assume that a tenant is living in a property with pre-existing damage—it was not their fault. When this legislation comes into force and effect the risk is that they will be held accountable for that damage or have to explain it. For those reasons they are fearful that they may have to foot the bill or pay a bond and so may not come forward. That damage may be discovered at a future point in time and they are held to account. At that point they attempt to explain that it pre-existed their tenancy or that a third party or domestic violence perpetrator was responsible. It is an unknown what the decision-maker will do. Labor believes that condition report is an important social justice measure, so it is the subject of amendment No. 2.

The damages figure this legislation is dealing with is reported to be \$16 million. I ask the Government to clarify that. There is an extensive social housing waiting list—at times cited as numbering 55,000 and at times 60,000. However, we know that more than 100,000 people have applied for and are waiting for social housing, and potentially many more people yet to be placed on the waiting list need housing. The minimum average wait time for a two-bedroom or three-bedroom property in metropolitan Sydney, on the Central Coast, in Newcastle, in the Illawarra and on the North Coast is 10 years. Considerable concern has been expressed about some of the property sell-offs that have taken place over the years and the high number of vacant properties in New South Wales. In 2011 there were 99 vacant properties and there are now 1,500 vacant properties, if not more. I will be glad to hear from the Government whether the number of vacant properties has changed, but the last time the Opposition checked it was around 1,500.

The Government should amend the bill to ensure that all provisions under schedule 1 relating to rental bonds in corporation or Aboriginal Housing Office [AHO] tenancy agreements apply to premises that have had a property condition inspection subsequent to the commencement of the bill. Consideration must be given to amendments that allow for a formal means of discretion in collecting bonds with specific regard to undue hardship such as domestic violence, disability, mental health and elderly tenants. I propose to move these important amendments, but I would welcome the Government either adopting Labor's amendments or moving its own in this respect.

A review of the bill in the near future will create confidence that any issues surrounding homelessness or unintended consequences of the legislation that exacerbate homelessness or make it difficult for tenants to have repairs undertaken for fear of reprisal or having a bond placed on them will be avoided. The agency must have confidence that it will not suffer further administrative costs. Labor understands that the budget was handed down a few days before the Minister introduced the bill and is unsure whether the burden of administrative costs in relation to the repayment plans, overseeing the bond scheme, undertaking property condition reports and ensuring everything runs smoothly will be placed on the department. I imagine that there will be administrative costs. The Opposition is keen to hear from the Government what the foreshadowed costs will be over the next 12 months and whether those costs have been included in the budget.

Labor notes that funding in the 2018-19 budget for maintenance was significantly reduced by \$34 million from the 2017-18 budget. We also note that specialist homelessness services are underfunded and under immense pressure. In 2016-17 they provided assistance to more than 74,000 clients, despite being contracted to deliver services to only 58,000 clients that year. Schedule 1 to the bill inserts a new section 154F that requires the NSW Civil and Administrative Tribunal to terminate a residential tenancy agreement when the tenant has been found guilty of a fraud offence under section 69 of the Housing Act 2001. Currently, there is no direct method of eviction for this conviction. Instead, tenants are generally convicted for failure to pay the debt created by the actions to which the alleged fraud relates. There have been examples where the FACS has also used the section 85 no grounds notice.

I appreciate the requirement for this legislative change. Examples in the media of late have been alarming. The bill as written allows for these evictions to apply in very minor instances, where the failure to disclose was unintentional, or where a third party has caused the alleged fraud. It has been explained that FACS will proceed to conviction only in more serious or wilful cases of fraud. Many stakeholders received that briefing from the department and were advised that only in instances of serious or wilful cases of fraud would FACS proceed to evict tenants with those particular convictions. But that is not how the bill is written, and it is imperative that an amendment be moved to ensure that FACS instigates those terminations only in relation to cases of fraud.

Mandating termination, except in cases of exceptional circumstances, removes the ability of the tribunal to consider all relevant circumstances before terminating a tenancy and may in some circumstances result in unjust outcomes—for example, in cases where domestic violence or elder abuse can be demonstrated to have been a factor in the circumstances in which the fraud occurred. We know that takes place. There are many examples of elder abuse that could potentially result in a tenant being convicted of fraud. In those instances, the tribunal must have the ability to apply discretion. I am concerned that, as the bill reads, the tribunal will not be permitted to exercise discretion. It is imperative the bill is amended to allow that, and Labor proposes such an amendment as one of our three.

An alternative and more appropriate mechanism would be for termination on the basis of conviction for fraud to be added to section 154D of the Residential Tenancies Act. This would still allow appropriate discretionary powers in instances where undue hardship or particular circumstances should be considered—namely, those provided for in the current section 154D (b). Schedule 2 proposes a raft of changes to the Housing Act 2001 and extends a provision that enables the Secretary of FACS to terminate the lease of a public housing tenant who is a registrable person within the meaning of the Child Protection Offenders Registration Act 2000.

Other amendments about which the Opposition has no concern include to new section 58B, where residential tenancy agreements may be terminated by a community housing provider, as defined by new section 58A, on the recommendation of the Commissioner of Police—again, in instances of registrable persons—where police believe the tenant poses a risk or is at risk themselves, and with the approval of the Secretary of FACS, in the same way that the Secretary of FACS is able to terminate a residential tenancy agreement of a public housing tenant who is a registrable person. Obviously the community housing providers agree with this particular change, as does the Opposition.

Alternative housing will still be made available. This is part of the proposed amendments that will make it simpler and less burdensome on community housing providers in instances where they need to move tenants. The bill proposes amendments to new sections 69B, 69C, 73 and 74 (2A) that will empower the Secretary of FACS for the purposes of accessing information and documents for the purposes of investigating or preventing

fraud and the recovery of any payments obtained fraudulently. The Opposition does not have any concerns relating to those changes. The Opposition does not oppose the bill. We have raised suggestions and concerns on behalf of stakeholders because the collective statement was issued immediately after the Minister delivered her second reading speech and I believe some of those concerns need to be taken into account.

Housing is a difficult area and a great deal of the burden is placed on the many stakeholders that work hand in hand with housing and community housing providers. The Opposition does not want cost shifting that results in tenants turning up at the door of specialist homelessness service providers seeking the use of their brokerage funding. That would only exacerbate problems in the sector and the rate of homelessness. The targets should be those who deliberately and wilfully damage public property, and those who fraudulently obtain a benefit at the expense of good tenants and those on the waiting list who are being deprived of the opportunity of a home, which I am sure they would care for. It is important that we get this legislation right. It is important to get the driver, the ministerial guidelines, right. In that spirit of cooperation, Labor proposes three sensible and balanced amendments and urges all honourable members to join it to improve the legislation.

The ASSISTANT PRESIDENT (Reverend the Hon. Fred Nile): I will now leave the chair. The House will resume at 2.30 p.m.

Senate

SENATE VACANCY

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

GOVERNMENT HOUSE
SYDNEY

Wednesday, 15 August 2018
President of the Legislative Council

Dear Mr President,

I write at His Excellency's Command, to transmit a copy of a letter to His Excellency from the President of the Senate notifying that a vacancy has occurred in the representation of the State of New South Wales through the resignation of Senator Lee Rhiannon on 15 August 2018.

Yours sincerely

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

The PRESIDENT: Attached to the letter is the following letter from the President of the Senate, addressed to his Excellency:

PRESIDENT OF THE SENATE
SENATOR THE HONOURABLE SCOTT RYAN

Wednesday 15 August 2018
His Excellency General the Honourable David Hurley AC DSC (Ret'd)
Governor of New South Wales
Government House Sydney
Macquarie Street
SYDNEY NSW 2000
Your Excellency

VACANCY IN THE REPRESENTATION OF NEW SOUTH WALES

Pursuant to the provisions of section 21 of the Commonwealth of Australia Constitution, I notify Your Excellency there is a vacancy in the representation of the State of New South Wales caused by the resignation of Senator Lee Rhiannon today.

Yours sincerely,
Scott Ryan

The PRESIDENT: I further report receipt of the following message from the Legislative Assembly, addressed to the President:

MR PRESIDENT

The Legislative Assembly informs the Legislative Council that it has this day agreed to the following resolution:

The Legislative Assembly having resolved to meet with the Legislative Council for the purpose of sitting and voting together to choose a person to hold the place in the Senate rendered vacant by the resignation of Senator Lee Rhiannon, requests the Legislative Council to fix a time and place for the joint sitting.

Legislative Assembly

THOMAS GEORGE
Deputy Speaker

The Hon. DON HARWIN: I move:

That this House agrees to meet the Legislative Assembly for the purpose of sitting and voting together to choose a person to hold the place in the Senate rendered vacant by the resignation of Senator Lee Rhiannon in the Legislative Council Chamber immediately following the joint sitting to fill a casual vacancy in the Legislative Council this day at 3.45 p.m.

Motion agreed to.

The Hon. DON HARWIN: I move:

That a message be forwarded to the Legislative Assembly conveying the terms of the resolution of the House this day.

Motion agreed to.

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

Questions Without Notice

COAL-FIRED POWER STATIONS

The Hon. ADAM SEARLE (14:31): My question is directed to the Leader of the Government, Minister for Resources, and Minister for Energy and Utilities. Given the Prime Minister's declaration yesterday that he supports the push led by Trevor St Baker for a new coal-fired power station, does the Minister support new coal-fired power stations being built in Australia?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:31): I have made statements on this subject many, many times before in this House, in public forums and in the media. There is no secret to it: I have no objections to new coal-fired power stations being built in Australia. I do not propose, however, to suggest to the Cabinet of New South Wales that it spend taxpayers money doing it.

NATIONAL ENERGY GUARANTEE

The Hon. DAVID CLARKE (14:32): My question is addressed to the Minister for Energy and Utilities. Will the Minister update the House on the status of the proposed National Energy Guarantee?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:32): I thank the Hon. David Clarke for his question and for his interest in this matter and many others. I am pleased to report that yesterday the Council of Australian Governments [COAG] Energy Council agreed to progress the development of the National Energy Guarantee. The National Energy Guarantee, or NEG, seeks to ensure a reliable electricity supply and contribute to Australia's international greenhouse gas reduction commitments. I am pleased that Energy Council Ministers have agreed to release for consultation draft legislation to amend the National Electricity Law. This is the next step in implementing the NEG.

As the Premier and I have stated, the NEG offers the policy and investment certainty needed and called for by the market. It is a durable mechanism, but one that is flexible enough to support changes in emissions reduction targets over time. The Energy Security Board says that the NEG is expected to result in bringing forward 1,000 megawatts of new generation relative to a no-policy scenario. This investment will reduce wholesale costs for retailers, which will be passed on to consumers through lower bills. Energy Security Board modelling suggests that most households will save around \$150 each year on their electricity bills between 2020 and 2030 as a result of the NEG's implementation. I would encourage all interested stakeholders to review the legislation in detail over the next four weeks. The Energy Security Board will also continue to consult on refinements to the guarantee's reliability trigger.

Implementation of the energy guarantee by the end of April 2019 will ready the national energy market for the reliability requirement to begin operation on 1 July 2019 and the emission requirement to kick in on 1 July 2020. The NEG is supported by stakeholders ranging from BlueScope and the National Farmers' Federation to the Clean Energy Council and St Vincent de Paul. I note this morning that even the Construction, Forestry, Maritime, Mining and Energy Union has called on Labor to back the NEG. It is time to put a stop to the politics. As I have said many times, we must not let the perfect be the enemy of the good. I reiterate my call to my State counterparts—all my State counterparts—to get behind this important policy.

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

The Hon. DON HARWIN: We need bipartisanship to fix this issue, which has dragged on for far too long. The market needs certainty and the reliability aspect of the NEG should not be held up by States that have a different view on emissions or are being held hostage by GetUp!, Greenpeace or other activist groups. The issue of emissions will rightly be addressed in the Federal Parliament. The New South Wales Government has always been a strong advocate for a clear, national, long-term policy on emissions reduction, and the National Energy Guarantee provides that. I will continue to work closely with my fellow Energy Council Ministers, the

Commonwealth Government and the Energy Security Board to ensure that the proposed legislation and rule changes are in the best interests of New South Wales consumers.

WATER COMPLIANCE AND ENFORCEMENT

The Hon. WALT SECORD (14:36): My question is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Given the evidence by former top New South Wales water public servant David Harris at the South Australian royal commission into the Murray-Darling Basin, has the Minister referred to the Independent Commission Against Corruption the actions of then water Minister Kevin Humphries in relation to Mr Harris being "moved on" as a result of wanting to pursue increased water compliance activity in New South Wales amongst irrigators?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:37): I thank the member for his question. I place on record that a range of matters in relation to water have already been subjected to a number of inquiries by a number of agencies, including the Matthews investigation report that was done here in New South Wales. As the Hon. Walt Secord knows, we have discussed many matters in relation to water and allegations that have been made. He knows—because it has been discussed—that agencies such as the Independent Commission Against Corruption [ICAC] were looking at some of those issues—

Mr Jeremy Buckingham: They still are.

The Hon. NIALL BLAIR: —because some of the individuals who had been named as potentially having some issues in relation to that had referred the matters themselves to the ICAC. I am confident that the ICAC has the ability to look at a range of matters itself. Mr Jeremy Buckingham seems to know a little bit about it; he says it is still looking. I will not take his word for it; I will allow the ICAC to do its own work.

The South Australian Government is conducting a State-based royal commission into the implementation of the Murray-Darling Basin Plan. The New South Wales Government has already been acting to improve water management in our State, especially in relation to compliance and enforcement. All members will know that in December last year I announced the New South Wales Government's Water Reform Action Plan as a comprehensive package of reforms to improve water management in New South Wales. The Government has already established the independent Natural Resources Access Regulator, committed to a "no meter, no pump" policy, reconfirmed its commitment to 20 water resource plans and committed to further improving management of environmental flows.

While the New South Wales Government's focus continues to be on delivering its important reform agenda as outlined in the Water Reform Action Plan, New South Wales has provided a brief submission to the royal commission. New South Wales has also provided assistance to the commission by preparing responses to a number of key issues requested by the commission. New South Wales will continue to consider any further requests that may be made by the commission. I am advised that the commission will provide its final report to the South Australian Government by 1 February 2019. The New South Wales Government will consider the findings when they are made public next year. Until then, I do not intend to provide a running commentary on the matters raised at the royal commission, many of which have been in the public domain for years.

The Hon. WALT SECORD (14:40): I ask a supplementary question. Will the Minister elucidate his answer as to the brief presented to the South Australian Murray-Darling Basin Royal Commission. Has that brief also been sent to the Independent Commission Against Corruption?

[Interruption]

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:40): It is a stupid question. It is a brief written for the South Australian royal commission about what New South Wales has been doing. That is where we sent it, that was why it was written, that is the evidence.

The Hon. Walt Secord: So the answer is no.

The Hon. NIALL BLAIR: Why would we?

WATER LICENCING

The Hon. ROBERT BROWN (14:40): My question without notice is directed to the Hon. Don Harwin, representing the Minister for the Environment, and Minister for Heritage. It is quite a detailed, technical question. The Minister is no doubt aware that fodder for stock available to New South Wales farmers is all but exhausted and our State's herds are in dire trouble. Will the Minister confirm that the Office of Environment and Heritage has a licence entitlement for at least 730,000 megalitres of water? Will the Minister confirm that the Office of

Environment and Heritage is also hoarding more than 450,000 megalitres of "rules-based" water in the Murray and Murrumbidgee valleys? Southern irrigators calculate that this rules-based water alone equates to around 1½ million tonnes in oaten hay, as an example, a proportion of which could be made ready with water as early as October. [*Time expired.*]

Mr Jeremy Buckingham: Point of order: The question clearly contains hypotheticals and should be ruled out of order.

The PRESIDENT: I ask the member for a copy of his question.

Mr Jeremy Buckingham: Further to the point of order: The question also includes argument with its reference to hoarding water.

The PRESIDENT: The question is in order. Sufficient of the question has been given to allow the Minister to answer it as he sees fit.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:42): I thank the honourable member for his question. As he stated, the question is very detailed so I will refer it to the Minister for the Environment, and Minister for Heritage for a response.

KANGAROO MANAGEMENT PLAN

The Hon. TREVOR KHAN (14:43): My question is addressed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry.

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

The Hon. TREVOR KHAN: Will the Minister update the House on how the New South Wales Government is streamlining the management of kangaroos?

The Hon. NIAL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:43): I thank the honourable member for his question. In parts of New South Wales kangaroos are in plague proportions. I am sure anyone who has travelled on regional roads around the State recently would be well aware of how pressing this problem really is. Last Wednesday the Government streamlined the management of kangaroos. We have cut red tape and given more power to farmers to help manage the damage caused by kangaroos. As part of the New South Wales Drought Strategy, this new approach will allow farmers to apply over the phone or via email for licences to cull kangaroos and more shooters will be able to operate on a property under the same licence. Under the new system carcasses will no longer need to be tagged and left in the paddock and landholders will be able to use the carcasses for a range of non-commercial purposes such as bait meat. There will also be increased limits on the number of kangaroos that may be culled, based on property size.

Kangaroos are congregating around local food and water sources, which is putting significant pressure on farms. We must start to turn this around as soon as possible. I recently visited Somerton, just outside of Tamworth, to see firsthand how kangaroos are causing devastation to farmland in the early mornings, afternoons and at night. Many farmers are taking livestock off their paddocks, only to then see kangaroos move in and take whatever is left. This is the last thing any farmer needs at the moment. These changes are giving farmers more power to protect their properties, especially as they manage the challenging dry conditions. They will also maintain animal welfare standards and ecologically sustainable kangaroo populations. If we do not manage this situation we will start to see tens of thousands of kangaroos starving and suffering, which will ultimately lead to a major animal welfare crisis.

During 2019 the New South Wales Government will also extend the commercial kangaroo harvest zones in south-east New South Wales. These changes will reduce biosecurity risks, incentivise experienced shooters to support landholders in reducing kangaroo numbers, and enable New South Wales to move towards commercial culling quotas set by the Commonwealth Government. Since the implementation of the changes the New South Wales Office of Environment and Heritage has approved more than 134 new kangaroo licences and it is assessing many more. As part of the changes, Local Land Services has established a register of licensed commercial harvesters, professional shooters and experienced volunteer recreational shooters who are willing to help landholders manage kangaroos. More than 2,000 shooters have registered and 25 landholders have accessed the register. Our farmers and our regional communities are under immense pressure right now and these changes are another way the New South Wales Liberal-Nationals Government can assist in reducing the burden of drought.

In recent weeks on my travels around regional New South Wales I have been struck by the number of kangaroos I have seen. In particular, kangaroos that are congregating on the sides of roads where some feed is available are becoming a safety issue for many in our regional communities and there is a lot of anecdotal evidence

about motorists who have been involved in collisions with them. Coming off the back of some very good years leading up to 2018, the kangaroo population in this State is now significantly increasing. But the kangaroos are suffering from a lack of water and feed—

The Hon. Walt Secord: Point of order: I have listened very carefully to the Minister. He is clearly making a ministerial statement. The Government is spelling out a change in a significant policy so under the standing orders the Hon. Mick Veitch, Labor's Primary Industries spokesperson, should be given equal time to respond.

The PRESIDENT: Order! I do not need assistance from Government members. I ask the member for a copy of his question. The question was: Will the Minister update the House on how the New South Wales Government is streamlining the management of kangaroos? Under the standing orders a question cannot ask about government policy but in being generally relevant to this question there is nothing to prevent the Minister from bringing in aspects of government policy. The question concerns how the Government and the Minister are dealing with the matter. The Minister is being generally relevant. There is no point of order.

The Hon. NIALL BLAIR: I would welcome anyone from the other side standing up and saying whether or not they support this.

The Hon. Mick Veitch: I do.

The Hon. NIALL BLAIR: For the Deputy Leader of the Opposition to interject—

The Hon. Walt Secord: Point of order: It is very, very clear that in responding to the Minister, the Opposition does support the position.

The Hon. Mick Veitch: We do, absolutely.

The PRESIDENT: I call the Hon. Walt Secord to order for the first time. That was not a point of order. I note that the Minister will have one second. I am giving him some pre-warning. The Minister has the call.

[Interruption]

The Hon. NIALL BLAIR: It is good. [Time expired.]

The Hon. TREVOR KHAN (14:49): I ask a supplementary question. Could the Minister continue to elucidate on how the Government is improving the management of kangaroo numbers in New South Wales?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:49): I thank the member for his supplementary question which will allow me to continue to reiterate the changes that have been in place for over a week. The changes were brought about after feedback from landholders across New South Wales. The changes were brought forward to the Government by the agencies dealing with this issue and they have been widely recommended and supported across regional New South Wales. I acknowledge the earlier interjection from the Hon. Mick Veitch who lent his support to the changes to this policy.

It is quite clear that the system being used to process applications by landholders for permits to cull kangaroos was part of the issue. The system was cumbersome and the condition of the "shoot and let lie"—leaving paper tags sitting on carcasses—was something that no-one was engaging with appropriately. Credit must go to those within the Office of Environment and Heritage for recognising and addressing the issue and lifting the red tape to allow farmers to do something that they already had approval to do. The permit system—the bureaucracy and the red tape—allowed them to cull the kangaroos in that way but many of them just gave up on the system. This change is welcome. When conditions improve across the State I hope many farmers will not need to apply for these permits because the feed in national parks and the land across New South Wales will be adequate. The kangaroos will probably disperse to other areas rather than compete with pastures and livestock, and come onto the roads, and the issue will be improved across regional New South Wales.

CLIMATE CHANGE

Mr JEREMY BUCKINGHAM (14:51): My question without notice is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Many scientists conclude that climate change is increasing the severity and length of droughts in New South Wales. Given the Government's policies and strategies over the past seven years in relation to the continued burning and export of coal, does the Government take any responsibility for the severity and extent of the current drought and will the Government apologise to farmers?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:52): I thank the member for his question. The only apology I will offer

up is one to the member. I am sorry the member has lost so much relevance that he has to come in here and offer up a question like that, which smears and tries to play games with what our farmers are going through in this State. I am sorry that our farmers have to listen to this drivel.

Mr Jeremy Buckingham: Point of order. I submit the only smear in here so far is from the Minister; he has been reflecting on me in his contribution. Mr President, I ask that the Minister withdraw his comment and answer the serious question properly.

The PRESIDENT: The Minister was beginning to reflect on the member. I ask the Minister to cease doing that and to answer the question and be generally relevant to the question. I also ask the Government members not to interject while the Minister is answering the question

The Hon. NIALL BLAIR: We know that farmers in this State are some of the most agile, innovative and adaptable farmers in the world. We have been supporting them to make sure that they continue to be prepared for the challenges of the future and that includes the challenge of climate change. That is why we have had programs such as the Farm Innovation Fund so that farmers have access to capital to enable them to put infrastructure on their farms to make sure they are better prepared for the droughts of the future. Rolling out over \$233 million across the State is something we have been proud to do to support our farmers, as they face challenges such as climate change.

New South Wales has also been a leader in climate research. Our Department of Primary Industries undertakes a range of research and development activities on managing and adapting to the impacts of climate change. These include breeding drought-tolerant crops and pastures; breeding more efficient low-methane sheep and cattle; developing technologies to improve water use efficiency; evaluating new agricultural plant varieties that can cope with changing climate; research and development on the impacts of climate change across different farming systems; and the use of existing tools such as the seasonal climate forecast to better manage climate variability.

We have nothing to apologise to our farmers for in New South Wales. We have been standing side by side with our farmers. Some of them have not come out of the drought conditions since 2015, which was when I first became Minister. In some cases some farmers have not properly recovered and parts of the State have not properly recovered since the effects of the millennium drought. The member might want to use the situation that our farmers are in at the moment to try to drum up some sort of campaign for him to find a job. That is probably what his number one focus is at the moment—looking for something to do to try to find relevance. But we will not allow him to use the plight of our farmers in New South Wales to build his cause. This is the person who at one stage was saying he was the champion of the farmers in New South Wales and now he wants to try to use their cause for his own purposes. I have been quite clear that anyone who wants to use the plight of our farmers as some sort of political tool is gutless and they should cease right now. Our farmers will get through this. Our farmers have the Government standing side by side with them. They will get through the drought.

Mr Jeremy Buckingham: Will they? All of them?

The Hon. NIALL BLAIR: They will. The scaremongering from the member will be responsible for talking us out of markets. Our farmers will get through this drought. They are innovative. They are able to adapt to this. They will get through this drought and the next one. We have the most efficient farmers in this country.

Mr JEREMY BUCKINGHAM (14:57): I ask a supplementary question. Will the Minister elucidate his answer by informing the House how much of the \$230 million Farm Innovation Fund has been spent to this point?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:57): All of it, you goose, that is why we had to top it up. I said \$233 million was rolled out and then we added another \$250 million.

The PRESIDENT (14:57:5): Order! The Minister will resume his seat. The Minister will withdraw the term "you goose".

The Hon. NIALL BLAIR: Mr President, I withdraw that term.

The PRESIDENT: The Minister has the call to resume his answer.

The Hon. NIALL BLAIR: Just to inform the member, \$233 million is what we had already rolled out. That is money that has already gone out and has been spent. In fact we know that to be the case because the Hon. Mick Veitch was worried that we were going to run out.

The Hon. Mick Veitch: I asked you to top it up.

The Hon. NIALL BLAIR: He asked us to top it up. Because we were already ahead of the game, because it was our fund and we were rolling it out, we agreed and topped it up. We think it is a good program—although it was his colleague the Hon. Steve Whan who condemned the program when we rolled it out. But that is okay, we will allow them to shift their policy. We had already rolled out \$233 million, but we topped it up. Eight weeks ago we made the announcement that we had topped up the Farm Innovation Fund and that was when we allowed the extra \$50,000 in drought assistance loans as well. We have also made another announcement to support our farmers and through that announcement we have added another \$150 million to the Farm Innovation Fund.

This is setting up our farmers for all the challenges of the future. This is money that they have put into infrastructure on their farm and some of them are telling us that the only income they are getting now during this drought is money through the Farm Innovation Fund. We are three steps ahead of Mr Jeremy Buckingham. We have already spent the \$233 million; we then topped it up and we have topped it up again. If Mr Jeremy Buckingham wants to seriously talk about farming he should get up to speed on where we are because he is now three steps behind. We are supporting our farmers now through this drought and we have put money into this fund to support them well and truly in the future.

WATER COMPLIANCE AND ENFORCEMENT

The Hon. DANIEL MOOKHEY (14:59): My question without notice is directed to the Minister for Resources, Minister for Energy and Utilities, Minister for the Arts, and Leader of the Government. Given the ongoing revelations in relation to The Nationals and their failure to adequately monitor and implement water compliance activities, do The Nationals retain the Executive Government's confidence to manage water in New South Wales in the public interest?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:00): I am completely flabbergasted. I cannot believe that that question has just been asked. If our great friend and former colleague the Hon. Duncan Gay were here he would say that the problem is that the Opposition needs a question time committee, but I will not say that. Of course, The Nationals have the complete confidence of the Executive Government. We are working extraordinarily well together. The Deputy Leader of The Nationals and Deputy Leader of the Government in this place is doing an absolutely outstanding job in the Regional Water portfolio. I am sure that he has the respect of every Government member in this Chamber and of every Government member in the other place. He is an absolutely critical player in why this State is number one again. Thank goodness we have him as the Minister for Regional Water.

OPPORTUNITY, CHOICE, HEALING, RESPONSIBILITY, EMPOWERMENT PROGRAM

The Hon. CATHERINE CUSACK (15:02): My question is addressed to the Minister for Early Education, Minister for Aboriginal Affairs, and Assistant Minister for Education. Can the Minister please provide an update on how the New South Wales Government is working to build the evidence to make the Opportunity, Choice, Healing, Responsibility, Empowerment [OCHRE] program stronger?

The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (15:02): I thank the member for her question. In December 2015, the Social Policy Research Centre at the University of New South Wales was commissioned to undertake a 10-year evaluation of the Opportunity, Choice, Healing, Responsibility, Empowerment [OCHRE] program, the New South Wales Government's plan for Aboriginal Affairs, which aims to improve education and employment outcomes for Aboriginal people in New South Wales and to enhance service accountability to support these goals.

A 10-year evaluation is significant and unprecedented in government. It is important because it takes time to truly understand the impact of OCHRE and build the evidence we need along the way. Ethical practice is the cornerstone of the evaluation and represents our commitment to not repeating past practices where Aboriginal voices were silenced in research and evaluation. Consistent with an ethical approach, the evaluation of OCHRE is driven by Aboriginal communities. Local communities determine what success looks like, the methods for collecting the information needed, the pace of these activities and ultimately the publication of the reports. As a measure of the trust built between government and communities, communities have all agreed to make the reports public.

The initiatives included in the OCHRE evaluation are two Aboriginal Language and Culture Nests in Gumbaynggirr at Coffs Harbour and North West Wiradjuri at Dubbo; two Opportunity Hubs in Campbelltown and Tamworth; and Local Decision Making in two locations, Murdi Paaki Regional Assembly in Far Western New South Wales and Illawarra Wingecarribee Alliance Aboriginal Corporation in south-east New South Wales. A steering committee oversees and supports the work of the independent evaluation team, providing the specialist

advice needed for this complex and groundbreaking undertaking. The reports of the findings from the first stage of the evaluation, including any short-term outcomes, were made public on 9 July.

This morning, I had the privilege of receiving this evidence from Aboriginal leaders at an important ceremony at Parliament House. I sincerely thank the Aboriginal leaders who participated in this significant ceremony and also my parliamentary colleagues from this Chamber and other members from all sides who were in attendance. I particularly acknowledge the Hon. Victor Dominello, MP, Minister for Finance and Services, and the Hon. Leslie Williams, MP, who both attended as previous custodians of OCHRE, as a powerful demonstration of the Government's long-term commitment to OCHRE.

Significantly, we now have local and up-to-date evidence from local Aboriginal communities about what works and what does not work and how to go about improving things. There is now less reason to rely on evidence that comes from other Aboriginal peoples such as the New Zealand Maori people, or Aboriginal peoples in Canada. I am proud to say today that the Social Policy Research Centre concluded that "overall OCHRE has been remarkably successful" with "strong positive recognition in the Aboriginal communities of NSW".

Planning for the second stage of the evaluation has commenced, which will examine the short-, medium- and long-term outcomes achieved. To support and inform the changes Aboriginal people in New South Wales seek through OCHRE, the Government has built a six-year research agenda to deliver stronger evidence of how to improve the relationships between people and government. This includes the relationship between Aboriginal peoples and their land and their language, the cultural capability of the public service, the nature of economic prosperity, and the negotiations that must define self-determination.

The Hon. Walt Secord: David Harris was there this morning, was he not?

The Hon. SARAH MITCHELL: I did mention colleagues from all sides of the House.

The Hon. Walt Secord: You didn't mention David Harris though. You mentioned only Government MPs.

The Hon. Trevor Khan: Point of order: It is quite inappropriate for the Deputy Leader of the Opposition to interject in that form.

The Hon. Walt Secord: I wanted the record corrected. She ignored Labor participants.

The Hon. Trevor Khan: Point of order—

The PRESIDENT: I uphold the first point of order. I do not need to hear a second point of order because I call the Hon. Walt Secord to order for the second time. The member will not proceed in that manner when I am ruling on a point of order.

The Hon. SARAH MITCHELL: The agenda makes a calculated and, perhaps, historic shift in emphasising hope over despair, aspiration over services, and placing the transformation of the relationship between Aboriginal peoples and government at its centre. This agenda reflects our desire for a new narrative in Aboriginal Affairs in New South Wales and demonstrates our commitment to embedding Aboriginal voices and perspectives into policy development and implementation. It is crucial that we continue to work alongside each other as we develop and strengthen our policies. Today's ceremony proves that we are moving in the right direction and I look forward to continuing this work on OCHRE with Aboriginal communities. [*Time expired.*]

YM EFFICIENCY CARGO SPILLAGE

Mr JUSTIN FIELD (15:07): My question without notice is directed to the Hon. Niall Blair in his capacity as both the Minister for Primary Industries and representing the Minister for Roads, Maritime and Freight. What is the Government doing to ensure the total clean-up of shipping containers and debris lost at sea from the *YM Efficiency* in June this year? How many shipping containers remain at sea, how many of those remain a risk to fishing activities and what are the contents of the containers not yet recovered?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:07): I thank the member for his question. It is a good question; it is a topic that we canvassed in this House when the incident occurred originally and I was able to provide some updates to the House at that time on behalf of the Minister for Roads, Maritime and Freight. It has been some time since the House has been updated in relation to that incident, which resulted in a number of containers going overboard and washing up in many cases along the New South Wales coastline and, in some cases, being submerged, which was quite a concern not only to the residents in those areas but also to the fishing industry.

The information that I have to hand in relation to that incident, in which 81 shipping containers were lost overboard from the container ship *YM Efficiency* in heavy seas approximately 30 kilometres due east of Lake

Macquarie on the morning of Friday 1 June, is very similar to some of the information that members may already have been made aware of. It includes the role of the incident management team established by Roads and Maritime Services and coordinating the response. It involved a range of things including drift modelling which indicated where the containers were potentially going to come ashore from the eastern end of Stockton Beach to north of Port Stephens.

I know at the time when I last spoke about this two containers had been found with one coming ashore at Yacaaba Head at the entrance to Port Stephens and another located in water off Fingal Island. At the time I last spoke about this there were not many containers that had washed ashore, but there was debris confirmed in the Port Stephens Great Lakes Marine Park from Stockton Beach to Seal Rocks and offshore islands. It was also confirmed at Forster, Port Macquarie and as far north as Coffs Harbour.

That is similar to the information available at the time of the incident. The member is asking for a recent update on the situation including how many containers have been located, any information that can be provided to fishing vessels to maintain safety and how the clean-up efforts are progressing. I am more than happy to take the question on notice and update the member and the House in due course. It was an incident that reached across the community, industry and government. It was handled by Roads and Maritime Services. I will take the question on notice and refer it to the Minister for Roads. I am sure fisheries will provide input into the response.

OYSTER INDUSTRY INVESTMENT

The Hon. MICK VEITCH (15:11): I direct a question without notice to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Will the Minister inform the House in light of the Deputy Premier's decision to provide \$3.3 million in taxpayer funds to the private company Australia's Oyster Coast Ltd what due diligence his department has undertaken on the decision and its impact on the wider South Coast oyster industry?

The Hon. NIAL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:12): I thank the honourable member for his question. It is an issue that has been raised with me by representatives of the oyster industry. It is my understanding that the decision to invest in the particular business as an equity partner followed all the adequate probity measures and was done at arms-length of government. There are superannuation funds involved and Jobs for NSW was involved. There was appropriate probity. I am reassured that the investment itself stacks up and the company itself is worth investing in. It is this type of investment that the Government wishes to see rolled out into large parts of primary industries across New South Wales.

There is a strong oyster sector in New South Wales largely due to the work done by the Department of Primary Industries [DPI]. I reassure the member that although that decision was made with the involvement of Jobs for NSW and the superannuation firm, the role of the Department of Primary Industries of providing research and advice to the sector continues and is separate to that investment. The DPI services all of the oyster industry through its role in breeding spat, the research and development it does at the Port Stephens fisheries site, and its aquaculture officers in parks and fisheries.

NSW Farmers represent a large number of oyster growers and have raised issues with the Government around ensuring that benefits flow to all of the industry. It is not unusual and this is not the first time there has been an equity investment into primary industries. Last year there was investment into a beef operation in New South Wales. It is my understanding that because it involves superannuation money the correct probity procedures were followed. The Government is committed to the oyster industry. NSW Farmers have put forward a proposal that will ensure there is adequate breeding stock and varieties that continue to be commercialised in the sector available for all oyster growers.

The Government will continue to support the entire industry just as it has done in times when the industry has been in trouble. There have been outbreaks of disease in the industry in some parts of the State. There have been estuaries wiped out. It was due to the good work of DPI Fisheries and its scientists that we can celebrate a Sydney and Pacific Rock oyster industry in New South Wales. I understand there are concerns and they have been raised with me. I am satisfied that the investment was done with the correct analysis and probity—

The Hon. Walt Secord: Point of order: My point of order is relevance. At no point has the Minister responded to or spoken about the impact on the wider South Coast oyster industry. That was half of the question. At no point has the Minister referred to modelling, discussions or coverage involving the South Coast oyster industry.

The PRESIDENT (15:16:4): As I have indicated in previous rulings, the Minister is only required to be generally relevant in relation to the question or part of the question. It is not for the chair to direct how a

Minister should answer the question. Nor is it for the chair to direct what part of a question a Minister should answer and again how a Minister should answer that. The Minister was being generally relevant.

The Hon. NIALL BLAIR: I could not have been more relevant to the whole industry. That point of order brings down a serious question from the member. *[Time expired.]*

The Hon. Walt Secord: He made the decision behind your back.

The Hon. NIALL BLAIR: You have to start working as a team.

The PRESIDENT: The Minister will resume his seat. I call the Minister to order for the first time. I will not accept that behaviour. I call the Hon. Walt Secord to order for the third time. Under Standing Order 192 I direct the Usher of the Black Rod to remove the member from the Chamber. The member is excluded from the Chamber until 6:30 p.m.

[Pursuant to standing order the Hon. Walt Secord left the Chamber, accompanied by the Usher of the Black Rod.]

The Hon. MICK VEITCH (15:18): I ask a supplementary question. Will the Minister elucidate his answer with respect to consultation with DPI prior to the announcement being made?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:18): I am happy to take that part of the question on notice and find out. I would not want to take a stab for fear of not paying the member the respect that I have shown him through the substantive part of my answer—before I was interrupted. I too take this industry seriously. That is why I was able to stand up and provide an answer directly relevant to the stakeholders who have spoken to the honourable member and encouraged him to ask the question in the House. To ensure I get the information he requires without taking a stab, I will take that part of the question on notice and seek the relevant information and come back to the member in due course.

MINING INDUSTRY

The Hon. TAYLOR MARTIN (15:19): My question is addressed to the Minister for Resources. Will the Minister update the House on how the Government is supporting the mining industry in New South Wales and are there any alternative policies?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:19): I thank the Hon. Taylor Martin for his question. I am pleased to say that this Government and New South Wales miners are united in our desire to ensure the health and safety of workers in this important industry. The mining industry is a major economic driver for this State. The sector generates more than 40 per cent of our exports, which equates to \$23 billion each year. This major economic value is created by the many tens of thousands of mine workers across the State whose expertise and labour make New South Wales the envy of all other States. The health and safety of these mine workers is of crucial importance to me as the Minister and to the whole Government. The Government is committed to seeing every mine worker return home safely and we continue to engage with the sector on health and safety matters.

Earlier this month I attended the NSW Mining Health, Safety, Environment and Community Conference in Lovedale, which attracted more than 500 senior industry personnel to discuss significant current issues and to learn from each other. As the State's peak mining body, NSW Mining plays a leading role in ensuring that risk management and health and safety performance is front and centre for mine operators. This important annual event brings the industry together to discuss its challenges, identify innovation opportunities and celebrate excellence. It was great to be part of the conference because this Government backs our miners. We recognise the importance that royalties play to the State's finances. We support the industry because we know how important mining is to our regional communities and we back the jobs that the sector provides.

The Hon. Taylor Martin asked me about alternative policies. Our approach is in stark contrast to those opposite. The Labor Party in this place continues to show that it is struggling when it comes to resources policy. Earlier this year we exposed the debacle of Labor trying to shut down the Boral Montoro clay mine on the Central Coast. I am sure the Hon. Taylor Martin and the Hon. Scot MacDonald will remember that. The broken bill that Labor introduced in this Chamber, which is still not fixed, will result in 45 people being out of work. Yesterday the Leader of the Opposition in this place showed that he was struggling with the difference between applying for an exploration licence and granting an exploration licence, which are two different things. Yesterday, and again today, he asked me about funding for coal-fired power generation. Perhaps he should have asked the member for Keira, who, in June last year, told the *Newcastle Herald* that he would not rule out using the proceeds of the Snowy Hydro sale for coal-fired power stations or for clean coal projects. What is a clean coal project if it is not a high-efficiency, low emissions coal-fired power station? The Opposition is fond of talking about— *[Time expired.]*

HERBICIDE AND CHEMICAL REGULATION

The Hon. PAUL GREEN (15:24): My question without notice is directed to the Minister for Primary Industries. Given the recent United States court ruling in which a jury found Monsanto liable in the first Roundup cancer trial, what action is the Government likely to take to review this product across New South Wales?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:24): I thank the member for his important question. We are all watching the developments of this case in the United States with some interest. I can inform the House that Australia's agricultural and veterinary chemical regulator, the Australian Pesticides and Veterinary Medicines Authority [APVMA] provides up-to-date information on its website for Australian chemical users. Since 2015 when the International Agency for Research on Cancer [IARC] classified glyphosate as "probably carcinogenic to humans", the APVMA has reviewed the toxicology of glyphosate and its use in Australia.

The APVMA determined that registered use of glyphosate in Australia as per label instructions is safe. It is important to note that the IARC's list of possible or probable carcinogenic substances and activities also includes aloe vera, coffee, pickled vegetables and being a hairdresser or carpenter. International regulators including the European Food Safety Authority, New Zealand's Environmental Protection Authority, Health Canada's Pest Management Regulatory Agency, and the United States Environmental Protection Agency all came to a similar conclusion as the APVMA, which has provided links to copies of those reports on its website.

Roundup is controlled at the Federal level by the APVMA and because it is registered as safe if users follow the label instructions and the safety data sheet, we have no reason to think otherwise. We are seeing an interesting new development in the United States. The Government will continue to monitor the advice of the APVMA because this issue is in its jurisdiction. We will respond accordingly if the APVMA changes its advice on the use of glyphosate. Roundup is available not only for broadscale use in agriculture and horticulture but also for general household use and can be bought at most hardware stores and in some supermarkets in smaller applicators. The Government will continue to monitor the progress of this issue in the United States. I imagine there will be more to the story if the court ruling is appealed and no doubt there will be a review of the court case.

In a nutshell, the APVMA is the agency that determines and registers chemicals for use in this country. The Government will follow its advice. I am sure the APVMA will make a determination off the back of what is happening in the United States. Again, I implore everyone to familiarise themselves with the advice of the APVMA and to follow the label instructions on any chemical they are using not only in the workplace but also at home. That is the why agencies such as the APVMA provide that advice.

BATEMANS BAY ARTS AND CULTURAL FUNDING

The Hon. LYNDIA VOLTZ (15:28): My question without notice is directed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. Given the Premier and the member for Bega jointly announced on 26 March that they would provide \$26 million for a new indoor aquatic and cultural centre at Batemans Bay consisting of \$18 million for the aquatic centre and \$8 million for the arts and cultural facility, where will the \$8 million for the arts and cultural component be drawn from?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:29): I thank the Hon. Lynda Voltz for her question about a project with which I am familiar.

The Hon. Paul Green: A great project.

The Hon. DON HARWIN: I acknowledge the interjection of the Hon. Paul Green. It is a great project. There is no doubt that the Batemans Bay community strongly supports the project. I will take on notice the aspect of the question about where the arts and cultural component of that is funded. As I informed the House yesterday, people should be aware that the Regional Cultural Fund round two is open. I imagine this project would be eligible but I need to check if there is an existing funding agreement. The project was certainly not funded as part of round one of the Regional Cultural Fund. It is a great project that has the strong support of the member for Bega and I can see why. I will be very happy to get back to the honourable member as quickly as possible.

The PRESIDENT: I will allow the Hon. Lynda Voltz to ask a supplementary question as question time started late because of my announcements.

The Hon. LYNDIA VOLTZ (15:31): I ask a supplementary question. Will the Minister elucidate his answer in relation to round two of the Regional Cultural Fund? When will round two funding announcements be made?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:31): I may have covered this question in my answer yesterday but, if I did not, it is planned

that round two announcements will be made before the end of this calendar year. I cannot be more specific at this stage. There was a large number of applications for round one, as honourable members are well aware.

The Hon. Peter Primrose: It is supposed to be a competitive process and you are announcing it already.

The Hon. DON HARWIN: I beg your pardon?

The PRESIDENT: The Minister should not be responding to interjections. The Minister has the call.

The Hon. DON HARWIN: There are a large number of regional funds and often good projects in regional New South Wales are eligible to apply to a number of them. There is no particular surprise about that, even if it has an arts and cultural aspect. I am not sure what the interjection was directed towards.

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

YM EFFICIENCY CARGO SPILLAGE

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:32): Earlier in question time I was asked by Mr Justin Field about containers lost from the YM *Efficiency* on 1 June 2018. I can provide the latest update from 13 August 2018. Approximately 1,042 cubic metres of debris has been collected to date. Limited operations are being conducted over the coming week with the majority of areas being cleaned. Patrols continue to be undertaken and any new debris recovered. Work to recover the remaining container located in six metres of water just off Fingal Head has commenced. This will progress this week, weather permitting, which will involve floating the container and then towing it to Port Stephens for removal from the water. The container door located on 20 July 2018 in the vicinity of Little Rocky has also been removed.

The Australian Maritime Safety Authority [AMSA] has advised that, following analysis of the survey data by the Port of Newcastle, out of the previously reported 50 identified targets, it is believed that 37 are containers. It has also identified the possibility of some targets being debris. AMSA's web page will be updated during the week following engagement with the locally affected fishers to provide them with some further information.

Personal Explanation

FEDERAL MEMBER FOR LINDSAY EMMA HUSAR

The Hon. ADAM SEARLE (15:34): By leave: I wish to make a personal explanation. A motion now before the Legislative Assembly seeks for me to explain my involvement in the inquiry into complaints made against the Federal member for Lindsay, Ms Emma Husar, conducted by the New South Wales branch of the Australian Labor Party.

The PRESIDENT: Order! The Leader of the Opposition will be heard in silence on a personal explanation.

The Hon. ADAM SEARLE: To be clear on this matter, I did not provide Ms Husar with any legal advice or legal representation. It is no secret that I have been a friend to Ms Husar and, in the difficult situation that she faced, I gave her the support that you would expect a friend to provide—no more, no less. I was not otherwise a participant in that process. This in no way disrespects the complainants, or their rights to be heard fairly on the matters that they brought forward. In inquiries of this nature all parties deserve the right to be heard fairly and that includes the complainants and Ms Husar in the current instance. I abhor all forms of bullying and harassment whether they occur in the workplace or anywhere else. I have a strong personal track record on these matters. Any suggestion, claim or imputation to the contrary is simply wrong.

Members

LEGISLATIVE COUNCIL VACANCY

The PRESIDENT: I shall now leave the chair for the joint sitting. The business of the House will be suspended during the joint sitting. The House will resume at the conclusion of the joint sitting following the ringing of the bells.

[The President left the chair at 15:36]

*Joint Sitting***ELECTION OF A MEMBER OF THE LEGISLATIVE COUNCIL**

The two Houses met in the Legislative Council Chamber at 15:45 to elect a member of the Legislative Council in the place of Dr Mehreen Faruqi.

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

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

The PRESIDENT: I am now prepared to receive proposals with regard to an eligible person to fill the vacant seat in the Legislative Council caused by the resignation of Dr Mehreen Faruqi.

Mr JUSTIN FIELD: I propose Ms Cate Faehrmann as an eligible person to fill the vacant seat of Dr Mehreen Faruqi in the Legislative Council, for which purpose this joint sitting was convened. I move that Ms Cate Faehrmann be elected as a member of the Legislative Council to fill the seat in the Legislative Council previously vacated by Dr Mehreen Faruqi. I indicate to the joint sitting that if Ms Cate Faehrmann were a member of the Legislative Council she would not be disqualified from sitting or voting as such a member, and that she is a member of the same party—The Greens—as Dr Mehreen Faruqi and was publicly recognised as an endorsed candidate of that party and who publicly represented herself to be such a candidate at the time of her election at the eleventh periodic Council election held on 26 March 2015. I further indicate that the person being proposed would be willing to hold the vacant place if chosen.

Ms JENNY LEONG: I second the motion.

The PRESIDENT: Does any other member desire to propose any other eligible person to fill the vacancy? As only one eligible person has been proposed and seconded, I hereby declare that Ms Cate Faehrmann is elected as a member of the Legislative Council to fill the seat vacated by Dr Mehreen Faruqi. I declare the joint sitting closed.

The joint sitting closed at 15.54.

ELECTION OF A SENATOR

The two Houses met in the Legislative Council Chamber at 15:55 to elect a senator in the place of Senator Lee Rhiannon, resigned.

The CLERK: I call for nominations for President of the joint sitting.

Ms GLADYS BEREJIKLIAN: I move:

That the Hon. John Ajaka, President of the Legislative Council, act as President of the Joint Sitting of the two Houses of the Legislature for the election of a senator in place of Senator Lee Rhiannon, resigned, and that in the event of his absence the Hon. Thomas George, Deputy Speaker of the Legislative Assembly, act in that capacity.

Mr LUKE FOLEY: I second the motion.

The CLERK: The question is that the motion of the Premier as seconded by the Leader of the Opposition be agreed to.

Motion agreed to.

The Hon. John George Ajaka took the chair.

Ms GLADYS BEREJIKLIAN: I present proposed rules for the regulation of the proceedings of the joint sitting, which have been printed and circulated. I move:

That the proposed rules as printed and circulated be now adopted.

Mr LUKE FOLEY: I second the motion.

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

Motion agreed to.

The PRESIDENT: I will now receive nominations with regard to a person to fill the vacant place in the Senate caused by the resignation of Senator Lee Rhiannon.

Ms DAWN WALKER: I propose Dr Mehreen Faruqi to hold the place in the Senate rendered vacant by the resignation of Senator Lee Rhiannon. I announce that the candidate is willing to hold the vacant place if

chosen. Senator Lee Rhiannon was at the time she was chosen by the people of the State publicly recognised to be an endorsed candidate of The Greens and publicly presented herself to be an endorsed candidate of that party. Dr Mehreen Faruqi is a member of the same political party.

Ms TAMARA SMITH: I second the motion.

The PRESIDENT: Does any member desire to propose any other person to fill the vacancy? As no other person has been proposed, the question is that Dr Mehreen Faruqi be chosen to hold the place in the Senate rendered vacant by the resignation of Senator Lee Rhiannon.

Motion agreed to.

The PRESIDENT: I declare that Dr Mehreen Faruqi has been chosen to hold the place in the Senate rendered vacant by the resignation of Senator Lee Rhiannon.

Ms GLADYS BEREJIKLIAN: I move:

That the President inform his Excellency the Governor as soon as practicable that Dr Mehreen Faruqi has been chosen to hold the place in the Senate rendered vacant by the resignation of Senator Lee Rhiannon.

The Hon. DON HARWIN: I second the motion.

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

Motion agreed to.

The PRESIDENT: I now declare the joint sitting closed.

The joint sitting closed at 15:58.

[The House resumed at 4.10 p.m.]

Members

ELECTION OF A MEMBER OF THE LEGISLATIVE COUNCIL

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I announce that at a joint sitting of the two Houses held this day, Ms Cate Faehrmann was elected to fill the vacant seat in the Legislative Council caused by the resignation of Dr Mehreen Faruqi. I table the minutes of the proceedings of the joint sitting.

The Hon. SARAH MITCHELL: I move:

That the document be printed.

Motion agreed to.

The Hon. SARAH MITCHELL: I move:

That the President inform His Excellency the Governor that Ms Cate Faehrmann has been elected to fill the vacant seat in the Legislative Council caused by the resignation of Dr Mehreen Faruqi.

Motion agreed to.

Senate

ELECTION OF A SENATOR

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I announce that at a joint sitting of the two Houses held this day, Dr Mehreen Faruqi was elected to fill the vacant seat in the Senate of the Commonwealth of Australia caused by the resignation of Senator Lee Rhiannon. I table the minutes of proceedings of the joint sitting.

The Hon. SARAH MITCHELL: I move:

That the document be printed.

Motion agreed to.

Bills

RESIDENTIAL TENANCIES AMENDMENT (SOCIAL HOUSING) BILL 2018

Second Reading Debate

Debate resumed from an earlier hour.

Mr JUSTIN FIELD (16:12): On behalf of The Greens, I speak in debate on the Residential Tenancies Amendment (Social Housing) Bill 2018. The bill has two key functions: to implement a bond scheme for social housing tenants, which includes termination of tenancy for non-payment, and to allow for the termination of tenancy where the tenant is found guilty of certain criminal offences. I make clear at the outset that The Greens oppose the bill introduced by the Government. At a time when there are 40,000 people who are homeless in New South Wales—10,000 more than when this Coalition Government came to office—a backlog of more than \$300 million of maintenance in our State's social housing stock and 100,000 people on a waiting list with 60,000 applications, this Government's approach to social and public housing is to bring punitive measures to Parliament.

This approach by Government will not address the problem of people being homeless or housing insecure. It will not solve the problem of the inequality that comes with people being homeless or housing insecure. The Greens oppose legislation that include these punitive measures. Providing people with housing changes their lives and our communities for the better. That is where the focus should lie. I congratulate my colleague in the other place, Ms Jenny Leong, the member for Newtown, who has been a tireless advocate for greater investment in social and public housing and support for those who are reliant on it not only in her electorate but also across the State. In relation to the bill before us, Ms Jenny Leong noted that this latest punitive attack on public housing tenants comes right in the middle of Homelessness Week—of all times. It means that some public housing tenants will end up homeless and on the street. A particularly important aspect of her speech in the other place was the comparison of penalties to the incomes of people in our public housing network. In her speech, Ms Leong said:

Tenants who are slapped with a bond of \$1,400—

that is the maximum bond that they can be slapped with—

presumably will receive a letter telling them that they have to pay it within 14 days.

She went on to say that the reality for some is:

If they are on a basic Newstart payment they are getting \$545.80 a fortnight which is \$272.90 per week. Imagine how stressful it would be for tenants to receive a letter advising them that in 14 days they would have to pay five times their weekly income.

I recognise that the bill allows for the bond to be paid over time. But one can imagine the stress it would cause to some people who potentially are penalised through no fault of their own. The Opposition, in its contribution to this debate, addressed the likely circumstances under which damage could be found and the potential for damage not related to the tenancy. I have already mentioned the extensive backlog of maintenance for social housing stock. Tenants could receive a bill for \$1,400. If the Minister for Family and Community Services copped a bill that was five times her weekly income it would be the equivalent to a \$30,000 bill arriving in the mail. That is how significant that letter would be to people who are living in public housing in New South Wales. The groups that have spoken extraordinarily strongly on the potential impact of this legislation on people who are living in public and community housing include the Tenants' Union of NSW, Homelessness NSW Inc, Shelter NSW, People with Disability Australia, the NSW Council of Social Service [NCOSS] and the Combined Pensioners and Superannuants Association of NSW [CPSA]. Their joint media release on the bill states:

Key community groups call for the plan to be dropped amid concerns it will make life harder for people living in public housing, increase administrative costs of the Family and Community Services department, and be unlikely to have any benefits for the department in costs or tenant behaviour.

The media release states further:

The policy will have a serious impact on those people already doing it tough.

In particular, the statement highlights people with a disability and people who may have been subject to domestic and family violence. It states: There is not adequate protection for people with dementia and other mental health issues, the behaviour of people from outside the household, or decades old damage caused by former occupants which is only recently discovered. These are critical issues to take into account when the Government proposes to send such letters. That is why The Greens oppose this legislation. During the briefing from the Government on this bill, a question was raised about the ministerial guidelines for rental bonds. The Government claims that many of the potential risks for tenants that may arise as a result of the requirement to pay a bond will be dealt with through the ministerial guidelines, including the ability for the Government to take into consideration people's circumstances. Following on from the comments made by the Opposition on the ministerial guidelines, we have only just been shown a copy. Many of the groups who responded to the bill may not have seen this information. In fact, this only came to light when serious questions were asked during the briefing on the bill.

The Hon. Adam Searle: When was that?

Mr JUSTIN FIELD: That was yesterday. I acknowledge that the Christian Democratic Party asked those questions but we will see in the votes on this legislation where the opposition lands. This information was

not released to the communities that will be affected nor was it released after debate in the Legislative Assembly where a lot of these issues were raised. In the past couple of days members have debated legislation in this place without having all the relevant information when consulting with their stakeholders. That is just not good enough. I foreshadow that The Greens will be moving amendments to require some of these guidelines to be made regulatory instruments. I am concerned that the impact of legislation on communities is not fully explained by the Government before it introduces legislation into the House.

In yesterday's briefing I asked questions about the part of the bill relating to the termination of tenancies where there is a suggestion of fraud. I was informed that in the past 12 months 15 cases have been prosecuted. I do not in any way resile from the seriousness of fraud in certain circumstances but the potential impact on tenants who, through no fault of their own or perhaps as a result of a third party, a domestic partner or other circumstances, may find themselves in a situation where their tenancy is discontinued. That is a serious threat to the security of their housing. Some 15 cases were prosecuted last year, so clearly mechanisms are available for the Government to take action against fraud. The Government has failed to make a case for the implementation of more punitive measures, particularly when there are so many people in desperate circumstances in New South Wales—the homeless and those on waiting lists or living in properties that are not being properly maintained. That should be the Government's priority; not punitive measures. The Greens contend that the serious issues that underpin social and public housing in New South Wales should be further explored in a genuine inquiry relating to this legislation. Accordingly, I move:

That the question be amended by omitting the words—"be now read a second time" and inserting instead "be referred to Portfolio Committee No. 2—Health and Community Services for inquiry and report".

If my amendment is not successful, The Greens intend to support Opposition amendments at the Committee stage to remove the rental bonds element in its entirety. The Greens have drafted similar amendments. If we are not successful in that regard, we will be looking to ensure that determination orders can only be in certain circumstances. In particular, we will be looking to require a condition report so that people are not unfairly punished because of historical damage that may not have been noticed. Those matters need to be included to protect tenants. The Greens do not support the bill.

The Hon. PAUL GREEN (16:23): I to speak to the Residential Tenancies Amendment (Social Housing) Bill 2018. Everyone should have a place to call home. Everyone should have a place that provides stability, security, safety and connection with family and community, whether it is a cottage, terrace, studio, bedsit, unit, caravan or a room in a boarding house. Access to affordable, safe and sustainable housing is important. It can ameliorate disadvantage and enable people to participate in society economically and socially. Our population is ageing and we want more people to stay in their homes. We want them to flourish in their later years and to keep their independence for as long as they can in the areas in which they have lived.

Access to housing, especially affordable and social housing, is becoming increasingly difficult. In 2014 there were 60,000 families on the social housing waiting list and in 2016 there were 67,000 families. Every year New South Wales becomes home to 100,000 new immigrants—20,000 in regional NSW and 80,000 in Sydney. I note that 75 per cent of the Australian population lives on Australia's beautiful coastline and this places massive pressure on housing and infrastructure requirements. Once a family has come off the waiting list, the provision of social public affordable housing is not where their journey should end; rather, it is where their journey should begin. Social housing is meant to help people get on their feet and then move into a rental place that they can afford or buy a house. Social housing is not meant for people to stop and stay. The spirit of this social policy is to help people get back on top and then move forward so that the next vulnerable person can use the facility.

More needs to be done to address the issues of social affordable housing and homelessness in our State. I acknowledge that the Hon. Ernest Wong has been battling to get support for his motion, which is in tomorrow's *Notice Paper*, for an inquiry into homelessness. The Government is doing all it can to address homelessness, but with 100,000 homeless people in this State it is never enough. When I am speaking on public housing panels I always say, "The Government can write any cheque it wants, but it is not writing a cheque for the amount required for homeless people." Data from the 2016 Census shows that homelessness in New South Wales has risen by 27 per cent and that the number of homeless persons aged over 55 years has steadily increased over the previous three censuses to 18,625 people.

The Census data shows also that nearly 60 per cent of homeless people in 2016 were aged under 35 years and that 42 per cent of that increase was in the 25 years to 35 years age bracket. In 2016 the Aboriginal and Torres Strait Islander population made up 3 per cent of the Australian population. However, they continue to be overrepresented in this area and account for 20 per cent of all persons who were homeless on Census night. Some 70 per cent were living in severely crowded dwellings, 12 per cent in supported accommodation for the homeless, and 9 per cent in improvised dwellings or tents or sleeping out. We must do more to address the issues of social affordable housing and homelessness in New South Wales.

I now turn to the detail of the bill. The bill will enable the New South Wales Land and Housing Corporation and the Aboriginal Housing Office to require that a bond be paid by a tenant at any time during a tenancy agreement provided that one was not paid to begin with. The guidelines, which are to be approved by the Minister for Social Housing, will outline the classes of tenants who may be required to pay a bond and the amount of rental bond to be paid. This legislation is not about making it difficult for families; it is about ensuring that tenants who do not respect and honour their responsibilities as social housing tenants are held to account for their conduct in social housing. We have all seen and heard the horror stories in the media of tenants who have not looked after properties and have wilfully destroyed them. The community is always shocked by these accounts. The Government is seeking to strengthen the accountability for tenants who take advantage of the opportunity of a family home being provided to them.

During the social, public and affordable housing inquiry we heard detestable evidence about tenants destroying houses or people destroying the interiors of empty houses. I think the bill to repair those houses was between \$40,000 and \$70,000. There are 60,000 people on the housing waiting list and it is detestable that some tenants have no respect for the system or the fact that taxpayers have given them the infrastructure to keep them safe and secure. Some people do the wrong thing and not only wreck those homes but also wreck the opportunity for others on the waiting list to access those buildings. That is annoying and frustrating when there are approximately 60,000 families on the waiting list.

The use of the bond will be risk based and it will target those people who are at a higher risk of damaging public housing. The bond will be capped and able to be paid in instalments, with the ability to defer payments in extenuating circumstances. Should a tenant fail to pay the bond, then they may be issued with a termination notice by NSW Land and Housing Corporation and the Aboriginal Housing Office. As required, the NSW Civil and Administrative Tribunal [NCAT] may also order the termination of a residential tenancy agreement when a tenant fails to pay all or part of their rental bond. However, should the tenant, once provided with a termination notice, pay the outstanding rental bond or enter into a repayment plan the tenant will not be required to vacate the premises and the rental agreement will not be terminated. It should also be noted that the bill allows the NSW Land and Housing Corporation and the Aboriginal Housing Office to collect rental bonds from tenants without having to utilise the online rental bond service.

The second part of the bill ensures that those who seek to abuse the provision of social and affordable housing are held to account when they have fraudulently sought a benefit that they were not entitled to. Tenants who commit fraud prevent someone who is truly in need and waiting on the social housing register from receiving assistance. We know from the inquiry that some of those people are older women, aged over 55, with no access to superannuation and who are living in cars and, in some cases, under bridges. It is deplorable that housing stock is not made available to them. In some instances, housing interiors are completely destroyed and the Government must decide whether the asset should be maintained or bulldozed—at massive expense.

Replacing older houses is not entirely a bad thing, given that technology and energy use have changed, as have lighting and space. It is considerably more pleasant to be in public housing these days than it would have been in the 1950s, when asbestos and fibro materials were used in housing construction, houses were quite dark and energy use and heating costs were high. It is not a total negative to consider bulldozing the older-style houses, but it is very costly to do that today. The bill will empower NCAT to terminate a rental agreement where the tenant has been found guilty of fraud under section 69 and section 69A of the Housing Act 2001, unless there are exceptional circumstances.

The bill will also extend offences relating to public housing tenant fraud and will apply to tenants who were paid a rental subsidy or other benefit by the Department of Family and Community Services [FACS], even though the tenant may not be in public housing. The secretary of Family and Community Services will receive access to information and have the ability to investigate and help prevent potential cases of fraud against the department, as well as the ability to retrieve a rental subsidy or benefit paid to a person when they were not entitled to that subsidy or benefit.

The third part of the bill seeks to give the same powers to the NSW Land and Housing Corporation and the Aboriginal Housing Office that already lie with the Secretary of the Department of Family and Community Services. Under those powers, they will be able to terminate a residential agreement of a tenant who is a registrable person within the meaning of the Child Protection (Offenders Registration) Act 2000. Before the termination of a tenancy agreement, the community housing provider must receive a recommendation of advice from the Commissioner of Police, with the approval of the FACS secretary, and alternative housing must be made available to the registrable person. This will ensure the community housing providers can respond quickly to any safety issue that may arise for tenants in the community.

Further guidelines will be created to assist community housing providers in this instance and the termination of a tenancy agreement can be made only by the chief executive officer or chair of the board of the

approved community housing providers. For the vast majority of social and affordable housing tenants these changes will have little impact on their day-to-day lives and they have nothing to fear from the legislation. However, those who have failed, or who fail going forward, to respect and care for these properties or who fraudulently claim benefits should take note that they will be held accountable.

There are more than 56,000 families on the housing waiting list, and I am committed to seeing this number continue to decline so that families with real need can find the homes they deserve and can begin their journey forward in their communities—whether its in social or public housing or in the private rental market. Hopefully, they will fully realise the opportunity of home ownership. I have a public housing background so I know that there is a continuum. We must give people a hand up, not a handout. In that spirit, we will help them get on their feet and move forward. I think the best part of the continuum is giving people a hand up so that one day they are able to own their own home—although I appreciate that ideal is changing in a world where housing is becoming increasingly unaffordable.

My colleague and I met with different stakeholders who had concerns, and we asked the Government to respond to some of them. The Tenants' Union of NSW sought an amendment to schedule 2 [10] and [13] to ensure that convictions can be ordered only in wilful or serious cases. The Government response referred to the Auditor-General, who notes:

It is too soon to determine trends in antisocial behaviour as a result of the new 'strikes' approach. With only two years of data, the policy is too new for any meaningful analysis that would show whether the 'strikes' approach is changing the nature and extent of antisocial behaviour.

The Government response continued:

You may be comforted to know that although FACS has issued over 1,400 warnings concerning anti-social behaviour, only 11 tenants (as at 31 December 2017) had proceeded to the three strike position ...

That is not bad. It has turned some behaviours around, and only 11 people have received three strikes. This is of great comfort to public housing tenants, who are able to live safely and peacefully in their homes as a result. In addition, a recent tenant survey found overwhelming tenant support for this policy when they were made aware of it.

We also raised a request by the Tenant's Union of NSW for two options: to replace "exceptional circumstances" with "special circumstances" or to amend the new section at subsection (5) to include the effect of the current section 154D. For instance, the tribunal is not required to make a termination order under subsection (5), paragraphs (a), (b) and (c)—I will not read the legislation, but it is in those terms. Of more interest to us in this debate, is that the Tenants' Union of NSW asked us to make a representation. We did that and the Government responded. The bill allows for exceptional circumstances to be considered by NCAT before termination. The definition of "exceptional circumstances" is deliberately undefined to allow the tribunal to consider a full range of circumstances before making a termination.

The Government has made this amendment in order to allow for those convicted by the Local or District Court of fraud under the Housing Act 2001 to be removed as soon as possible from social housing so that someone more vulnerable on the social housing waiting list can be offered the opportunity of stable housing. Additionally, FACS only pursues the most serious cases of fraud under the Housing Act 2001—for example, in the Rebecca Khodragha case, when FACS took more than 12 months to terminate her tenancy. Members may not be aware of that case. My understanding is that she posed as a single mother so that she could live in subsidised housing with her two children while her husband also lived there and operated from the premises an electrical business with a turnover of more than \$1 million a year.

The Tenants' Union also requested that schedule 1 [2] be removed entirely or that bonds can only be applied to premises with sitting tenancies that have had a recent condition report. The Hon. Adam Searle included that provision in one of the Opposition's amendments. The Government responded that the ministerial guidelines will ensure that a bond will prospectively apply to existing tenants and will only apply where the tenant causes significant damage to their property after the amendments commence and the ministerial guidelines are approved and published. I note that the Parliamentary Secretary submitted those guidelines in this place today.

"Significant damage" will be defined as damage greater than \$500 in a single instance. It is a current practice under section 29D of the Residential Tenancy Act that a condition report in relation to the condition of a residential premises be completed by or on behalf of a landlord before or when a residential agreement is given to the tenant for signing. The Department of Family and Community Services complies with this requirement already. Having to do another property condition report would be not only administratively burdensome for FACS but also disruptive for tenants.

I believe the Government has made a clear case for what it is trying to do with this bill. Having been a pastor and around vulnerable people for a large part of my life, I know there are always extreme cases and that it is necessary to have the ability and the discretion to deal with them. Having in legislation the sort of terminology that would rule out that kind of discretion is not helpful. The NSW Civil and Administrative Tribunal needs to be able to consider each case; there is no one-size-fits-all approach. Every time there is an extreme case that requires extreme consideration, the individual circumstances must be considered and officers must be able to make calls to resolve any issues. The Christian Democratic Party supports the bill.

Ms DAWN WALKER (16:43): I echo the words of my colleague Mr Justin Field in relation to the Residential Tenancies Amendment (Social Housing) Bill 2018. I add a reporting date to the inquiry referral motion. I move:

That the amendment of Mr Field be amended by inserting the words "by 18 September 2018" after "report".

Mr DAVID SHOEBRIDGE (16:44): I support the excellent work of my colleague in the other place the member for Newtown, Ms Jenny Leong, and the contributions made by my colleagues in this place to indicate The Greens' very real concerns about and opposition to the Residential Tenancies Amendment (Social Housing) Bill 2018. I listened carefully to this debate upstairs and then came to the Chamber and listened in detail to the concerns raised by the Hon. Paul Green about vulnerable people. The concerns he articulated in his contribution are very much mirrored by the member for Newtown, who has repeatedly raised those concerns in our party room, to me directly and in the community. The bill's proposed impact on vulnerable people is the primary reason The Greens oppose it.

The Hon. Paul Green indicated in his contribution that the Government had persuaded him that perhaps the impact would not be so great. I hope it is not. I also hope that the balance of crossbench members are keeping an open mind about the direction of this bill and are seriously considering the merits of referring it to a short, sharp inquiry before a committee, because there is a series of unanswered questions about its impact on vulnerable people. We know that people in public housing—particularly people in housing managed by the Department of Family and Community Services [FACS]—are often at the extremes of financial hardship; they are literally surviving not from week to week but from day to day. They are making decisions about paying power bills or feeding themselves; making decisions about getting the car registered or sending their kids on school excursions; making decisions about whether they will have three meals a day or two.

Those are decisions that nobody should be making in a country as wealthy as ours, but they are the decisions being faced regularly by people who are already in social housing and already in extreme situations. When people are in situations of real, endemic poverty it often means that other parts of their lives are hard to control. It may be that the economic difficulties people face are coupled with issues of mental illness, suffered by them or by close family members. We know that, because mental illness is so badly treated in our community, it is often also coupled with people self-medicating and having an addiction to legal or illegal drugs. When those things are added together—endemic, entrenched poverty, mental illness issues and family dysfunction—addiction may follow, and sometimes people's lives get a little out of control.

When people are living chaotic lives, dealing with all their difficulties, it could mean that the house they are living in gets damaged by someone who was brought there by a sibling or by their child. The Government's response in this bill is to whack those people with, effectively, a fine—another \$500. How is somebody who is struggling to put three meals on the table each day going to come up with \$500? Then the Government says that not only will it whack them with a \$500 penalty to pay for the damage—which the person may or may not have caused, and vulnerable people do not have \$500 anyway—but also it will require somebody in those distressing personal and financial circumstances to come up with another \$1,400, in addition to the \$500 fine, to pay a bond. It takes a tiny bit of empathy for people in those circumstances to realise that that is an impossible burden for them—they will not meet the cost of the bond and they will not pay the \$500 fine.

The Government then wants to give the department the ability to go to the NSW Civil and Administrative Tribunal to get an order, automatically terminate their tenancy and throw them out on their ear and make them homeless. It wants to add in the one bit of security and stability in their life—their home in public housing—make it vulnerable and take that away from them as well. That is what this bill proposes to do. My colleague, the member for Newtown, simply asks why? She asks the question, which I repeat, "How can any government in good conscience do that?" I say to the members of the Crossbench: Do not let this happen in our State. Do not let this happen to people who are struggling with extremes in their life and who are already on the edge. I will tell members what happens when people in those circumstances lose their house. A struggling mum with young kids cannot pay the bills so she loses the house. What follows is she then loses the kids. The kids fall into intergenerational trauma and dysfunction, which is the foster care system and FACS. At that point, their whole life trajectory collapses. And it all occurs because the Government wants to collect a \$500 penalty fee and \$1,400 bond from people who do not have the money.

The House is told that the guidelines will fix it. After viewing the guidelines, I have more concerns about the impact of the bill. One question is: How is "damage" defined in the guidelines? We do not know. How will FACS determine when it was caused and by whom? Is there a blame search or is any damage slated home to the tenant? In the case of domestic violence, who determines how, when, where or who caused the damage? For example, mum is in a tenancy and her partner comes home intoxicated. Significant violence follows and a wall is smashed in and damaged. Mum is subjected to domestic violence, the kids are frightened and the partner then buggers off or maybe there are police proceedings and an apprehended violence order is issued. But does the mum then get whacked with a \$500 penalty to fix the damage and a \$1,400 bond?

Is that how it is meant to work? Is the Government now penalising women who are subjected to domestic violence? How will exemptions be applied? Who are they for and who will determine the outcome? Will people living in public housing be required to pay a rental bond irrespective of whether they have taken full responsibility for the damage and paid for the repairs? Given this department's track record, who would trust it with these hard decisions? I note that the member for Heffron stated in response to the member for Newtown's clear opposition to the bill that amendments were the magic fix for this bill. I do not see how amendments will fix this bill, and it definitely cannot be done on the run. If there are amendments that will mitigate the unfairness in the system and protect vulnerable people, they should be explored in the committee inquiry proposed by Mr Justin Field.

I urge members of the Crossbench and the Government—as worthwhile as that is in the circumstances—to consider the benefits of referring the bill to a committee in order to address some of the pressing concerns associated with it and avoid visiting further disadvantage, by way of meanness of spirit, upon people who should be helped, not hurt.

The Hon. Dr PETER PHELPS (16:52): I speak in support of the Residential Tenancies Amendment (Social Housing) Bill 2018, which aims to build a fair and more equitable housing system across New South Wales. Through this bill, the Government is creating a system that ensures tenants and applicants are not prevented from accessing housing support by those who defraud the system. It is creating a system that reduces the cost of tenant damage so that money spent on the associated repairs can instead be spent elsewhere in the system. It is delivering on the Government's commitment under Future Directions to create a better experience for government tenants by ensuring that authorised community housing providers are able to resolve community safety issues quickly and effectively.

The vast majority of government housing tenants are good, law-abiding citizens who truly value the privilege that has been accorded to them. The majority of public housing tenants take great care of their property in recognition that it is a temporary privilege that will one day be passed on to another vulnerable person. The majority of government housing tenants would never dream of receiving a benefit to which they were not entitled. Unfortunately, those good tenants have their reputations ruined and besmirched by the wreckers and the rorters who choose to damage their property and defraud the system. In response, through this legislation, the Government is sending a clear message to those doing the wrong thing that defrauding the government housing system or damaging public housing is not acceptable.

The bill does this by allowing for the introduction of a risk-based rental bonds scheme—by allowing existing tenants to be charged a bond; imposing mandatory terminations for tenants convicted of rental rebate fraud under the Housing Act 2001; and allowing for the first time for the Secretary of the Department of Family and Community Services [FACS] to investigate and prosecute alleged subsidy fraud where a client receives a private rental subsidy. The bill also ensures that community housing providers can respond quickly to safety risks relating to registrable persons. To draw attention to mandatory terminations for tenants convicted of fraud under the Housing Act 2001, the bill inserts a new section 154FA that requires that the NSW Civil and Administrative Tribunal [NCAT] must terminate the tenancy of a government housing tenant who has been convicted of rental rebate fraud under section 69 or section 69A of the Housing Act 2001, unless exceptional circumstances apply.

Rental rebate fraud occurs where a tenant fails to disclose their income, or deliberately provides incorrect details regarding their household composition, income or assets that results in the tenant receiving a greater rental rebate than they are entitled to receive. These persons have prevented a more vulnerable person on the government housing register from receiving the benefits that stable and secure housing provides. When someone is convicted of this criminal offence—and let us remember it is a criminal offence—the community quite rightly expects that the tenant will lose that entitlement so the property can be re-let to someone in need, in genuine need. But at present this is simply not the case, as a conviction does not empower FACS to seek a termination on that basis. Instead, FACS is required to backdate the rental subsidy to the correct level and then seek termination from NCAT on the basis of rental arrears.

This not only is time consuming, taking well over a year in some cases, but also does not guarantee that the tenant—the rorter—will be evicted. It means that tenants convicted of fraud are able to remain in government housing indefinitely, instead of enabling the property to be allocated to someone who is truly in need of assistance,

and truly deserving of it. The amendments proposed will respond to this issue by improving the process to terminate tenants who are convicted of fraud and decrease the time it takes to re-allocate the property to our most vulnerable. I note that some speakers have raised the issue of discretion for the tribunal in issuing a termination order. However, the bill provides discretion for the tribunal to consider exceptional circumstances.

It is my understanding that the definition of what constitutes an exceptional circumstance is not in the bill, which will allow the tribunal to make its own determination on what constitutes an exceptional circumstance. I think this is a fine reversion to reliance upon common law principles—to the great tradition of judge-made law, which is too often overridden in this State by stupid and unnecessary statutory fiat. I remind members that those whose tenancies will be terminated under this provision have been convicted of a criminal offence by a Local or District Court. A criminal offence is what will result in the termination of these tenancies. Let us be absolutely clear about this: Any person who opposes this amendment clearly places the needs of convicted fraudsters above those who are in need of assistance and sitting on the waitlist.

The bill empowers the secretary of FACS to investigate and prosecute alleged private rental subsidy fraud and recover moneys paid in the same way that the Land and Housing Corporation is currently able to investigate and prosecute rental rebate fraud for those living in government housing. Private rental support is often provided to those who claim that they have no alternative options and includes the private rental subsidy, which allows a tenant to reside in a private rental property whilst paying government housing rents. As parliamentarians, we must ensure that these resources are being accessed only by those who need them. While FACS can currently refer allegations of private rental subsidy fraud to the police, often those allegations are not prioritised for investigation. This means that a person may continue to receive a subsidy for an extended period of time that they do not require, which could otherwise have been used by someone who is in more desperate need of assistance. The changes in the bill put those who wish to defraud the system on notice that not only will FACS find them but they will also have to pay the money back and face criminal prosecution for their actions.

The bill further builds a fairer and more just government housing system through the introduction of a risk-based rental bond scheme, which has been addressed in detail by other members. However, I reiterate that the risk-based bond scheme is designed to target only those who cause damage to government housing and ensures that the majority of law-abiding government housing tenants will not have to pay any bond, unlike the private rental market.

Finally, the bill also supports the implementation of the Social Housing Management Transfer under the Future Directions reform, which will transfer the management of more than 14,000 properties to community housing providers from October 2018 by empowering authorised community housing providers to respond quickly to any community safety issues caused by a registrable person. This Government believes in creating a more just and fairer government housing system. It believes that the vast majority of good government housing tenants do not deserve to be disadvantaged by the actions of a truculent few. It also believes that those who seek to do the wrong thing should be held accountable for their actions. This Government is prepared to make tough decisions for the sake of justice for those who do the right thing. Government housing is not a right; it is a privilege, which should not be abused. I encourage all members of this House to support this legislation so that the government housing system is not the domain of crooks, vandals and rorters. I commend the bill to the House.

Mr SCOT MacDONALD (17:02): On behalf of the Hon. Don Harwin: In reply: I thank members who contributed to the second reading debate—the Hon. Adam Searle, Mr Justin Field, the Hon. Paul Green, Ms Dawn Walker, Mr David Shoebridge and the Hon. Dr Peter Phelps. The bill will create a fairer and more equitable social housing system. It will create a system in which the cost of tenant damage is reduced by providing tenants who have a history of causing damage with an incentive not to do so in future. In answer to the Hon. Adam Searle's query, I can advise that the financial cost of this type of damage is an estimated \$16 million. Additionally, the anticipated administration cost is incorporated in the Family and Community Services [FACS] budget. The bill will create a system that ensures that applicants on the social housing waiting list are not disadvantaged by those who seek to defraud the system. This system will ensure the success of the Social Housing Management Transfer program under Future Directions for Social Housing in New South Wales by allowing community housing providers to respond quickly to community safety concerns.

As has been mentioned many times today, the overwhelming majority of public housing tenants are law-abiding citizens who value the benefit provided to them. The provisions of the bill will not apply to them. Instead, the bill sends a strong message to those tenants who seek to cause damage to public housing or defraud the system that their behaviour will no longer be tolerated. Current social housing tenants do not deserve money being diverted away from the rest of the social housing system due to repair costs for damage. Additionally, social housing applicants do not deserve having a delayed housing outcome as a result of someone taking advantage of the system and receiving a benefit that they do not need or deserve. The actions of tenants who commit fraud or damage properties is unfair and inequitable to everyone else in the system. In response to those challenges, the

Government has taken strong action through the proposed implementation of a risk-based bond scheme; mandatory termination by the New South Wales Civil and Administrative Tribunal for fraud, unless exceptional circumstances apply; and by allowing the Secretary of FACS to investigate and prosecute alleged instances of private rental subsidy fraud, together with recovering moneys paid.

The Government's approach is fair and measured and ensures that we continue to protect those in need whilst holding those who seek to do the wrong thing to account. As noted, the introduction of a risk-based bond scheme has been proposed following stakeholder feedback which suggests that the proposed social housing bond scheme in Future Directions, which requires all new public housing tenants to pay a bond, unfairly targets those that are unlikely to cause damage. Instead, our approach means that only those who cause significant damage will have to pay a bond while the vast majority of public housing tenants will continue to be exempt. This is different from the private rental market in which tenants are routinely charged a bond on entry. In answer to the Leader of the Opposition's concern about the distribution of ministerial guidelines, I give the Hon. Adam Searle an undertaking that FACS and the Minister will disseminate the guidelines to stakeholders to seek their feedback. Consultations have taken place, but that work will continue.

I will now respond to some of the incorrect information that was raised about the bond scheme. First, I note the several suggestions that the introduction of the bond scheme somehow creates a barrier to a vulnerable person accessing public housing. That is not the case. The bond will not be required to be paid up-front in full. Instead, the tenant can pay the bond by instalments over 24 to 36 months. Additionally, payments may be deferred in extenuating circumstances. It is designed so that tenants who are currently paying 25 per cent of their income will be paying no more than 30 per cent of their income in rent and bond.

Furthermore, I note that members have raised the possibility that victims of domestic violence will be charged for damage when the damage is caused by a perpetrator of domestic violence. That is also not the case. As has been mentioned several times, victims of domestic violence will not be required to pay a bond when the damage is caused by a perpetrator of domestic violence. Furthermore, I note members' concerns that the bond will unfairly punish those with mental health or other medical issues when that is the source of the damage. Once again, that is false. It has been stated several times that FACS will apply discretion when determining tenant damage to consider whether ill health or an inability to maintain the premises has contributed to the damage, which is made clear in the publicly available FACS policy on tenancy damage charges. Should this discretion be exercised, a tenant damage charge will not be imposed and, accordingly, a rental bond will not be required.

I also heard that FACS should be required to provide a condition report before imposing a tenancy damage charge in order to prevent a tenant being charged for damage caused by a previous tenant. I am advised that FACS complies with the provisions of the Residential Tenancies Act, which requires that the condition report be prepared before leasing. I reiterate that it is proposed that the rental bond will prospectively apply to existing tenants and will apply only when the tenant causes significant damage to the property after the amendments commence and the ministerial guidelines are approved and published. Tenants will also be required to pay a bond if they report damage that was caused before this time but remains unreported upon commencement of the Act and publication of the ministerial guidelines.

I note members' comments that the type of person that a bond applies to should not be determined by ministerial guidelines. However, the use of the guidelines is not inconsistent with other sections of the Residential Tenancies Act, which is governed by ministerial guidelines or procedures including section 139 relating to water usage, section 144 relating to eligibility, section 145 relating to the review of eligibility and section 149 relating to alternative premises. The bill also ensures that the social housing system continues to deliver for our most vulnerable by imposing a mandatory tenancy termination for tenants convicted of rental rebate fraud under the Housing Act 2001 unless exceptional circumstances apply.

Where a person unfairly obtains a benefit to which they are not entitled, it means that a person sitting patiently on the social housing waitlist has been prevented from accessing housing assistance at the earliest opportunity. The current system has resulted in situations where those convicted of the criminal offence of rental rebate fraud under the Housing Act are able to remain in social housing indefinitely due to an inability of the Department of Family and Community Service [FACS] to seek termination on that basis. Instead, FACS must pursue other mechanisms to the tenancy, which are not only time consuming, but also do not necessarily result in eviction. This simply does not meet the community expectation that those who choose to defraud the privilege they receive should lose their benefit immediately.

I note that members have made claims that the tribunal does not have appropriate discretion, however, I note that the bill allows for the tenant to satisfy the tribunal that there are exceptional circumstances that justify the order not being made. I understand that this provision would allow for a wide range of circumstances and seeking to define what exceptional circumstances are would only disadvantage some tenants. Additionally, I note that tenants terminated under this provision will have been convicted of a criminal offence by a court. It is simply

illogical for members to put the interests of convicted fraudsters above the most vulnerable on our social housing waitlist, which is all they would do by opposing this provision.

I also acknowledge that the bill provides the Secretary, Family and Community Services, with the power to investigate and prosecute fraud against private rental support provided by FACS and for authorised community housing providers to, like FACS, terminate the tenancy of a registerable person under specified circumstances. These measures are important in ensuring that the public continues to retain confidence in the social housing system by ensuring that those who defraud a benefit provided to them are found and prosecuted, together with ensuring that Community Housing Providers are quickly able to address safety issues that may arise. This bill places the interests of the vast majority of social housing applicants and tenants above those that choose to do the wrong thing by the social housing system.

Members who opposes this bill will, therefore, put on record their acknowledgement that they believe that tenant damage is acceptable in public housing. It is alarming that The Greens will not support those tenants who do the right thing by cracking down on those tenants who wilfully damage social housing. They put on record that they believe that convicted fraudsters should retain the privilege that they have defrauded, rather than it instead being used to house someone truly in need. They show that they have no interest in caring for our most vulnerable. I encourage all members to join with the Government to deliver a fairer and more equitable social housing system for all. I commend the bill to the House.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): The question is that this bill be now read a second time, to which Mr Justin Field has moved an amendment. Ms Dawn Walker has moved an amendment to the amendment moved by Mr Justin Field. The question is that the amendment of Ms Dawn Walker to the amendment of Mr Justin Field be agreed to.

Amendment to amendment agreed to.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): The question is that the amendment of Mr Justin Field as amended be agreed to.

The House divided.

Ayes14
Noes21
Majority.....7

AYES

Buckingham, Mr J
Graham, Mr J
Pearson, Mr M
Sharpe, Ms P
Walker, Ms D

Donnelly, Mr G (teller)
Mookhey, Mr D
Primrose, Mr P
Shoebridge, Mr D
Wong, Mr E

Field, Mr J
Moselmane, Mr S (teller)
Searle, Mr A
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
Khan, Mr T
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, Mrs P

PAIRS

Houssos, Mrs C
Voltz, Ms L

Blair, Mr
Harwin, Mr D

Amendment as amended negatived.

The PRESIDENT: The question is that this bill be now read a second time. Is leave granted to ring the bells for one minute?

Leave granted.

The House divided.

Ayes30
Noes5
Majority.....25

AYES

Amato, Mr L
Clarke, Mr D
Donnelly, Mr G
Franklin, Mr B
Khan, Mr T
Mallard, Mr S
Mitchell, Mrs
Nile, Revd Mr
Searle, Mr A
Veitch, Mr M

Borsak, Mr R
Colless, Mr R
Fang, Mr W (teller)
Graham, Mr J
MacDonald, Mr S
Martin, Mr T
Mookhey, Mr D
Phelps, Dr P
Sharpe, Ms P
Ward, Mrs P

Brown, Mr R
Cusack, Ms C
Farlow, Mr S
Green, Mr P
Maclaren-Jones, Mrs (teller)
Mason-Cox, Mr M
Moselmane, Mr S
Primrose, Mr P
Taylor, Mrs
Wong, Mr E

NOES

Buckingham, Mr J
Shoebridge, Mr D (teller)

Field, Mr J
Walker, Ms D

Pearson, Mr M (teller)

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 Opposition amendments appearing on the sheet C2018-093A and The Greens amendments appearing on sheet C2018-098B. I indicate that the Opposition amendments were received first and that has some impact upon what we will do. We will move to Opposition amendment No. 1. Opposition amendment No. 1 and The Greens amendment No. 2 are identical, so I will call upon the Hon. Adam Searle to go first in respect of those amendments. The Greens amendment No. 1 also somewhat covers the same territory as Opposition amendment No. 1, so I will call upon the Hon. Adam Searle first and then call upon Mr Justin Field in respect of his amendment No. 1.

The Hon. ADAM SEARLE (17:26): I move Opposition amendment No. 1 on sheet C2018-093A:

No. 1 **Discretion of Tribunal in cases of hardship, etc**

Page 3, Schedule 1 [1], proposed section 154FA (5), lines 18–20. Omit all words on those lines. Insert instead:

- (5) The Tribunal is not required to make a termination order under this section if:
- (a) the Tribunal is satisfied that the termination order would be likely to result in undue hardship being suffered by a child, a person in whose favour an apprehended violence order could be made or a person suffering from a disability within the meaning of the *Anti-Discrimination Act 1977* who is occupying or jointly occupying the social housing premises, or
 - (b) the tenant satisfies the Tribunal that there are other exceptional circumstances that justify the order not being made.

As I outlined in my contribution to the second reading debate, the Opposition thinks that the exceptional circumstances clause in proposed section 154FA (5) is too narrow. Exceptional circumstances are just that—circumstances that are totally out of the ordinary, unprecedented or almost unique. That is a safety valve to have in circumstances of this present kind. We do not oppose the bill or the policy that fundamentally underlies it, but we want to ensure that it is done appropriately, fairly and properly.

The Opposition amendment would enable the tribunal not to be required to make a termination if it is satisfied that to do so would be likely to result in undue hardship being suffered by a child, a person in whose favour an apprehended violence order could be made, or a person suffering from a disability who is occupying or jointly occupying a social housing premises. This is to address circumstances when damage is done to property and the tenant may even be responsible. When a termination would harm a person with a disability, the child or a victim of domestic violence, I think making this allowance—this potential safety valve—does no harm to the

policy of the legislation and provides an additional safeguard for innocent third parties. It might be all well and good for us to feel good about throwing out unworthy tenants and allowing premises to become available for more worthy tenants—that is a laudable objective—but in so doing we do not want to harm innocent third parties such as children. I urge honourable members to join with the Opposition and support our amendment No 1.

The CHAIR (The Hon. Trevor Khan): I ask Mr Justin Field to move The Greens amendment No. 1 on sheet C2018-098B. The Opposition's amendment seeks to exclude the entirety of clause 5 whereas The Greens' amendments seek to omit "exceptional" and insert "special". Essentially, The Greens seek a less substantial amendment than does the Opposition. I will first put the question on the Opposition amendment and if that fails I will put the question on The Greens amendment.

Mr JUSTIN FIELD (17:30): I move The Greens amendment No. 1 on sheet C2018-098B:

No. 1 **Termination for fraud**

Page 3, Schedule 1 [1] (proposed section 154FA (5)), line 19. Omit "exceptional". Insert instead special".

As has been made clear, this amendment is very similar to Opposition amendment No. 1 on sheet C2018-093A. I note the point made by the Hon. Dr Peter Phelps in his second reading contribution that people are not entitled or do not have a right to government housing. No, they do not, but they have a right to housing generally. If we as a society do not expect that, then we are setting ourselves up for failure as a community. If the safety net is not going to be State-supported housing, we will end up with more homeless people. There are already 40,000 homeless people in New South Wales.

There will be some instances where due to fraud which may relate to another tenant in the same premises—a partner, dependents, children, a carer or someone who is cared for—a person, through no fault of their own, could find themselves without a home. I understand that it is attractive for the Government to take the stance that if a person has defrauded the system they are not entitled to housing. But given the few circumstances of fraud, the potential consequences for so many people are extreme and will lead to people no longer having a place to live. That is why The Greens are moving this amendment and are supporting the Opposition amendment.

Mr SCOT MacDONALD (17:32): I address both Opposition amendment No. 1 on sheet C2018-093A and The Greens amendment No. 1 on sheet C2018-098B. The Government does not support these amendments. The Opposition amendment is unnecessary, as the bill already allows for exceptional circumstances to be considered by the NSW Civil and Administrative Tribunal before termination. "Exceptional circumstances" has deliberately been left undefined to allow the tribunal to consider a full range of circumstances that could be defined as exceptional before making a decision to terminate. The types of "exceptional circumstances" may include undue hardship suffered by a child, a person in whose favour an apprehended violence order could be made or a person suffering from a disability within the meaning of the Anti-Discrimination Act 1977.

As I said, the Government does not support The Greens amendment No. 1. I am advised that there are no practical differences between "special" circumstances and "exceptional" circumstances. Under the proposed bill, the tribunal is already allowed to consider a full range of circumstances that could be considered exceptional. I note that a person who is terminated under these provisions would already have been convicted of a criminal offence under the Housing Act 2001. Any delay in terminating a tenancy will prevent someone who is truly in need from accessing support.

Mr JUSTIN FIELD (17:33): I ask the Government, in the event that a person living in a property is convicted of fraud and has their tenancy terminated, will a person who is living with them but who has not been responsible for that fraud also be evicted from that property?

Mr SCOT MacDONALD (17:34): I think I have explained.

The CHAIR (The Hon. Trevor Khan): The Hon. Adam Searle has moved Opposition amendment No. 1 on sheet C2018-093A. The question is that the amendment be agreed to.

The Committee divided.

Ayes 14
Noes 19
Majority..... 5

AYES

Buckingham, Mr J
Graham, Mr J
Pearson, Mr M
Sharpe, Ms P

Donnelly, Mr G (teller)
Mookhey, Mr D
Primrose, Mr P
Shoebridge, Mr D

Field, Mr J
Moselmane, Mr S (teller)
Searle, Mr A
Veitch, Mr M

AYES

Walker, Ms D

Wong, Mr E

NOES

Amato, Mr L

Cusack, Ms C

Franklin, Mr B

MacDonald, Mr S

Martin, Mr T

Nile, Revd Mr

Ward, Mrs P

Clarke, Mr D

Fang, Mr W (teller)

Green, Mr P

Maclaren-Jones, Mrs (teller)

Mason-Cox, Mr M

Phelps, Dr P

Colless, Mr R

Farlow, Mr S

Harwin, Mr D

Mallard, Mr S

Mitchell, Mrs

Taylor, Mrs

PAIRS

Houssos, Mrs C

Voltz, Ms L

Ajaka, Mr

Blair, Mr

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): Mr Justin Field has moved The Greens amendment No. 1 on sheet C2018-098B. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): The Greens amendment No. 2 has lapsed. We will now deal with The Greens amendment No. 3 because it seeks to delete clauses 156C and 156D in their entirety. Once Mr Justin Field has moved his motion I will then invite the Hon. Adam Searle to consider moving Opposition amendments Nos 2 and 3 because they are of lesser substance.

Mr JUSTIN FIELD (17:43): I move The Greens amendment No. 3 on sheet C2018-098B:

No. 3 Rental bonds in social housing tenancy agreements

Pages 3 and 4, Schedule 1 [2] (proposed Division 8 of Part 7), line 23 on page 3 to line 29 on page 4. Omit all words on those lines.

This amendment seeks to remove the provisions of the bill relating to the rental bond elements and I went through some of this in my second reading contribution. I understand that this is a large part of the substance of the bill but it is quite distinct from the issues raised about fraud. The requirement for rental bonds to be paid in certain circumstances has the potential impact of leaving many people much worse off for relatively minor aspects. But we can now have a more detailed argument because the proposed ministerial guidelines are now in front of us. I note that we did not have them until very recently but the stakeholders do not have a copy of them.

The Government said there has been some consultation but there are elements in these guidelines that raise yet more concerns. This legislation, through these guidelines, will allow for rental bonds to be required of existing tenants, people moving into various forms of government housing, where damage has been identified or previous damage has occurred. For example, damage could be identified and a tenant may be required to pay a bond up to as much as \$1,400. In my second reading contribution I went through what a significant impost that could place on people on the Newstart Allowance or those on relatively low incomes. If they fail to pay, then a termination notice can be given. This could be if damage for as little as \$500 was identified. I have lived in and owned properties where damage has been incurred. It does not take a lot to reach \$500 if a contractor is used to do the repair work. Damage of \$500 could be from a kid kicking a soccer ball in a hallway and putting a hole in the wall. These things happen in any home, not just in social housing. But in instances of disadvantage, where there may be drug addiction, mental health issues or domestic violence, these things are more likely to happen. These are small examples of damage.

Now that people will have the sword of Damocles hanging over them—the threat of losing their property—they are unlikely to report any form of damage, even accidental damage. Small elements will build up, there will then be an inspection and action will then be taken because people have been fearful. The circumstances have not been right for them to be able to report minor damage and to have it dealt with as one would in any tenancy agreement, even in the private market. So there are significant risks associated with this aspect of the bill

that will leave people worse off and will result in those who cannot afford it being issued with debt notices to pay bonds. If they do not pay, they will potentially be evicted. I understand the logic but the idea that the bond can be paid in instalments is rather perverse. The 20 per cent discount for upfront payments is also going to be attractive to some people. What are they going to do? They could very well go to short-term lenders to get that money and then the debt crisis seen in these communities will be exacerbated. There are many, many reasons why this is a bad provision. It will leave people worse off and could also potentially leave some homeless. I urge all members to support The Greens amendment No. 3.

The Hon. ADAM SEARLE (17:47): The Opposition does not support The Greens amendment No. 3. We have addressed our concerns about the rental bonds proposed by the Government in Opposition amendments Nos 2 and 3. As I indicated in my second reading contribution, Family and Community Services does not require this legislation for new tenancies. As a matter of policy they can do this administratively in respect of new tenancies but without legislative assistance they cannot impose these arrangements on existing tenants. Hence they need this legislative fiat. While we have concerns about it, we are not fundamentally opposed to the policy in part 7, division 8, item [2] of schedule 1. We will deal with it not by seeking to remove it from the legislation totally but by moving our other amendments as circulated.

Mr SCOT MacDONALD (17:49): The Government does not support The Greens amendment No. 3. The bond scheme has been designed to reduce the cost of property damage caused by tenants and to encourage and incentivise tenants doing the wrong thing to change their behaviour. Property damage costs the taxpayer millions of the dollars per year and is money which otherwise would have been spent elsewhere in the system to improve tenants' lives.

The CHAIR (The Hon. Trevor Khan): Mr Justin Field has moved The Greens amendment No. 3 on sheet C2018-093A. The question is that the amendment be agreed to.

Amendment negatived.

The Hon. ADAM SEARLE (17:50): By leave: I move Opposition amendments Nos 2 and 3 on sheet C2018-093A in globo:

No. 2 Premises to have condition report

Page 4, Schedule 1 [2], proposed section 156D (3). Insert at the end of line 20:

, and

- (f) a condition report relating to the condition of the social housing premises concerned has been completed by or on behalf of the landlord within the period of 6 months before the time that the tenant is required to pay the bond.

No. 3 Guidelines to be prescribed by regulations

Page 4, Schedule 1 [2], proposed section 156D (7), lines 28 and 29. Omit all words on those lines. Insert instead:

- (7) In this section, *rental bond guidelines* means any guidelines prescribed by the regulations for the purposes of this section.

I have addressed the two amendments in my second reading contribution. Amendment No. 2 deals with the condition report, which I previously addressed at some length. If we are to hold tenants to account for the state of their premises, we must do so transparently and openly and have a condition report relating to the condition of the social housing. Opposition amendment No. 3 relates to the guidelines. While we have the proposed ministerial guidelines, it is bad practice, whatever the legislative context, to enable the Executive to make important rules and orders that are not able to be scrutinised by the Parliament. We have a Legislation Review Committee in this Chamber and under the Subordinate Legislation Act either House can move to disallow a regulation if there is substantial criticism of it. That is part of our democratic system.

However, there has been an unfortunate tendency in government in recent years to give serious latitude to the Executive to make rules and orders that have substantial effect on citizenry regarding important legal rights. Those rights are not able to be reviewed by the Parliament or critiqued in any way, and that is bad as a matter of principle. We propose rather than the Ministerial Rental Bond Guidelines—which the Minister, whoever it is, from time to time promulgates—that there be a guideline prescribed by the regulations for the purpose of the selection. That is fair, democratic, open and transparent. It leaves the Minister in the driving seat and it enables the Parliament to raise concerns, which is the appropriate way these things should be done. I ask the Parliament in this Chamber to support these amendments.

Mr SCOT MacDONALD (17:52): The Government does not support the Opposition amendments Nos 2 or 3. Section 29 of the Residential Tenancies Act already requires that a condition report regarding a residential premises be completed by or on behalf of a landlord before or when a residential agreement is given to the tenant

for signing, which the Department of Family and Community Services [FACS] complies with. Having to do this again would be inefficient for FACS and would be an imposition on the tenant. Additionally, the ministerial guidelines ensure that a bond will prospectively apply to existing tenants. They will only apply where the tenant causes significant damage to their property after the ministerial guidelines are approved and published or where the tenant has not reported damage for which they are or were responsible for before that date.

I am advised that the use of the ministerial guidelines is consistent with other provisions of the Residential Tenancies Act which allow the Minister for Family and Community Services to approve water usage guidelines, eligibility criteria, procedures for reviewing eligibility, and procedures approved by the Minister for alternate social housing premises. I am also advised that these provisions were introduced when those opposite were in government. The tabled guidelines are clear regarding the safeguards provided for tenants. Placing the provisions of the guidelines into regulation would create an unnecessary burden should these provisions need to be updated in the future.

The CHAIR (The Hon. Trevor Khan): I note that Opposition amendment No. 2 is substantially the same as The Greens amendment No 4.

Mr JUSTIN FIELD (17:54): I advise the Committee that I do not intend to move The Greens amendment No. 4. I support the Opposition amendments Nos 2 and 3. I restate that we do not intend to move amendment No. 4 of The Greens amendments as it is substantially the same as the Opposition's amendment and relates to the need for condition reports. I ask the Parliament Secretary to advise regarding public housing, whether government or private housing and where the rental bond provisions may relate, are there any premises that have not been inspected or a condition report prepared in the last six months? If not, then there is a real risk that damage may have occurred over the course of a tenancy and people may have been living in these properties for a substantial amount of time without an inspection. At the time of inspection, there might have been a build-up of small issues which could result in a finding of damage which could lead to a substantial impost. Our concern is that those people may be dealt with unfairly in those circumstances.

I hope that whoever ultimately makes that decision will be able to take those circumstances into account. But it would give some assurance to public housing tenants to know that there is a condition report, a written document, that underpins any assumptions that are made by someone considering the extent of the damage. The cost to those who could potentially lose their homes is significant. We think it is an unfair impost, especially given the more than \$300 million backlog of maintenance for public housing. I hope the Government can reconsider that. The Greens also support the idea of the guidelines being prescribed by a regulation. As I said in my second reading speech, we have seen pieces of legislation this week where substantial aspects of government policy are not before the House and will not be reviewable by the House. These guidelines could result in people losing their homes and could result in significant financial penalties for people who cannot afford it. It is not unreasonable, given the significant role public housing plays in so many people's lives, for the Parliament not to have some degree of oversight. The Greens support the Opposition amendments Nos 2 and 3.

The CHAIR (The Hon. Trevor Khan): The Hon. Adam Searle has moved Opposition amendments Nos 2 and 3 on sheet C2018-093A. The question is that the amendments be agreed to.

Amendments negatived.

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

Motion agreed to.

Mr SCOT MacDONALD: I move:

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

Motion agreed to.

Adoption of Report

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

That the report be adopted.

Motion agreed to.

Third Reading

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

That this bill be now read a third time.

Motion agreed to.

**CHILDREN (EDUCATION AND CARE SERVICES) SUPPLEMENTARY PROVISIONS
AMENDMENT BILL 2018****First Reading**

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Sarah Mitchell.

Second Reading Speech

The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (18:00): I move:

That this bill be now read a second time.

The Children (Education and Care Services) Supplementary Provisions Amendment Bill 2018 reflects the commitment of the New South Wales Government to early childhood education and care. Early childhood education and care matters. Today's children will finish school and enter a very different and demanding world of work. Families recognise that high-quality early childhood education provides their children with an early and crucial step towards preparing for their future learning as well as their personal and professional lives. There is strong evidence that investment in the early years reaps large rewards. High-quality early childhood education shifts the educational trajectory of a child higher and faster than attendance at a low-quality service or non-attendance. The more quality early childhood education a child has, the better and faster they will adjust to school and make cognitive and social progress.

Dr Geoff Masters from the Australian Council of Education points out that a powerful predictor of how a child finishes high school is how he or she entered kindergarten. That is no surprise given that 90 per cent of a child's brain development occurs before a child reaches the age of five. The Effective Preschool Primary and Secondary Education Study speaks to the importance of high-quality preschool education. Successive reports have found a strong correlation between two years of high-quality preschool education and strong educational and behavioural outcomes throughout a child's schooling. Nobel Prize winning economist James Heckman first demonstrated the powerful link between early learning and later life. He argued that the economic return on investment in the early years is higher than the return on investment at any other time during childhood, and could be as high as \$17 for each dollar invested.

The evidence is there. That is why the Government is committed to providing a high-quality early childhood education and care system. That is why we have invested record spending into the sector. Early childhood education and care matters. Earlier this year the Government handed down a budget that sees more than \$474 million invested in early childhood education. Since coming to government, the Liberal-Nationals Government has invested more in early childhood education every year. In last year's budget we committed \$400 million because we knew the importance of capitalising on the momentum. We are committed to continuing to invest in this extremely important sector.

I turn now to the purpose of the bill. Currently, some children in New South Wales, purely because of the type of service they attend, do not have access to services with the same safeguards and quality benchmarks as the vast majority of children in New South Wales. This is particularly pronounced in rural and remote areas. This situation has arisen due to changes to the Children (Education and Care Services) National Law that arose last year after a 2014 review of the National Quality Framework. In contrast, the State law has not changed since it was enacted in 2011. A significant majority of early childhood education and care services in New South Wales—approximately 5,400 services—are regulated under nationally consistent legislation. This came into effect with the implementation of the National Quality Framework in 2012.

The National Quality Framework is a nationally consistent regulatory system agreed by all Australian governments to raise quality and drive continuous improvement in the sector. It comprises a national legislative framework, a National Quality Standard, a national quality rating and assessment process, and a national body called the Australian Children's Education and Care Quality Authority. In New South Wales, the National Quality Framework is administered by the Department of Education. The National Partnership on the National Quality Agenda, first signed in 2012 between the States, Territories and the Australian Government, established the National Quality Framework. The national partnership outlines the aims, objectives and arrangements of all parties, and states:

The Commonwealth and the States are committed to maintaining their focus on the early years to ensure the wellbeing of children throughout their lives, and to deliver the vision of the Early Years Childhood Development Strategy endorsed by the Council of Australian Governments in July 2009, that "by 2020 all children have the best start in life to create a better future for themselves, and for the nation".

All States and Territories are committed to the National Quality Framework as a nationally consistent regulatory system to raise quality and drive continuous improvement and consistency in early childhood education and care services. The National Quality Framework is also highly supported by the sector. A national public consultation process was undertaken by Woolcott Research in mid-2014. This research was part of the review of the National Partnership Agreement on the National Quality Agenda and indicated there was general consensus of support for the National Quality Agenda amongst the sector. Further, it found that the framework led to success in delivering a more unified national regulatory system, which contributes to improved quality in the provision of education and care services.

The Australian Children's Education and Care Quality Authority has found that support for the National Quality Framework amongst providers of early childhood education and care has been consistently above 95 per cent since it began surveying the sector in 2013. This support remained very strong in 2017. The National Quality Framework regulates approximately 95 per cent of early childhood education and care services in New South Wales. The service types that are regulated are long day care services, preschools, out-of-school-hours care and family day care. A small number of services—120 as at June 2018—are regulated under a separate New South Wales law, the Children (Education and Care Services) Supplementary Provisions Act 2011. These services are considered "out-of-scope" for the purposes of the National Quality Framework.

The New South Wales law regulates service types that were excluded from the national system when it was established in 2012. These services include occasional care services, home-based care services, mobile services and deemed "other out-of-scope" services, such as multipurpose services. It also provides for the specific recognition of centre-based services in shopping centres, although there are none of these approved at present. These service types are also considered "out-of-scope" for the purposes of the national law.

This bill brings forward amendments to align the Children (Education and Care Services) Supplementary Provisions Act 2011 with the national law. The National Quality Framework and the national law has benefited from progressive refinement over time since its implementation in 2012, including a major national review over the period 2014 to 2016. Changes to the law stemming from this review were introduced nationally in October 2017. Further changes to the National Quality Standard were introduced early in 2018. Aligning the two sets of laws will mean that all families with young children in New South Wales benefit from the same safeguards and quality benchmarks regardless of the type of service their children attend. I am particularly proud of this measure as not only will it mean that all children benefit—and many of the services that are regulated under the State system are located in rural and regional areas—but also it will mean that the children attending these services will have access to the same safeguards and quality benchmarks as the majority of children in New South Wales.

The major changes sought are to transition home-based care and care in shopping centres out of the State law as distinct service types as well as to apply the assessment and rating process, which is the centrepiece of the National Quality Framework, to service types regulated under the State law. The regulation of home-based care exemplifies the gap between the State-based regulatory system and the national system. Home-based care is identical to family day care, except that a home-based carer operates alone and is not a member of a wider network.

Since 2012 there has been a progressive tightening of standards for family day care, in particular, in relation to the key areas of educator qualifications, child-to-educator ratios and reporting requirements. Family day care educators are now required to hold, or be working towards, a certificate III level childcare qualification. Educators may also enrol no more than four children of preschool age. New South Wales home-based care providers are not subject to either requirement. This transition means that home-based carers are encouraged to join a family day care network or to set themselves up as family day carers. I acknowledge that there have been issues in relation to some family day care services fraudulently accessing Commonwealth child care benefits. New South Wales is continuing to work with the Australian Government to address these concerns. Despite those issues, family day care remains a quality and viable early childhood education and care service, and provides flexibility for many New South Wales working families.

In developing these changes, the department consulted widely with affected parties. As home-based care services do not have a peak advocacy group, the department contacted all individual providers and attempted to meet with as many of them as possible to discuss the changes. Funding has been set aside to assist home-based carers make the transition to family day care and the department has been working with the relevant family day care peak associations to assist. The bill also proposes to discontinue the regulation of early childhood education and care services operated in shopping centres. This category of service was created when the legislation was enacted in 2011, in anticipation of demand for this type of approval. Approval was not made mandatory however, and only one application was ever received. There are currently no services approved under this category.

Most facilities for young children in shopping centres tend to be long day care centres regulated under the national law or are informal and therefore unregulated play spaces where the parents remain in attendance. There is now no need for this specific category of service. The other major change contained in the bill is the

introduction of the assessment and ratings process to those service types regulated under the current State law. With these changes, New South Wales will be the only jurisdiction that extends assessment and rating to service types not regulated under the National Quality Framework. This will give families visibility of the quality of available services. This will therefore enable families to make better, more informed choices about the service their children attend. This will also allow recognition of the currently high-quality services operating under the State law.

The assessment and rating process is a system of quality audits and monitoring by the regulator. It involves each service documenting its plans for quality improvement, with implementation of the plan and its outcomes tested and validated by the regulator. Service performance is assessed against seven quality areas within the National Quality Standard, leading to an overall service rating that is published, and must be prominently displayed at the service. The system has been shown to promote transparency and accountability as well as the professionalism of services. It also helps parents make better-informed decisions about early childhood education and care for their children.

I advise the House that the Department of Education has conducted an extensive consultation process regarding the changes, particularly around the introduction of assessment and rating. The department has consulted with the key stakeholder groups affected by the changes, including the Mobile Children's Services Association, the Occasional Child Care Association NSW and Community Connections Australia. All of these stakeholder groups have supported the introduction of the proposed provisions. The department is continuing to work closely with these groups to ensure that all affected parties are consulted and to ensure the smooth transition to these new changes.

A pilot assessment and rating program with eight services affected by the changes is currently underway. The department will evaluate the pilot to assess sector support needs. Funding has been allocated for sector support to assist all services to transition to the new arrangements. An important aspect of the bill is to clarify which types of services will be regulated under the State regulatory system. Schedule 1 to the bill clarifies that for the purposes of this Act each of the following is a State-regulated education and care service:

- (a) a mobile education and care service, being an education and care service that visits specific premises, areas or places at specified times for the purpose of providing the care,
- (b) an occasional education and care service, being an education and care service that is provided at fixed premises (other than the home of the approved provider of the service) primarily on an ad hoc or casual basis and that does not usually offer full-time or all day education and care to children on an ongoing basis.

In other words, with the transition of home-based care and care in shopping centres out of the State law, the only types of care that will be regulated under the Children (Education and Care Services) Supplementary Provisions Act 2011 will be mobile education and care services and occasional education and care services. These are the predominant types of care services that are not regulated under the National Quality Framework.

The bill also makes miscellaneous amendments to the Children (Education and Care Services) Supplementary Provisions Act 2011 to remove redundant provisions that are inconsistent with the Children (Education and Care Services) National Law. I will outline those provisions. The bill removes reference to "certified supervisors" as this has also been removed from the national law. Under the national law, nominated supervisors are appointed by the approved provider. This change was recommended by the 2014 review of the national quality agenda in order to reduce red tape. There is no longer the provision for the department to approve applications for certified supervisors, but providers are still required to notify the department of any changes or new appointments of nominated supervisors.

Fees and penalties in the State law have been amended to align with the fees and penalties in the national law. The bill also provides for consequential amendments to the Child Protection (Working with Children) Act 2012 and planning legislation to remove reference to "home based" care and "certified supervisors". As a mother, and as the Minister for Early Childhood Education, I am proud that this House is able to play a part in ensuring accessibility to high-quality education by all children in New South Wales. It is with great pride that I commend the bill to the House.

Debate adjourned.

FAIR TRADING LEGISLATION AMENDMENT (CONSUMER GUARANTEE DIRECTIONS) BILL 2018

Second Reading Speech

The Hon. DAVID CLARKE (18:15): On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a second time.

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

Leave granted.

The Fair Trading Legislation Amendment (Consumer Guarantee Directions) Bill 2018 amends the Fair Trading Act 1987 to give the Commissioner for Fair Trading the power to make binding determinations in consumer disputes involving low cost goods. The bill also amends the Fair Trading Act 1987 to enhance the power of Fair Trading investigators to enforce the law and protect consumers from unsafe and dangerous goods. In addition, amendments will be made to the Property, Stock and Business Agents Act 2002 to expand the powers of entry by Fair Trading Inspectors.

Finally, there are amendments to the Plumbing and Drainage Act 2011 and Regulation which aim to improve Fair Trading's ability to regulate the sector effectively. This bill delivers on the Government's commitment to put consumers first by providing Fair Trading with the tools it needs to be a more effective regulator, while giving businesses greater guidance on their obligations when doing business in New South Wales. First, I will discuss the consumer guarantee directions power. The Commissioner for Fair Trading will be conferred the power to make a "consumer guarantee direction" in disputes between a consumers and businesses about alleged breaches of the consumer guarantees under the Australian Consumer Law [ACL].

The commissioner's power to make directions will be focused on low cost goods with a purchase price between \$25 and \$3,000. The commissioner will be able to direct a business to repair or replace the good, or to refund its purchase price—key remedies which the ACL provides for breaches of the consumer guarantees. This bill is about "right touch" regulation, offering a fair, quick and cheap resolution option for small value disputes where a direction is issued, as an alternative to the courts and tribunals. This new power is an important enhancement to NSW Fair Trading's existing complaints and dispute resolution service, and is designed to increase the number of successful outcomes reached by Fair Trading.

Having said this, let me say that the preference of the Government is that consumers and businesses resolve their disputes as quickly and painlessly as possible—ideally without Fair Trading's intervention. In most cases, consumers and businesses can resolve a problem between them and reach a satisfactory outcome. The 2016 Australian Consumer Survey showed us that in 84 per cent of cases, consumers could resolve a dispute directly with a business. However, sometimes this does not happen. Sometimes the problem becomes a dispute. Consumer disputes still account for more than 20 per cent of the legal problems experienced by people in New South Wales. A large proportion of problems are experienced in the low value goods range.

For example, 19 per cent of consumers surveyed in the 2016 Australian Consumer Survey indicated that they had experienced problems with electrical goods, 13 per cent had issues with clothing and footwear, a further 9 per cent had a problem about furniture and 76 per cent of respondents experienced a problem within the first six months of purchasing their good. While many consumers can resolve concerns about these faulty products through a direct approach to the business, unfortunately in too many cases they cannot. In 2016-17, over 45,000 people contacted Fair Trading about a problem. Of those, just over 19,000 were about retail purchases. The dedicated staff at Fair Trading do an excellent job helping people to work out their disagreements, providing education and support so that both parties can resolve the problem by agreement.

Unfortunately, sometimes a resolution is not possible and the consumer will either give up or go to the NSW Civil and Administrative Tribunal. For many consumers, the cost and inconvenience of going to the tribunal is greater than the price of the good itself. This means that consumers can be left out of pocket and unable to get what they are entitled to. I am pleased to say that there will now be a new option. This direction-making power will be an alternative to consumers lodging an application in the tribunal where they would have to tell their story over again. It is also hoped that the commissioner's new power will persuade those businesses that currently choose to ignore the initial complaint to Fair Trading to engage meaningfully with the consumer through Fair Trading's complaints service.

The commissioner will only use the directions power where satisfied that Fair Trading's complaints resolution procedures have failed to reach a mutually agreed outcome. The commissioner will then act as a fair, impartial umpire over the dispute, issuing a direction with a fair and reasonable outcome that lets the parties know where they stand. The commissioner will determine either that the business should repair, replace or refund the good, or that no direction should be made. This will provide a simple, low cost and timely resolution for those disputes that are progressed through the full directions process in a way that is proportionate to the problem. These reforms will benefit consumers and businesses alike.

I now turn to the bill and outline how the new power has been constructed and its key features. First, there are a number of key terms defined in schedule 6 of the bill, or the Fair Trading Act 1987, which I would like to note: Secretary—this bill refers to the secretary being empowered to make a direction. This term will have the same meaning as secretary in section 4 of the Fair Trading Act 1987, which is taken to mean the Commissioner for Fair Trading. Dispute—this bill refers to a dispute as a complaint made by a consumer about a supplier as detailed in section 9 of the Fair Trading Act 1987, but only within the eligibility criteria outlined in this bill. Consumer—this bill adopts the same definition of consumer in section 3 of the ACL, which is also reflected in section 4 of the Fair Trading Act 1987.

Subclauses (2) and (3) of clause 1 define the eligibility criteria for a direction as an unresolved dispute about a consumer good sold in New South Wales that cost between \$25 and \$3000. These amounts will apply in the initial phase of these reforms, but may be altered in future by way of regulation. The dispute must be about the failure of only certain consumer guarantees, being: Acceptable quality, fit for disclosed purpose, supply by description, or supply by demonstration model. There are some goods that are excluded because disputes about them become complex or because they are best dealt with by other existing specialist dispute resolution schemes. Clause 1 (3) lists these exclusions as: motor vehicles, second hand goods, solar batteries, any material where the Home Building Act will provide a remedy, any matter that is already in a tribunal or court.

Clause 2 (2) restricts how old the good can be. The bill has set this timeframe at six months from the date of purchase. This is a reasonable time for the business and consumer to try to resolve an issue over a defective good. As I noted earlier, the Australian Consumer Survey results found that when respondents had a problem with a good, 76 per cent experienced a problem within the first six months from purchase. Again, this six month period may be extended in future by regulation, following an assessment of this new power. To enter the pathway for a consumer guarantees direction, the consumer must already have made a complaint to Fair Trading through its complaints handling process.

Clause 1 (2) (d) of the bill specifies that a direction can only be made where the complaint to Fair Trading remains unresolved. In practice, Fair Trading will first attempt to resolve the complaint before referring it to the commissioner for a potential direction. If

the dispute cannot be resolved, the statutory eligibility criteria are met, and if the commissioner thinks that the matter should be assessed for a direction, the consumer will be contacted and given the option of applying for a direction. Clause 2 (1) has been drafted to allow the application to be made flexibly. It can be in writing or by verbal consent—without the need for consumers to retell their story. If a consumer decides to apply for a direction and the application is accepted, Fair Trading will contact the business to let them know and explain the process.

Once the application is accepted, clause 6 (3) (a) provides that the consumer and business will have the chance to provide further information in writing to Fair Trading. The process has been designed flexibly so that these small value claims can be resolved in a way which is fair, quick and cheap, without the formality of court proceedings. This is why the rules of evidence will not apply, as per clause 6 (2). Clause 6 (1) confers on the commissioner the power to make a direction if she is satisfied that a relevant ACL consumer guarantee has been breached and based on an assessment of what is fair and reasonable in all the circumstances. Requiring the commissioner to be satisfied that there has been a breach of a relevant ACL consumer guarantee, ensure certainty for business.

The fair and reasonable test is a commonly used statutory formulation. While the commissioner's directions will clarify what may be properly regarded as fair and reasonable in the circumstances over time it is expected that the commissioner could consider the remedies that would be available under the ACL, case law, regulator guidelines, as well as industry standards and best practice. It will not always be appropriate for the commissioner to accept an application or issue a direction. This could be because the business is now in administration, or the matter is best dealt with by a tribunal because of its complexity, or because a manufacturer has issued a recall on a good, giving a consumer a new pathway to a remedy. This is why clauses 4 (1) and (2) allow the commissioner to refuse to accept an application or to make a direction respectively.

When a direction is issued, clause 3 (2) has been drafted to permit the commissioner to direct a business to either repair, replace or refund the good. These are some of the remedies available to consumers under the ACL. For clarity and fairness, clause 3 (3) provides that the secretary must let the parties know how long they have to fulfil the direction. The timeframe needs to be reasonable for the consumer and the business and flexible enough to fit the different circumstances that may arise. Clause 3 (3) gives flexibility by allowing between 28 and 90 days in normal circumstances, and longer timeframes if agreed by the parties. Clause 5 requires a copy of the direction to be given to the business and the consumer at the same time. The direction will be accompanied with a statement of reasons so that the information and reasoning used by the commissioner to arrive at the conclusion is clear and everyone understands why the outcome was reached. This is a key component in the educational aspect of this reform. It will also give the parties confidence that they have received a fair and independent adjudication of their dispute.

Based on similar models, such as the Western Australian Building Commissioner's dispute service and the Financial Services Ombudsman, I am confident that in the majority of matters where a direction is issued it will be the end of the matter. A consumer and business would have had their dispute resolved and received a final outcome. What a fantastic result. For the small minority of matters, the bill sets out avenues for the review or enforcement of directions. For businesses and consumers who think that the commissioner missed something or did not make the right decision, there is a new pathway into the NSW Civil and Administrative Tribunal. Clause 10 allows a consumer or a business to ask the tribunal to re-determine their dispute.

The process has been designed so that the Tribunal can deal with the matter in a similar way to how consumer claims are dealt with under part 6A of the Fair Trading Act 1987 in the tribunal's consumer and commercial division. This retains the focus on resolving the dispute between the consumer and trader. It maintains predictability in the process. Also, the consumer has not lost any rights while the business now has a chance to ask the tribunal to look into the matter. If the application is determined by the tribunal, clause 11 provides that the outcome will be a dismissal of the application or making a new order. If a new order is made, then the commissioner's direction ceases to have effect. For those consumers who receive a direction that is not challenged in the tribunal and is not complied with, clause 9 of the bill allows the consumer to register the direction with the Local Court as a judgement debt. An important element of the bill is that clause 14 gives the commissioner the ability to publish directions. Publishing directions can educate the market about the requirements of the ACL. A major aim of this bill is to help educate businesses about their ACL obligations so that if faced with similar circumstances in the future, they will know and understand how to handle the dispute without the need of an independent adjudicator.

Giving consumers and businesses more information about how the ACL applies in specific situations will pay dividends in improved understanding. This will empower consumers and businesses to negotiate fairly and effectively so that more problems are resolved in the future without the need for intervention by Fair Trading. Consumers are not the only winners with this bill. For those smaller disputes considered for a direction, this bill gives businesses a valuable chance to resolve those disputes outside of formal action in the court system. Research from the Victorian Small Business Commissioner identified that the average cost incurred by a business to participate in a tribunal dispute is around \$5,000 and around 63 hours. This is time and money that could be better spent running a business.

A report by the Society of Consumer Affairs Professionals Australia found that every dollar invested in a good complaint process by a business can have a return of investment of \$10 per dollar spent—a significant payback in market reputation and repeat business. This new power will reduce time and effort costs for businesses, and make it easier for businesses and consumers alike to manage disputes about low cost goods in a modern, efficient way. This supports the Government's priority to improve the ease of doing business in New South Wales. This directions power is a new approach in Australia to resolving consumer disputes. To test its potential, the new power is confined to more straightforward consumer disputes.

This will give Fair Trading time to test and prove the concept, and to bed down procedures and processes. Its impact will be evaluated periodically, beginning after 12 months of operation. I now turn to the other components of the bill and outline their purpose. The bill creates a new subclause after the existing section 19 (3) (c) of the Fair Trading Act 1987 to allow Fair Trading investigators to seize, detain or remove consumer goods that are: non-compliant with a safety standard, or; subject to an interim or permanent ban, or; subject to a recall, or; reasonably suspected by the investigator to be or likely to become unsafe. Currently, if a product is found to be unsafe or there is a reasonable belief that it is unsafe, investigators must obtain a search warrant before seizing the goods off shelves.

Recently, I issued a public warning about an imported cosmetic eyeliner, which has dangerous levels of lead and may have caused three children to become sick. This product did not comply with a mandatory standard in the Australian Consumer Law. Even though traders selling the eyeliner could be fined significant amounts, seizing these eyeliners immediately without applying for a search warrant would have allowed Fair Trading investigators to take swifter action. The public reasonably expects that Fair

Trading is able to take immediate action on dangerous goods. The current process for taking unsafe goods off shelves delays action and risks harming consumers.

The Electricity (Consumer Safety) Act 2004, for example, already recognises the dangers posed by unsafe electrical goods and allows an investigator to seize dangerous goods. This bill provides Fair Trading with consistency across the legislation it administers for safety of consumer goods, by providing the tools it needs to keep the community safe and to protect people from unsafe and dodgy products. The bill also creates a new section 230 (1) to allow investigators to give embargo notices to traders without needing to obtain a search warrant first, if it is not practicable to seize and remove those consumer goods. If an investigator reasonably believes a product is unsafe and it is not practicable to seize the product, an embargo notice will be issued. This will compel the trader to stop selling the product until testing has confirmed whether the product is safe.

The bill also replaces the existing section 66 (3) to amend the orders that a court may give when it has convicted someone of an offence. When Fair Trading is pursuing an investigation or prosecution, there can be significant costs involved to protect the public. Fair Trading may need to pay scientific experts, for example, in investigating product safety. This bill provides Fair Trading with the right to get those costs reimbursed. If a person is convicted of an offence against the Fair Trading Act or the regulations under that Act, the convicting court may order the offender to reimburse the department for the costs reasonably incurred during the investigation of the offence. The bill also creates a new section 20 (a1) to allow an investigator to review potentially unfair contract terms and take action if needed. This amendment corrects a technical anomaly in which Fair Trading's inspectors cannot currently investigate and determine if a contract contains unfair terms.

I will now discuss the changes to the Property, Stock and Business Agents Act 2002. Underquoting remains an ongoing concern in the residential real estate market. So far this year, Fair Trading has conducted three compliance programs targeting underquoting. Of the 70 agents inspected, 57 were non-compliant with existing requirements. The existing powers of entry under section 205 of the Property, Stock and Business Agents Act 2002 are an important tool for Fair Trading's compliance and enforcement activities. However, the current powers of entry do have some limits. When it comes to dealing with underquoting, this is not the most effective course of action.

This bill amends section 205 to expand the power of entry to before an auction is conducted. This will enable Fair Trading inspectors to attend open homes, either overtly or covertly, and speak to the agents about the property and talk price, listen to conversations between agents and buyers and review marketing material. This will help detect underquoting activity before a property goes to auction, which in turn could save potential home buyers unnecessary costs and the disappointment that comes with missing out at an auction due to misleading information.

Finally, I will discuss the changes to the Plumbing and Drainage Act 2011. These amendments modify existing provisions in the Plumbing and Drainage Act 2011 and aim to improve Fair Trading's ability to regulate the sector effectively. Section 9 (3) will be replaced with a new clause to revise the pre-notification period for plumbing and drainage work. This will provide Fair Trading enough time to access and review the information contained within the Notice of Work. This is important, as the notice contains key details about the site and informs Fair Trading of whether the site requires a physical inspection or is high-risk.

Many plumbers already provide the Notice of Work within this timeframe and this reform aligns the law with industry practice making it easier for industry to comply. The plumbing regulator relies on various documentation during the development of a plumbing and drainage site, including the Certificate of Compliance and the sewer service diagram. These documents help Fair Trading inspectors properly assess the plumbing or drainage site to ensure it is compliant with the law. The bill amends section 15 (1) and introduces section 16 (4A) of the Plumbing and Drainage Act to modify the timing requirements for these documents to ensure they are provided to the plumbing regulator on the completion of work. These changes, while minor, will allow the regulator to more effectively assess the accuracy, compliance and safety of the plumbing and drainage work.

Since becoming the State's plumbing regulator Fair Trading has identified cases of ongoing issues with non-compliance with the Act. Some matters could be more effectively managed by Fair Trading by issuing a written direction to the plumber rather than a penalty. The bill includes four new matters which can be issued as a direction to uncover parts of the plumbing and drainage work, disconnect any new plumbing and drainage work from non-compliant older work, and require plumbers to re-book an inspection or provide documentation in certain circumstances. The bill creates these new matters by adding a new section 14 (1) (g)-(j). Failure to comply with a direction can be a continuing offence, but only if the plumber repeatedly fails to comply within the required time. The proposals in this bill are aimed at enhancing Fair Trading's existing regulatory tool kit to future proof its ability to take compliance and enforcement action and to be a more effective consumer protection regulator. These reforms will help Fair Trading to increase businesses' compliance with existing obligations while reducing consumer detriment in the future. I commend the bill to the House.

The Hon. PETER PRIMROSE (18:15): I am pleased to lead for the Opposition in debate on the Fair Trading Legislation Amendment (Consumer Guarantee Directions) Bill 2018. The Opposition does not oppose the bill. Fair Trading has a mandate and responsibility to ensure consumers in New South Wales have confidence that our markets are both safe and fair. They achieve these fair and safe markets by balancing consumer education programs with an appropriate regulatory approach. However, there are times when our system does not adequately protect consumers. These are times when the Government needs to step in and amend the laws to ensure that consumers are protected. The Fair Trading Legislation Amendment (Consumer Guarantee Directions) Bill 2018 seeks to make our markets safer and fairer, which is why the Opposition does not oppose the intent of this bill. The bill proposes four key changes to the legislation: first, the introduction of a determinations power for Fair Trading NSW; secondly, improving Fair Trading's ability to protect consumers from unsafe goods; thirdly, amending the Plumbing and Drainage Act 2011 to improve Fair Trading's ability to effectively regulate the sector; and, fourthly, amending the Property, Stock and Business Agents Act 2002 to expand the powers of entry for Fair Trading inspectors.

The Opposition acknowledges that consumer advocacy groups have given their support to the changes proposed in the bill and that these changes will ensure a fairer market for millions of consumers in New South

Wales. A Fair Trading dispute resolution service will go a long way to protecting consumers who experience a problem with a business. Many are left wondering how they will navigate the NSW Civil and Administrative Tribunal when something goes wrong. The tribunal can be time consuming and costly, but most importantly some consumers are worried that they may wind up being liable for costs if they take on a business at the tribunal.

For small claims, from \$25 to \$3000, many consumers will find the new dispute resolution service proposed less time consuming and less intimidating than attending the NSW Civil and Administrative Tribunal to resolve their complaints. This first-step resolution service will take away some of the worry for New South Wales consumers. It may even encourage more consumers to seek resolutions to their problems when they may have previously given up. This service will also increase consumer confidence, as it will act as another way that Fair Trading can hold businesses to account. When businesses know that there is effective enforcement from our regulator, they are less likely to take advantage of their customers or skirt the law.

While this measure will see fairer markets for consumers, the Opposition notes that Fair Trading should be adequately resourced in order to take on any of the new functions proposed in the bill. Dispute resolution is a time-intensive service. Meeting with consumers, businesses and mediating between the two parties is a worthwhile service, but a labour-intensive one. Fair Trading NSW sees a vast number of complaints every year. In 2016-17 Fair Trading NSW had more than 780,000 phone inquiries. It also handled more than 45,000 complaints. Ninety per cent of those complaints were resolved, leaving one in 10 without a resolution to their problem. I hope that this new service can adequately address the concerns of many of those one in 10 who were unable to resolve their problem through their initial contact with Fair Trading. It is vital that the Government allocates adequate resources to Fair Trading to ensure that this new service is a success, particularly guaranteeing enough staff to handle the number of incoming complaints.

When we consider the next reform introduced in schedule 2 to the bill, we should also be cognisant of the scope of Fair Trading to exercise its new powers. The schedule enhances the powers of Fair Trading investigators to enforce the law to protect consumers from unsafe and dangerous goods as well as arming the regulators with the power to seize dangerous goods, including the power to enter premises on reasonable grounds. I note the bill includes the power to seize goods that may be subject to recall notices, banned goods, goods that do not comply with safety standards or when an investigator believes goods are not safe. In the past few years we have seen some of the biggest product recalls in history, such as faulty Takata airbags, which have killed drivers; washing machines; smart phones that have caught on fire; and the recall of many everyday products on our supermarket shelves, such as frozen foods and baby products.

Consumers need to trust they are buying products that are safe. They must have confidence in the market, in our safety standards and in Fair Trading's ability to enforce the law. We cannot compromise on the safety and wellbeing of New South Wales consumers. If Fair Trading investigators believe on reasonable grounds that a product is unsafe, the new powers will allow them to remove or embargo the goods. This section of the amendment has the ability to save lives. Again, Fair Trading can operate efficiently and in the best interests of consumers only if it is resourced properly. A good regulator needs teeth, not only in the legislation but also in its ability to put boots on the ground. Enforcing the law is no easy task. It requires inspectors to visit stores, factories and warehouses, and to take time and care inspecting goods. It is important work that should be resourced appropriately so that Fair Trading can function as efficiently as possible with a high level of consumer confidence in the process.

I will now address the last two amendments. First, the amendment to the Plumbing and Drainage Act 2011 and the Plumbing and Drainage Regulation 2017 will expand Fair Trading's existing powers to allow the regulator to issue written directions to plumbers for a number of reasons, including to disconnect new plumbing and drainage work from non-compliant work and to uncover plumbing or drainage installed by a person who failed to give notice of works. Giving Fair Trading the option to issue written notices may offer more flexibility. However, we must ensure that our regulator does not become a toothless tiger. Fair Trading should not shy away from issuing penalties when it feels that those penalties are warranted.

Secondly, an amendment to the Property, Stock and Business Agents Act 2002 should give consumers more confidence in the residential housing market. Real estate agents are already prohibited from underquoting. However, in practice, we know that many properties sell above their price guides. The bill gives Fair Trading investigators the ability to enter houses, both overtly and covertly, during open house inspections. This will enable them to discuss property prices with agents, obtain marketing materials, and listen to conversations between agents and buyers. The heated New South Wales housing market is a stressful one for buyers. Many buyers spend weeks or months attending auctions, only to be disappointed by the eventual property price—which is often much higher than anticipated.

Consumers should be able to reasonably trust the professional's guidelines. Those measures will assist in ensuring that guidelines are truthful and as accurate as possible. An efficient and fair market needs good regulation

that acts in the interests of consumers. But, as I have said, to have a fair and safe market we must also have effective regulators. The Fair Trading Act Amendment (Consumer Guarantee Directions) Bill 2018 increases Fair Trading's ability to undertake important enforcement work, thereby ensuring fair and safe markets for consumers. It is vital that with any introduction of a new regulatory power, as I have said already, we must consider Fair Trading's resources. I urge the Minister to consider the funding arrangements for Fair Trading within the scope of its proposed new powers. Reviews of those new powers should be conducted on a regular basis and funding should be allocated appropriately in the dispute resolution service and other enforcement areas as its work continues to grow.

Many aspects relating to consumer affairs and Fair Trading are growing, particularly as we experience issues resulting from online purchases. One of my constituents made a purchase from an online service. The only available contact that was provided was an email address. The website indicated that if there were concerns people could make contact using the email address. The constituent proceeded to purchase some tickets. Money was taken out of their bank account, but no tickets arrived. When they made contact via the email address they received no acknowledgement or response. The constituent contacted NSW Fair Trading and provided all the evidence that money was taken by the seller. Fair Trading said it needed two weeks to take up the matter. Two weeks later Fair Trading responded to my constituent and told them that the seller of the tickets had refused to contact Fair Trading when it sought a response.

With the exception of going through the NSW Civil and Administrative Tribunal and paying all the relevant costs, nothing else could happen. The tickets were worth \$46 so the action did not proceed. It seems to me that consumers are increasingly facing the fact that an entity cannot be physically approached because no telephone number is provided, only an email address. For small claims, it is beyond reason that people should have to seek legal advice and pay fees in taking the matter to the NSW Civil and Administrative Tribunal. I hope that this particular issue and others can be addressed by the dispute resolution mechanism proposed in the bill. Labor will not oppose the proposed legislation.

The Hon. PAUL GREEN (18:26): I speak to the Fair Trading Legislation Amendment (Consumer Guarantee Directions) Bill 2018. The bill seeks to enable the Commissioner for NSW Fair Trading to resolve small claims disputes between the value of \$25 and \$3,000. The commissioner can give a direction under the Australian Consumer Law to repair, replace or issue a refund for the goods concerned. It offers a fair, quick and cheap resolution for small-value goods when the goods are not a motor vehicle or motor vehicle part, a second-hand good, solar battery, or material to which the statutory warranty applies under the Home Building Act 1989 or subject to a pending proceeding in the NSW Civil and Administrative Tribunal or a court. In certain circumstances, the secretary may decline to accept an application or give a direction for a consumer guarantee.

The Christian Democratic Party supports the initiative. It is a commonsense initiative. We note that the bill amends the Plumbing and Drainage Act 2011 and Plumbing and Drainage Regulation with an aim to improve Fair Trading's ability to regulate the sector effectively. The bill is about putting consumers first, which the Christian Democratic Party strongly supports—particularly for small claims, which can often be time consuming and difficult to solve efficiently. The Christian Democratic Party supports the bill.

Mr JUSTIN FIELD (18:28): I speak to the Fair Trading Legislation Amendment (Consumer Guarantee Directions) Bill 2018. I state at the outset that The Greens do not oppose the legislation. It is imminently sensible to make it easier for consumers to lodge complaints about faulty goods or goods that are purchased from or sold by a business that does not meet their expectations. The Greens support free enterprise. We support a fair and safe marketplace, and we recognise the role of government to regulate the market to protect consumers and the environment. This legislation applies to goods between \$25 and \$3,000. It will allow a complaint to be made and consumer guarantee directions to be issued. A number of constituents have raised concerns with me about this legislation in regard to when consumer guarantee directions will not apply. The one that stood out was that they will not apply to solar batteries. I have asked the Government and its rationale is that there is a degree of complexity with the installation. Problems may arise in relation to solar batteries that may not be related to the manufacture and the sale process but potentially to the installation. That makes sense and other avenues can be taken by people should they have concerns about the service provided through installation or those products if something is faulty.

I appreciate the practical reasons for this simpler claim process but it raises questions about the barrier for consumers to access the NSW Civil and Administrative Tribunal [NCAT]. It is not unfair to say that NCAT has been neglected and under-resourced. People have to go through a lengthy process at NCAT to ensure justice in a broad range of issues, including consumer protection. I just cannot help but think, despite there being practical reasons why this legislation makes sense in simple disputes relating to lower value goods, it raises questions about whether NCAT is being resourced to the required degree. The Greens do not oppose this legislation. We

understand its principle and we look forward to seeing how it is applied and how many consumers take advantage of it.

I hope down the track people will be able to raise with Fair Trading questions about the unnecessary packing of goods. A very real concern that has been raised by the public is about the packaging of goods that is very destructive to our environment and totally unnecessary. I hope the Government will consider how Fair Trading legislation could be amended in the future to see some environmental good in relation to the management of the sale of goods and services in this State.

The Hon. DAVID CLARKE (18:32): On behalf of the Hon. Sarah Mitchell: In reply: I thank honourable members for their contributions to this debate. I seek leave to have my speech in reply incorporated in *Hansard*.

Leave granted.

Honourable members have heard, the Fair Trading Legislation Amendment (Consumer Guarantee Directions) Bill 2018 will give a low cost, efficient and fair option to consumers and businesses when they have disputes about low cost goods. The 2016 Australian Consumer Survey indicated that a large proportion of problems are experienced with low cost goods and that these problems usually emerge within six months of purchasing. These low-cost goods are things that we use every day—like clothing and footwear, small electrical goods or furniture. These goods are high volume purchases and are a part of our everyday lives. That is why it can be such a nuisance when they go wrong.

The Australian Consumer Law consumer guarantees were designed to allow consumers and businesses to resolve their own disputes. The bill addresses some of the challenges consumers face when they cannot directly resolve an issue with a business and the cost of the goods does not warrant a hearing in a tribunal or court. The bill introduces a power to deal with disputes about low cost goods in a fast, affordable and effective way. It gives consumers and businesses a resolution that is proportionate to the problem.

I will now comment on issues raised during the debate. I thank all members for their contributions to the debate. This Government puts consumers first and reduces the time and cost to businesses to take a dispute to a court or tribunal. The bill aims to reduce future disputes by educating consumers and businesses about what to do when faced with an issue about a consumer guarantee. It is hoped that the existence of the commissioner's new power will also persuade those businesses which otherwise choose to ignore the initial complaint to Fair Trading to engage meaningfully with the consumer. The Fair Trading Legislation Amendment (Consumer Guarantee Directions) Bill 2018 aims to create a fairer market that competes on excellent customer service. This is a good bill and I commend it to the House.

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

Motion agreed to.

Third Reading

The Hon. DAVID CLARKE: On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a third time.

Motion agreed to.

PAINTBALL BILL 2018

Second Reading Speech

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (18:33): I move:

That this bill be now read a second time.

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

Leave granted.

The Government is pleased to introduce the Paintball Bill 2018. This bill seeks to establish a new regulatory framework for paintball markers and activities that secures the safety and security of players and the community, while also reducing red tape for businesses and providing them with enhanced levels of customer service. Paintball is an extremely popular recreational activity for individuals, corporate organisations, families and social groups throughout New South Wales. Tens of thousands of paintball games are played in our State each year by thousands of people.

The New South Wales Government recognises that the current regulation of paintball imposes unnecessary regulatory burdens on the industry, stifling its growth and prosperity. This bill delivers on the New South Wales Government's commitment to make it easier to start and do business in New South Wales and to deliver better government services. The *Paintball Act* 2018 will remove the regulation of paintball markers and paintball activities from the *Firearms Act* 1996. This bill establishes a separate system of permits and requirements for the regulation of paintball markers and paintball venues to be administered by the Department of Finance, Services and Innovation through NSW Fair Trading.

The *Paintball Bill* 2018 appropriately re-classifies paintball markers by removing their classification as "prohibited firearms", which currently sees them categorised and controlled in the same way as lethal weapons such as cannons and machine guns.

Paintball markers are non-penetrative, non-lethal weapons used in low-risk recreational activities. This re-classification of paintball markers under the *Paintball Act* 2018 is appropriate and proportionate to the risks they pose. However, this bill prescribes rigorous safety standards relating to the issuing of paintball marker permits. Paintball venues, individuals seeking to possess a paintball marker and interstate participants wishing to bring their own markers into New South Wales will need to meet these standards in order to be issued with a permit.

Another key function of this bill is that it will deliver a more modern and streamlined permit system which will save time and money for venue operators and marker owners, replacing the current slow, paper-based application system. In deciding to modernise the regulation of this industry, the Government reviewed crime statistics, hospital data, work health and safety statistics and complaints data from NSW Fair Trading. All of these data sets demonstrated that the industry is a low-risk industry with high levels of operator maturity in New South Wales.

The paintball industry is operating to high standards in New South Wales with very few safety issues, despite the tens of thousands of games enjoyed by the community each year. The current regulatory system for paintball markers sees paintball markers, which are non-lethal objects used for recreational activities, administered alongside dangerous, lethal firearms. These current regulatory settings are overly-prescriptive, out-of-date and disproportionate to the risks involved with paintball markers when compared to real weapons. A new paintball Act is the most appropriate way to introduce these reforms as it establishes a clear and safe regulatory system specific to the unique profile of the paintball industry. This bill applies sensible and proportionate regulation of paintball markers and authorised paintball venues.

I now turn to the substance of the *Paintball Bill* 2018.

Part 1 specifically defines a number of key terms including what objects are classified as a paintball marker and excluding any markers which have been modified to propel something other than a paintball. It also defines the meaning of "equivalent authorisation" in New South Wales of a Permit to Purchase or Possess Paintball Markers issued by other Australian jurisdictions, which will allow appropriately authorised interstate players and licensed owners to continue to bring their own marker into New South Wales for paintball competitions and other related activities at authorised venues.

Part 2 of the bill outlines the statutory offences and penalties for certain breaches.

Part 3 promotes community safety as a paramount consideration within the regulatory scheme, by creating two key offences:

- Using a paintball marker other than at an authorised venue, which will be punishable by up to 24 months imprisonment or \$55,000 or both; and
- Possessing a paintball marker without a permit other than at an authorised venue, which will be punishable by up to 12 months imprisonment or \$22,000 or both.

There are a number of other similar offences created in this Part including:

- Purchasing or obtaining a paintball marker without a permit.
- Operating a paintball venue without a permit.
- Supplying paintball markers without proper authorisation.
- Disposing of paintball markers without proper authorisation.

These statutory offences are not intended to and do not replace the offences in the *Crimes Act* 1900, which will still apply to paintball markers if they are used as offensive weapons. Having criminal penalties prescribed is a significant deterrent and provides the community with confidence that any improper or unauthorised use of a paintball marker will be dealt with very seriously.

Part 4 establishes the power of NSW Fair Trading to issue permits for paintball markers. It establishes the requirements for the three different permits created by the bill, namely:

- paintball venue permits;
- paintball marker permits; and
- international paintball competitor permits.

This part also includes the grounds for amending, suspending, cancelling or refusing a permit.

This part sets out strict requirements that apply to permit applicants under a fit and proper person test. Clause 14 provides that the regulator may form an opinion that a person is not a suitable person to hold a permit in a range of circumstances, including if she or he has:

- within the previous 10 years, been convicted of a relevant offence, or
- had an equivalent authorisation suspended or cancelled under the law of another Australian jurisdiction, or
- a close associate of the person who would not be a fit and proper person to hold the permit exercises a significant influence over the person or the operation and management of the person's business (in the case of a paintball venue permit).

A "relevant offence" is defined in clause 3 of the bill to include an offence against any of the following Acts:

- the *Paintball Act* 2018, once enacted
- the *Firearms Act* 1996
- the *Crimes Act* 1900 but only in respect of an offence involving a firearm or offensive weapon or instrument or an offence prescribed by the Paintball Regulations
- the *Weapons Prohibition Act* 1998, or

- any other Act, or provision of an Act, prescribed by the Paintball Regulations.

In the context of determining whether a person is fit and proper to hold a permit, it is also important to note that clause 79 (2) in Part 8 of the bill also provides that the regulations may specify circumstances in which a person is not a fit and proper person. Importantly, this part also provides for permits to be suspended, amended or cancelled where a person has been charged with an offence under this legislation or a related offence under the *Crimes Act 1900*.

Part 4 outlines the conditions of all permits including specific requirements for storage and transport as well as a provision for the maintenance, repair and disposal of paintball markers. This part also provides specific conditions for paintball venue permit holders in relation to paintball game areas, minimum age of participants, insurance arrangements, training of staff and ensuring the supervision of the use of paintball markers.

Clause 38 of the bill reduces the minimum age from 16 years to 12 years and over, provided that all players under the age of 18 have prior written consent from a parent or guardian. Reducing the age to 12 years will bring New South Wales into line with other States and Territories and international jurisdictions which allow participation in paintball games from 12 years or older. These include Western Australia, South Australia, New Zealand, Canada and the United Kingdom.

Clause 39 of the bill provides that if young people under 18 years of age are permitted to enter a venue's paintball game area, then that venue must have a public liability insurance policy which covers those young people. Part 4 also imposes a number of important community safety protections in the form of statutory conditions relating to the storage and transport of paintball markers, the designation of paintball game areas, requirements to provide protective clothing or equipment and the supervision of paintball markers.

I also want to say something regarding clause 41. Clause 41 requires the holder of a paintball venue permit to ensure that a paintball game is supervised by the holder of a paintball permit or who satisfies such other requirements as are set out in the Regulations. I want to put on the record that the Government is looking to set out in the regulations that it will be sufficient for a person to supervise a paintball game that the paintball venue operator certifies that that person is sufficiently trained and is otherwise a fit and proper person to supervise such a game. This provision will be subject to consultation with relevant stakeholders and agencies, such as police.

Part 5 provides powers for NSW Fair Trading to take disciplinary action against permit holders for contraventions of the Act, the regulations or breaches of permit conditions, wilfully misleading or obstructing authorised officers and engaging in improper or unethical conduct. To support these powers, this part also outlines conditions around show cause notices, the disciplinary actions that may be taken by the regulator and the review of decisions by the New South Wales Civil and Administrative Tribunal.

Part 6 details the powers of authorised officers including their appointment, scope of authority, identification, information gathering powers and rights of entry. It is important to note that an authorised officer is defined in clause 3 of the bill to include a police officer. This will ensure that, should a police officer be the first responder to an incident, they will be able to take appropriate investigation and enforcement action in relation to any potential breaches of the provisions of the bill, including the offence provisions.

Part 7 provides for the registration of paintball marker serial numbers, as well as requirements for authorised suppliers to provide information regarding the supply or disposal of paintball markers. Clause 65 of the bill provides that access to the register is to be provided to the Commissioner of Police to assist in any related compliance, investigation or enforcement activity.

Part 8 contains other miscellaneous provisions surrounding:

- Extending venue permit authorisation to certain employees.
- Information sharing arrangements with relevant agencies.
- Disclosure of criminal intelligence material.
- Disposal of surrendered or seized paintball markers.
- How notices and other documents are to be served.
- Personal liability exemption for the secretary or an authorised officer when acting in good faith under this Act.
- Issuing of penalty notices.
- Nature of proceedings for offences.
- Admissibility of evidence certified by the secretary.
- Delegation of authority by the secretary.
- Exemptions to the Act.
- The ability to make regulations.
- Periodic review of the Act after two years.

Schedule 1 contains the savings, transitional and other provisions. Existing paintball permits which have an equivalent permit type under this bill will be automatically recognised following the commencement of the bill.

Schedule 2 provides for consequential amendments to other Acts and legislative instruments, including to the:

- *Civil and Administrative Tribunal Act 2013*
- *Crimes Act 1900*
- *Firearms Act 1996*
- *Firearms Regulation 2017*

- *Law Enforcement (Powers and Responsibilities) Act 2002*

Of particular note, the *Crimes Act* 1900 will be amended so that any provision of the *Crimes Act* which makes reference to a firearm is taken to include a paintball marker. This will ensure that if a paintball marker is used in the commission of a crime under the *Crimes Act*, appropriate criminal sanctions will apply.

This bill delivers on the Government's commitments to make it easier to do business in New South Wales and to deliver better government services. It will benefit consumers, businesses, players and the paintball industry. By moving the regulation of paintball markers and activities to the Department of Finance Services and Innovation, the bulk of the administrative burden will be removed from the police, ensuring their resources and expertise are appropriately directed at solving crimes and regulating lethal weapons.

Consumers and participants in paintball will benefit from this bill, particularly as it allows for the opportunity for more people to play by reducing the mandated age to 12 years and over. This provides parents with another option for their kids to get outside and exercise and socialise in a low risk and safe environment. The paintball industry has, and continues to operate to, high standards in New South Wales with very few safety, consumer or criminal law issues. These reforms assist the industry to continue to provide high quality, safe services relating to paintball activities. Operators and individuals will only need to obtain one permit, regardless of the number of markers they need to purchase, which will mean less red tape and a reduction in fees and charges. Paintball is a fun, safe and physically engaging activity for families, children's birthday parties, corporate team building and charitable fundraising events.

These reforms are well overdue. It has been over 20 years since the last major regulatory reform relating to paintball. These reforms are necessary for the paintball industry to be able to grow and compete on a more even playing field with other recreational activities offered across New South Wales that until now, have been subject to significantly less regulatory obligations. In conclusion, this bill will provide a single government touchpoint for paintball players and operators, leverage existing funding, infrastructure and staffing and maintain community safety and confidence. This bill delivers on the Government's commitment to make it easier to start and do business in New South Wales and deliver better government services. I commend the bill to the House.

Second Reading Debate

The Hon. PETER PRIMROSE (18:33): The Opposition does not oppose the Paintball Bill 2018. My bill is substantively the same as was presented by the shadow Minister who has responsibility in the Legislative Assembly. Accordingly, I seek leave to incorporate my speech in *Hansard*.

Leave granted.

I am pleased to lead for the Opposition on this bill. Good regulation needs to ensure it is commensurate with the nature or thing being regulated, and to ensure responsibility for oversight is in place with the most appropriate regulator. The *Paintball Bill* 2018 achieves these two aims and as a result the Opposition does not oppose the general intent of the bill. The bill acknowledges that paintball guns, known as paintball markers, are not firearms and therefore do need to be regulated under the *Firearms Act* 1996. The Opposition understands that the various bodies associated with paintball have been pushing for these reforms. Given that tens of thousands of people take part in paintball activities and competitions, these changes are welcomed and brings New South Wales into line with other jurisdictions at home and abroad.

The bill's new regulatory framework will establish a range of offences for a range of illegal activities, with a maximum penalty of two years imprisonment or \$55,000, or both. This includes use outside of an authorised venue, purchase without a permit, operation of a venue without approval, supply of a paintball marker without authorisation, as well as disposal of a paintball marker. The bill also provides for permits to authorise paintball venues, paintball markers, international paintball competitor, and grounds for a person unsuitable for holding a permit. It provides for the way in which applications for permits occur, as well as suspensions and cancellations of permits. Importantly, the bill establishes conditions under which a paintball venue permit can operate, and the Opposition notes that matters such as public liability and the training of employees are included within these conditions. The public needs the confidence that Paintball activities are not just well regulated, but there is confidence and safety nets within the industry.

The bill also establishes authorised officers and provides them with information gathering powers, power to enter into premises, and provides for the carrying out of disciplinary action against permit holders. On this matter, the Opposition seeks a guarantee from the Minister that Fair Trading will be adequately resourced to undertake this work. There were efficiencies in having regulation under the auspices of one body in the State, notwithstanding the fact that paintball markers are non-lethal. To maintain the community's confidence in the regulatory framework, Fair Trading needs the resources to be able to oversee and intervene in any operation if necessary. I would appreciate the Minister's further advice on this aspect as the effectiveness of Fair Trading as a regulator is only as good as its resourcing.

The Opposition notes that clause 38 of the bill reduces the minimum age for a person to enter into a paintball venue or game area from 16 to 12 years (with under 18's only allowed to participate, enter a venue or possess a marker only with parental consent). While the Opposition does not oppose this, it does note that paintball activities can be quite tense and mimic conditions of armed engagement. This may not be appropriate for all persons, regardless of age. Pitting participants as young as 12 against people, say, twice their age needs to be carefully monitored, and I would appreciate the advice of the Minister as to whether he or his department have considered the potential downside of mixing children with adults in this type of activity. Again, the Opposition expects the industry to behave appropriately and responsibly, and the potential negative impacts—physically or psychologically, of such scenarios needs to be closely monitored.

The bill also requires the secretary, for all intents and purposes, of the Commission for Fair Trading to compile and maintain a register of paintball markers, again support by the Opposition. The bill also includes a number of miscellaneous provisions, such as recognising an authorisation that is equivalent to a New South Wales permit that was issued by another Australian jurisdiction, as well as a number of savings, transitional and other provisions.

Finally, the Opposition has spoken to the Police Association, that has raised concerns about a new product in the market that resembles a militarised high-power weapon. The association wants to make sure this type of equipment does not fall into the new regulatory framework which is designed solely for paintball markers. Again, I seek the Minister's advice on this matter.

As I said at the beginning, this bill puts in place a regulatory framework commensurate and appropriate to the activity being regulated, and takes oversight for the operation of paintball venues and all other associated activities and regulatory requirements from the *Firearms Act* 1996, and places responsibility with the Office of Fair Trading. Besides the issue of adequate resourcing, the Opposition does note some of the practical aspects that need to be carefully considered when lowering the age of participation from 16 to 12, and seeks the Minister's advice on these matters.

The Hon. PAUL GREEN (18:34): In light of the those comments the Christian Democratic Party does not oppose the Paintball Bill 2018. I have taken my family paintballing in Bali and I know it is a wonderful activity. It is fantastic that this Government has sought to cut down on red tape in relation to this matter as it will enable a lot more families to participate in this sport. I seek leave to incorporate my speech in *Hansard*.

Leave granted.

On behalf of the Christian Democratic Party I refer to the Paintball Bill 2018. Sport and active recreation is a growing industry that contributes significantly to the economic and social wellbeing of our society. Paintball is a sport in which participants simulate military combat using airguns to shoot capsules of paint at each other. It combines teamwork, strategy, competition, adventure and fun. The Paintball Bill 2018 aims to remove the red tape surrounding the sport by recognising the difference between paintball markers and firearms; and ensuring appropriate safeguards and community safety protections. Believe it or not, paintball is actually safer than most other sports. Football, hockey, soccer, et cetera often cause more injuries than paintball. Bruises or welts are one of the likeliest injuries to occur with paintball. Without protection, a paintball flying at 200 miles per hour is likely to leave a mark.

Paintball markers are non-penetrative, non-lethal weapons used in low-risk recreational activities. There is no reason to have them classified under the *Firearms Act* 1996. The bill aims to establish a separate system of permits and requirements for the regulation of paintball markers and venues to be administered by the Department of Fair Trading. The bill also proposes to lower the minimum age of participation from 16 years of age to 12 years of age, provided all players under the age of 18 years have written consent from a parent or guardian. This change is for consistency with other States and Territories.

Part 7 creates a registration system for paintball marker serial numbers with access provided to the NSW Police Force to assist in compliance, investigation or enforcement. Industry stakeholders have expressed support for this bill and its proposed changes. The Australasian Paintball Association President, Leon Bubenicek stated:

It allows those that have been restricted by over-regulation in the past, to enjoy this outdoor, inclusive, team-building recreational activity. This approval is a major step forward in executing our wide-reaching strategy of bringing Paintball in Australasia up to the participation levels enjoyed throughout the rest of the western world.

Having paintball available to a wider demographic in New South Wales is a key component of the industry's growth strategy going forward. On behalf of the Christian Democratic Party, I commend the bill to the House.

The Hon. WALT SECORD (18:35): My comments are in line with the Labor Opposition in the Legislative Assembly. I have had consultation with paintball operators in Wagga Wagga who are very excited about the prospect of the changes.

Mr Scot MacDonald: Are you volunteering as a target?

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I will not accept interjections, certainly not of that nature.

The Hon. WALT SECORD: I have had consultations with key paintball operators. Phil Foster of Demons Paintball and Dwayne Nicolls of Project Paintball in Wagga Wagga are very excited by the legislative changes and by the fact that this bill has bipartisan support. They have both indicated that they will employ additional casual staff. I seek leave to have my second reading debate incorporated in *Hansard*.

Leave granted.

As Deputy Leader of the Opposition, I want to make a contribution on the Paintball Bill 2018. As the shadow Fair Trading Minister, Yasmin Catley, indicated yesterday, Labor will be supporting the legislation. This is the second time in 15 months the matter has been before the Parliament. The Shooters, Fishers and Farmers Party have argued and this bill acknowledges that paintball guns, known as paintball markers, are not firearms. Therefore, they do not need to be regulated under the *Firearms Act* 1996. As I have said in the past, it is difficult to see the case to treat paintball and its related apparatus as firearms under the legislation. They are not similar to guns or ammunition. They discharge paint, not bullets. They are markers, not guns.

Paintball is a game, an extreme sport, but there are fewer injuries in paintball than in tennis. It is estimated that there are 45 injuries for every 100,000 participants a year so there are very few injuries involved with paintball. It is an opportunity for young people and not-so-young people to exercise. My staff member, Luke Maxfield, raves about it. Paintball is highly regulated and it has a root body—the Australian Paintball Industry Association—bringing in tough rules for its members. Currently New South Wales participants are required to provide photo identification to play paintball. The minimum age limit in New South Wales is 16. The biggest change involves dropping the age limit to 12, but participants need parental or guardian consent.

Under the bill, the Government will remove the regulation of paintball markers from the *Firearms Act* 1996 and establish a new regulatory framework for paintball markers and venues in which paintball activities take place. A separate system of permits and requirements will be established and administered through the Department of Finance, Service and Innovation—Fair Trading. Paintball markers will no longer be considered as prohibited firearms in New South Wales, with jurisdiction of paintball markers moving from the NSW Police Force to the Department of Finance, Service and Innovation (Fair Trading). As for specifics of the bill, the new regulatory framework will:

- Establish a range of offences for a range of illegal activities, with a maximum penalty of two years imprisonment or \$55,000, or both. These activities include use outside of an authorised venue, purchase without a permit, operation of a venue without approval, supply of a paintball marker without authorisation, as well as disposal of a paintball marker.
- Provide for permits to authorise paintball venues, paintball markers, international paintball competitor, and grounds for person unsuitable for holding a permit;
- Provide for how applications for permits, suspensions and cancellations are processed;
- Establish conditions under which a paintball venue permit can operate such as public liability and training of employees;
- Provide for disciplinary action against permit holders;
- Establish authorised officers and provide them with information gathering powers, power to enter into premises;
- Require the secretary to compile and maintain a register of paintball markers; and
- A number of miscellaneous provisions, such as recognising an authorisation that is equivalent to a New South Wales permit that was issued by another Australian jurisdiction.

In conclusion, the Labor Opposition understands that the various bodies associated with paintball have been pushing for these reforms. In fact, this morning, I spoke to two key paintball operators in the Wagga Wagga area to give a local business perspective and to see if the industry supports the proposed changes. I spoke to Phil Foster of Demons Paintball and Dwayne Nicholls of Project Paintball. Phil Foster said he is "100 per cent" behind the legislation as he has had to turn away hundreds of potential customers because of the current restrictions. Mr Foster reckons that he will be able to create more jobs due to the increased demand. He already employs up to four people on a part-time basis. He added that he hoped the regulations would be changed as soon as possible as he is entering the busy season—especially when it comes to the highly lucrative buck's night parties.

Dwayne Nicholls, who has operated Project Paintball for almost seven years says he can have up to 2,500 participants a year, but he says the laws will mean that he have an "exponential increase in customers". In short, he said he "absolutely supported the changes". Furthermore, Mr Nicholls said he would have to put on more casual staff to meet the expected increase in customers, which is good for the local economy in Wagga Wagga. In short, the paintball operators of Wagga Wagga want to see this legislation passed and the regulations gazetted as soon as possible so they can do what they do best—make people happy. I commend the bill and thank the House for its consideration.

Mr DAVID SHOEBRIDGE (18:36): On behalf The Greens I indicate that we do not support the Paintball Bill 2018. The two main purposes of this bill are: to change the minimum age for participating in paintball to 12 years from 16 years; and to remove the regulation of paintball markers—that means paintball guns—from the Firearms Act to NSW Fair Trading. The Greens oppose this bill because we believe it is unnecessary, fails to properly protect public health and safety, and is clearly intended to contribute to the further development of a gun culture in New South Wales.

In introducing the legislation the Minister has claimed that the changes come from a review of work, health and safety data, hospital admissions, NSW Fair Trading complaints and criminal offences showing low levels of incidents. In response, The Greens say that the existing low level of incidents is a good thing, and should not be used by the Minister as a justification for tearing down a scheme that is clearly working and creating a new scheme. The legislation also refers to "paintball markers" but for most people they are appropriately known as paintball guns. One of our concerns about moves that seek to grant greater access to these guns is that they look like guns. In fact, just last week we saw news reports of police hunting a group of men who were undertaking robberies armed with paintball guns. This is a real issue. Easy access to weapons that can mimic real guns is something we should all be concerned about.

Furthermore, these guns can be dangerous. Medical evidence shows injuries received by people during paintball, as well as stories of people who have been shot by these guns when not at authorised paintball venues. As the guns get stronger and larger—and that is the trend in the sport—this is likely to pose a significant ongoing public safety risk. Lastly, the age anomaly is not equivalent. The Minister claims that giving kids access to paintball guns at 12 is fair because otherwise there is an anomaly where, in the Minister's words, children aged 12 and over are legally allowed to shoot real guns under parental supervision but not fire capsules of paint at their friends. In response The Greens say, first, there are already significant public concerns about the firearms laws that give children access to guns. Second, this access occurs under close direct parental supervision. It is not simply signing a form and giving them free reign. Finally, there is a distinction between target shooting and using even paintball guns to shoot at other people.

I know we want to move through debate quickly and I respect the goodwill in the Chamber and I do not think it is improper; we are trying to cover it properly. There is a series of media reports I could read onto the record but suffice to say there are instances of real damage and crimes committed by paintball guns. Our current regulation in New South Wales seems to be working. The data shows that it is working to reduce those crimes in New South Wales. There is no common sense in tearing down a system that is working and chancing our arm with something that is far more lax. We oppose the bill.

The Hon. ROBERT BORSACK (18:39): I make a contribution to debate on the Paintball Bill 2018. Abraham Lincoln once said, "Things may come to those who wait." However, this bill is not a matter of waiting

but a matter of working for change. The paintball industry in New South Wales has been operating for more than 25 years. It began in the 1970s when new riot and crowd control devices using compressed air propellants became available for use by police for riot control. These items discharged irritants or dyes and were designated as prohibited firearms—and rightly so. Paintball markers were inadvertently caught up in this prohibition. When the exciting game of paintball came along in the 1980s, unfortunately the low-energy, low-velocity devices that propel paintballs were captured in the same description as the crowd control devices that had been adopted by police. This was because they used compressed gas or air as a propellant. Paintball markers were thus doomed to be designated as prohibited firearms and regulated under the Firearms Act.

The regulation of paintball markers and the industry has never been about public safety or threat. Once it was caught up in the regulatory net, there never was any political will to deregulate the paintball industry. We have seen a remarkable waste of taxpayer funds through police and registry resources unnecessarily controlling what is only a game and small business activity. This bill changes all that, and it is a refreshing outbreak of common sense. There are between 50 and 60 paintball parks in the State. It is a healthy physical activity that engages the whole family. Paintball guns will now be correctly known as paintball markers instead of as prohibited firearms, coincidentally in the same category as machine guns, flame throwers and grenade launchers. It is about time New South Wales joined other jurisdictions around the world. I commend the Minister for this bill. I look forward to seeing other State and Territory jurisdictions in Australia soon follow suit. The bill moves the regulation of paintball markers out from the control of the NSW Police Force and across to the Department of Finance, Services and Innovation. This is the right place for a low-risk, recreational activity to be regulated.

The Shooters, Fishers and Farmers Party was going to move an amendment in Committee that would simply allow a person to give another person temporary possession of a paintball marker at a paintball venue solely for use at that venue and under their supervision. Parliamentary Counsel advised us that clause 12 (1) (c) permits the regulations to provide that a paintball marker permit authorises the holder of the permit to lend a paintball marker to another person for use at a paintball venue. Clause 9 (2) will then apply as a defence to the offence in clause 9. In a lot of cases, paintball is a family activity. This regulation would allow sons and daughters to borrow their mum or dad's spare paintball marker, where it would be used under the supervision of the permit holder. It is not uncommon for dads and mums to possess more than one paintball marker. This proposed amendment simply offers a cheaper alternative for a family member to participate in a game of paintball. In reply, I would like to hear from the Government that it is its intention—by regulation or otherwise—to allow a person to give another person temporary possession of a paintball marker at a paintball venue solely for use at that venue under supervision.

We do not agree with the requirement for the referees of paintball games to hold a paintball permit. There is a substantial difference between managing a paintball venue and refereeing a paintball game. Requiring a permit would preclude anyone under the age of 18 from refereeing games that they are fully capable of undertaking. This would deprive any under-18-year-old from casual employment, especially during school holidays. For many of these kids, a day or two of employment means a hell of a lot. Training of all referees should be undertaken by licenced venues, as has been the case for more than 25 years without incident or any other issue.

Reducing the government red tape that has impeded paintball in New South Wales since its inception has been a difficult task and has beaten four previous Ministers and a couple of Premiers. I commend the Minister for Innovation and Better Regulation, who—despite my initial doubts and cynicism—appears to be delivering on this issue. It was not until the Minister picked up this issue that things started to progress. I thank him for that. I pay tribute also to Michael Whybrew of the Australian Paintball Industry Association, who is in the public gallery today, for his tenacity and endurance in seeing these changes come to fruition. Without his strength of purpose and commonsense approach in working with our party, we would not have got this over the line. To celebrate the success and support of this bill, the Shooters, Fishers and Farmers Party challenges the Government and Opposition to a friendly competition at Action Paintball Games. I extend the offer also to The Greens, who are very keen on this sort of thing, and to our friends in the Christian Democratic Party.

The Hon. Paul Green: We are on your side.

The Hon. ROBERT BORSAK: That way we can win, can we not? I urge members to contact my office so that we can coordinate a date for a friendly game of paintball amongst members and staff. I commend the bill to the House.

The Hon. CATHERINE CUSACK (18:45): On behalf of the Hon. Don Harwin: In reply: I thank the Hon. Peter Primrose, the Hon. Walt Secord, Mr David Shoebridge, the Hon. Robert Borsak and the Hon. Paul Green for their remarks in relation to this legislation. The Government recognises that paintball activities present a low risk to players and to the community. Paintball markers are not lethal weapons and cannot inflict the same injuries as other prohibited firearms. Before making its decision to modernise the industry, the Government reviewed crime statistics, hospital data, work health and safety statistics, and complaints data from NSW Fair

Trading. All of these data sets demonstrated that this is a low-risk industry with high levels of operator maturity in New South Wales. I can assure the community that paintball markers will remain controlled under very strict conditions. Their use will remain restricted to authorised venues and serious sanctions will be applied where misuse is detected.

I thank Mr Michael Whybrew from the Australian Paintball Industry Association and Mr Leon Bubenicek from the Australasian Paintball Association for their constructive approach during consultation and their focus on both reducing red tape and ensuring that the new regulatory model maintains appropriate safety and security protections. The Hon. Robert Borsak of the Shooters, Fishers and Farmers Party referred to a regulation that would be made under clause 12 (1) (c). I confirm that the Government supports such a regulation in principle and subject to consultation. I commend the bill to the House.

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

Motion agreed to.

Third Reading

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

That this bill be now read a third time.

Motion agreed to.

Adjournment Debate

ADJOURNMENT

The Hon. CATHERINE CUSACK: I move:

That this House do now adjourn.

TWEED HOSPITAL SITE

The Hon. WALT SECORD (18:48): I speak again on the growing controversy and community concerns surrounding the new Tweed Hospital site, a project which lurches from crisis to crisis. We all recall the alarm and anger that rang out across the Tweed after the New South Wales Minister for Health, Brad Hazzard, and The Nationals member for The Tweed, Geoff Provest, announced on 4 April that a hospital would be imposed on prime agricultural land on the boundary between Cudgen and Kingscliff, and that it would not be completed until 2025. The handling of the Tweed Hospital is like so many projects from the Berejiklian Government. Just like the Sydney stadiums, the relocation of the Powerhouse Museum, the light rail fiasco and the WestConnex blowout, the Tweed Hospital has become mired in controversy and secrecy. As I said earlier in Parliament and repeatedly on the North Coast, The Nationals are wilfully ignoring the views of the community regarding an appropriate Tweed Hospital site.

For the record, everyone wants a hospital for the community. However, what is angering the community is the site location. The community wants to protect the unique quality of life at Kingscliff and the rich Cudgen State Significant Farmland, knowing full well that Kings Forest is a better site for a hospital. The Nationals do not have a social licence for the Cudgen site, so they owe it to the community to put the decision to the people. Health Infrastructure NSW needs to continue to work on the planning for a hospital and not delay it. But the Berejiklian Government needs to formally seek permission and get the voters of the Tweed to pass judgement on the community's preferred location for the new hospital.

Labor has listened to locals and has tailored its policy to protect the State significant farmland and Kingscliff from overdevelopment. That is why on 21 June 2018 New South Wales Labor Leader Luke Foley and I, along with Labor candidate for Tweed Craig Elliott, announced that a Foley Labor Government will build a new Tweed hospital at Kings Forest. Labor has the funding and commitment to build a new Tweed hospital at Kings Forest, where it is needed and wanted. Kings Forest is also where approvals are already in place for development. The site is shovel ready. In contrast, the Nationals' site has not a single approval in place. They will have to erase environmental and planning protections. This will be a long and protracted process and, again, no-one believes the 2025 date.

Let us be clear: The Government has rejected a planned and approved shovel-ready site that the community favours to pursue an unplanned, unapproved, unready site to which the community objects. This is from the party that famously promised in 2011 to "give planning power back to communities". What a joke. Putting the decision to the community now is the only honest way forward. Locals know that to change the hospital location from Cudgen, it is necessary to change the Government. In Tweed, the State election will be a referendum on the hospital location, and a vote for Labor's Craig Elliot is a vote for a hospital at Kings Forest. It is also a vote

to protect the Cudgen farmlands and to stop overdevelopment at Kingscliff. For the benefit of those opposite, I repeat: Labor has the funding and commitment to build a new Tweed hospital at Kings Forest and will ensure that tractors remain on Cudgen farmlands, rather than National Party developer mates on their bulldozers.

And what will happen to the current Tweed Hospital site? Ah, yes! The Nationals no doubt thought the community would not notice an entire hospital site suddenly up for grabs. After all, this Government has sold more than \$50 billion worth of public assets this term. There is not a building in the Tweed safe from a National Party sell-off. Again, The Nationals are pushing ahead without talking to the community. There has to be a community conversation about the future of the current Tweed hospital site. The site must be preserved in public hands for health-related activity. But the track record of this Government shows that The Nationals will close the Tweed Hospital and sell it off to developer mates, leaving existing Tweed residents living north of the Tweed River stranded without access to nearby public health facilities to address their ongoing health needs.

The stench of corruption hangs heavy around the entire Tweed Hospital project fiasco. The project has been covered in lies and deceit since the beginning. Ultimately, this must all be put to the people at the next State election. Let the residents of the Tweed decide. I thank members for their consideration.

LYN DAWSON MURDER CASE

Reverend the Hon. FRED NILE (18:52): I raise the increasingly pressing issue of Lyn Dawson's alleged murder, which has been the subject of numerous media reports recently. The matter is of particular interest to me for several reasons. The first is the obvious concern about the public's perception of law and order enforcement authorities in this State. Right now, it would be safe to say that a shadow has been cast over those authorities—including the police and the Director of Public Prosecutions [DPP]—as a result of some odd decisions made by the previous DPP, who went against not one but two coroners' recommendations. Two independent coroners recommended that Mr Dawson be charged with murder and nothing has happened. There is no precedent for that.

The second reason goes to the nature of the offence: namely, a crime between two married people—Mr Dawson has murdered his wife, Lyn Dawson. The reason, as we all know, is that Mr Dawson—a schoolteacher—took a female school student into the house as a babysitter and then began a sexual relationship with her. Finally, in due course, the schoolgirl became pregnant and had a baby. My assumption is that Mrs Dawson found out about that and probably said, "I'm going to kick you out," and he had to make a decision about what to do with Lyn Dawson, and that was to silence her.

In our society, we have—or should have—law and order, and that law and order should be seen to operate. We must be on guard that there is no perception that our system has, in fact, broken down when the case of Lyn Dawson's disappearance has been dealt with in the way it has. As I said, two coroners said that she was murdered and Mr Dawson, her husband, murdered her. So it is not a disappearance; it is a murder. Other journalists have been writing on this story. In fact, in the *Sun-Herald* on 5 August Lucy Cormack drew attention to 10 other murder suspects who had not yet been apprehended, with photographs of them and so on. In her article, titled "Ones that got away: alleged killers on the run", she points at one suspect who has been at large since 1986. Detective Superintendent Scott Cook referred to those cases and said, "We haven't forgotten about them." I hope that is true. Nevertheless, we must be vocal where the pursuit of justice must be seen to be done and has not just ground to a halt.

I have asked questions in the House concerning the Lyn Dawson matter, the first of which was directed to the Attorney General on 19 June. I thank the Attorney General for the response provided to me yesterday through the Leader of this House. In his response, the Attorney General mentioned that the present DPP has received a briefing from the police and that further investigations have been conducted "in or since" 2016. Members of the House may know that the DPP, Mr Babb, has announced that he will not be involved with the case because he has a personal relationship with Mr Dawson. They were connected through school and football teams, apparently.

It is heartening that this matter has not been forgotten. I am grateful that the *Australian* has continued the investigation and is reporting updates on the case—especially David Murray, Hedley Thomas and Jared Owens, who have been leading the paper's inquiries. In a recent string of articles and a podcast titled "The Teacher's Pet", they indicated that serious questions need to be answered about the handling of the case and solid grounds to reinvestigate the circumstances of Lyn Dawson's disappearance. On 2 August, Murray and Thomas wrote that the DPP is "considering whether or not there is enough evidence to prosecute" the prime suspect in the case. The two coroners had no doubt.

On 6 August, Murray, Thomas and Owens wrote that a conflict of interest may have compromised the integrity of the original investigation. The following day in the *Australian*, Murray and Thomas wrote that the

DPP took four years to declare that there was a conflict—which I have just referred to. On 8 August, they also illustrated how police phone intercept records showed the response of Mr Dawson to some of these discoveries when he was having conversations with friends and associates. At no stage did he seem concerned or pleased that there was progress in the investigation of his wife's death—in other words, he knew what had happened to his wife. There was a time when Lyn Dawson's favourite cardigan was found with suspicious knife cuts— [*Time expired.*]

TRIBUTE TO BRUCE NOTLEY-SMITH, MEMBER FOR COOGEE

The Hon. NATALIE WARD (18:57): A member of the New South Wales Parliament has a unique opportunity to serve and improve their local community. Bruce Notley-Smith, member for Coogee, exemplifies what it means to be a hardworking, dynamic and truly representative member of Parliament. Since being elected in 2011, Bruce has consistently delivered for his local community and worked as part of a Government that is delivering for the entire State of New South Wales. In particular, I commend his involvement in health services, education, transport and the broader community of Coogee.

In health, there has been record investment in the Prince of Wales Hospital. A total of \$720 million has been invested for a major redevelopment of the hospital. In 2015, \$500 million was allocated to undertake the first major redevelopment of the Prince of Wales Hospital in 20 years—notably not done during 16 years of Labor governments. More recently, in 2018 there has been an additional injection of \$220 million. This investment in health infrastructure will transform the Prince of Wales Hospital into a leading health and education precinct. When completed in 2022, this world-class facility will include a new emergency department; new intensive care unit and operating theatres; an expansion of the psychiatric emergency care clinic; a medical assessment unit, including a state-of-the-art virtual care centre; and 10 new inpatient units, thanks to the member for Coogee and the Liberal-Nationals Government. Further to these new patient services, the new precinct will add education and research spaces to support clinical research and innovation. This major upgrade will ensure that the tradition of high-quality health care provided by the Prince of Wales Hospital over its 160-year history will be continued in the coming decades.

The Government has delivered not only in health. In education, Coogee is steps ahead. Bruce Notley-Smith committed to deliver 30 additional primary school classrooms for the Coogee electorate, and he did. He began with the \$30 million makeover of Rainbow Street Public School and then delivered upgrades to Randwick Public School. But it does not stop there. Notably, in response to community concerns about transport and one of Coogee's most notorious bus services, the 339 service, Bruce Notley-Smith listened and acted. After much consultation, the 339 service was upgraded to provide a much more efficient commute for Clovelly residents. Bruce Notley-Smith and this Liberal Government also proudly introduced the X40 bus from Clovelly to the Sydney central business district [CBD]. Having fielded more complaints about this service than any other, he took action and delivered for the commuters of Coogee.

Coogee residents will also benefit from construction of the CBD and South East Light Rail. This major redevelopment of our public transport system from the CBD to the Eastern Suburbs will provide reliable, high-frequency turn-up-and-go transport services to Randwick and Kingsford from the CBD via Surry Hills, Moore Park and Kensington. This project has seen significant upheaval in the area over the past four years—as all infrastructure does—but when commissioned the light rail will bring to the travelling public an efficient and effective light rail system. Importantly, each light rail vehicle set can carry up to 450 people—the equivalent of up to nine standard buses. This means more reliable travel times in state-of-the-art, fully accessible carriages for travellers, as well as less congestion on the roads for motorists and more efficient use of energy. Light rail vehicles will use four times less energy than a bus and 10 times less energy than a car. Again, this Government is delivering for the people of Coogee.

Finally, Mr Notley-Smith has been praised by his community for raising in Parliament their concerns about the important issue of extinguishing historical homosexual convictions from a criminal record. Homosexuality was decriminalised in New South Wales in 1984. Bruce Notley-Smith called for this anomaly to be rectified and in 2014 new laws allowed a person convicted of a historical homosexual offence to have the conviction extinguished. I pay tribute to Bruce Notley-Smith for bringing this important issue before the Parliament.

In addition to these outstanding contributions to the local and wider community, Bruce Notley-Smith has secured a long term lease on Crown land for the Sydney Cats and Dogs Home and the South East Equestrian Club and he has transferred care and control of the Old Cable Station, the Macquarie Watchtower and surrounding parklands from National Parks and Wildlife Service to Randwick City Council, restoring Australian history at La Perouse Headland. He has also ensured the transfer of the Randwick Literary Institute from Crown lands to Randwick City Council. Local heritage, local ownership, thanks to the local member. Bruce Notley-Smith has successfully lobbied for his community. He has argued for the Sydney Marine Park and he has gone in to bat to

allow children to ride bicycles on footpaths. He has also argued to expand the powers of the New South Wales Auditor-General to enable auditing of the New South Wales local government sector. In Bruce's words:

The electorate of Coogee is an amazing place to live and work, and it's my job to keep it that way, whilst always trying to find new ways to make it even better.

I congratulate and thank Bruce Notley-Smith for his commitment, tenacity and dedication to the community of Coogee.

INDIA INDEPENDENCE DAY M4 TOLL CASHBACK PROGRAM

The Hon. DANIEL MOOKHEY (19:02): From the Parliament of his soon-to-be-liberated nation on the eve of India's independence, Prime Minister-designate Jawaharlal Nehru spoke about the "tryst made with destiny" and how decades earlier Indians of all castes and creeds, living in countless towns and villages, speaking a panoply of languages and dialects, unified and resolved to end the centuries-long plunder of their lands to terminate the racist rule of Britain's imperialists and emancipate millions into citizenship and equal rights. That night, as the emissary of the greatest social movement of the twentieth century, Nehru was there to redeem their pledge. As he said, at the stroke of that midnight hour, while the world slept, India woke to life and freedom.

For the generations who lived for centuries at the whims and mercies of a brutal occupying power, for the thousands beaten, imprisoned, hanged and murdered for asking for their freedom, and for the millions who with hartals and marches, fasts and protests, exposed the brutal actions of the British Raj until the British people themselves turned against colonialism, today, the seventy-second anniversary of your triumph, we and the world remember. Seventy-two years later India has become a land once infamous for famine that today triumphs over hunger; a people effectively illiterate are today renowned for their science and advanced technology; and a nation with kaleidoscopic linguistic and religious diversity today remains the world's largest democracy.

India, once shy and retreating, today astride world affairs confidently, eager to partner with like-minded nations to further the cause of peace, freedom, democracy and prosperity. Australians have long had these ideals. The tens of thousands of midnight's children and grandchildren who now call Australia home have these ideals. Our country favours a peaceful, free, democratic, and prosperous Indo-Pacific, a region where differences between neighbours are settled with neighbourly diplomacy. In modern India we have an emerging partner. Prime Minister Nehru finished his remarks to the Indian Parliament 72 years ago by saying:

It is a fateful moment for us in India, for all Asia, and for the world ... A new star arises, the star of freedom in the East, a new hope comes into being, a vision long cherished materialises.

I am honoured to reply in Australia's oldest Parliament: May that star shine brightly and that hope always spring eternal. Jai-Hind. It is one year since the Premier reimposed the M4 toll. I understand the impact this has had on family budgets throughout the car-commuting suburbs of Western Sydney. In the toll's first year of operation \$235 million has been taken from the pockets of Western Sydney families and fed to the secretive Sydney Motorway Corporation. For the 43 years this toll will be collected, Western Sydney's motorists will fork out more than \$26 billion in tolls. Every three months the toll rises by a minimum 4 per cent and by 2035 the toll will cost \$27 each way. The toll is to be charged for 43 years. My son, who was born two years ago, will be six years older than I am now when the M4 toll is finally removed. As galling as it must be for Western Sydney families to know that this is the deal Gladys Berejiklian signed them up for, it must be equally galling to know that the Premier's 43-year toll is not needed for 43 years.

The M4 widening only cost \$500 million. Every single dollar, and more, will have been repaid by next year but the toll will stay for the equivalent of nearly two life sentences. Labor has been listening to the stories that Western Sydney's families tell about the devastating impact the toll has had on their finances and how, in a time when prices rise but wages always stays the same, they cannot find the \$2,000-plus each year Premier Berejiklian says they should pay to use the M4. In July, Labor announced that we will bring back the M4 cashback scheme. Under Labor's plan motorists pay the toll and send us the bill and we will pay them back.

I can sniff out the enthusiasm Western Sydney families have for cashback but I cannot sniff out what the Government thinks. In the months since we stood up for Western Sydney families, a conga line of Government Ministers have been spruiking merchant banker gobbledegook attacking the cashback but we have not heard them rule out introducing it. Western Sydney's families deserve to know whose side the Premier is on. Is she, like Labor, on the side of Western Sydney's hardworking families, or is she, as people suspect, on the side of the tolling companies who would like nothing more than to collect \$26 billion in tolls for a road that has already been built?

ANIMAL WELFARE

The Hon. MARK PEARSON (19:07): The images of a drought-stricken landscape form part of the quintessential Australian identity. We are all familiar with the verses in Dorothea Mackellar's *My Country*:

I love a sunburnt country,
A land of sweeping plains, Of ragged mountain ranges,
Of droughts and flooding rains.

...
Core of my heart, my country! Her pitiless blue sky,
When, sick at heart, around us We see the cattle die ...

Historical and meteorological records tell us that droughts have been part of the climate of Australia for millennia. The Settlement Drought of 1790 to 1793 nearly destroyed the new colony at Botany Bay, and from then onwards drought has been part of the narrative of the Australian bush. The current drought is said to be the worst in 800 years. Undoubtedly, climate change will bring more frequent and more severe droughts and yet we seem content to rely on the same control methods for addressing drought as we have for the last 230 years—we kill the animals in the end.

Farmed animals may be sent early to slaughter, euthanised on site or, worst of all, a slow death from starvation and dehydration in desiccated paddocks. If we transitioned from animal farming to plant-based agriculture no sentient being would be at risk of perhaps a long and lingering death due to drought. The time has come to radically reconsider our agricultural practices as climate change increases the risk of more frequent and extensive droughts. We should be planning for an orderly succession from animal farming on marginal lands towards re-wilding these lands for our native animals. Each time a drought occurs, the dams empty, paddocks dry out, crops wither and the cattle and sheep eat the remaining vegetation until the bare soil is taken up in great dust storms that roll into our coastal cities. As surely as the flooding rains follow drought, the call goes out for the killing of our native animals, despite the fact that our native animals have evolved to live with Australia's climatic extremes. Kangaroos can survive for long periods of time without access to water, obtaining moisture from eating plants. Rae of Wild2Free wildlife sanctuary stated to me:

There's no dust bowls at our place. Kangaroos only eat the grass tips and leave seed pods to regenerate. Their toenails create small holes in the soil for new seeds to fall. Without livestock, the grass remains, even though it is dry. The dead grass stays long, allowing new shoots to shelter and grow. The trees provide shade and their roots help stabilise the ground, retaining the soil for future growth.

The predictable refrain that "kangaroos are in plague proportions" is trotted out as kangaroos move in from marginal lands. There are far fewer kangaroos now than there were at white settlement due to clearing for mining, housing and agriculture. While kangaroos can survive without groundwater, they will move into grazing areas for food during times of drought. Obviously kangaroos do not reproduce during drought conditions. Even in the best of times kangaroos reproduce at a rate of 10 per cent per annum, making it physically impossible for them to reach "plague proportions". While farmers are given taxpayer support to keep their farmed animals on drought-stricken land, we provide nothing for the animal carers and sanctuaries that work tirelessly to look after animals during times of drought. Billie Dean of A Place of Peace stated to me:

Sanctuary carers are not only highly stressed and overworked, but all monies go toward supporting animals in their care with ever-increasing costs of fodder. Unlike farmers, sanctuaries must also pay transport fees when trucking in semi loads of hay from interstate.

Rae of Wild2Free describes the conditions in their sanctuary:

We already have eight young ones in care and a record six are from car accidents, which we can only assume is due to the mothers moving further afield looking for food. The lack of feed for wild kangaroos, means more orphaned joeys in care and every shelter we know is already at breaking point.

[Time expired.]

ROYAL COMMISSION INTO INSTITUTIONAL RESPONSES TO CHILD SEXUAL ABUSE

The Hon. CATHERINE CUSACK (19:12): On 20 June this House passed landmark legislation in response to the Royal Commission into Institutional Responses to Child Sexual Abuse. It was my honour to lead for the Government in this House and speak on behalf of the Attorney General, Mark Speakman, who I believe is the most outstanding first lawmaker in this State for at least a generation. I pause to give my heartfelt thanks to Mark and his team, whose expertise and professionalism ensure excellence in lawmaking but their actions are also founded on passion for outcomes our community wants and victims deserve. I am grateful and proud that we have such a great brain and heart serving at this important time. As a result, we were the first State in Australia to take this important step.

I am a born Catholic. I know that I speak for my generation of girls who were educated by extraordinary nuns whose wisdom, compassion and humility left their mark that we were gobsmacked and derailed by the

evidence and findings of the royal commission. For us, and I know also for my parents' generation, there was an unbelievable sense of betrayal and devastation that trusted brothers and priests whom we looked up to had engaged in such evil—and it is pure evil to indulge base urges upon a helpless child in one's care. The evidence also dealt extensively as to how this could possibly have happened and been allowed to continue. The findings, which were equally inconceivable, were that those in authority receiving these reports were turning a blind eye and were more concerned about protecting church assets than the care of young children entrusted to them.

There are no words to describe the feelings the work of the royal commission invoked in us and all Australians. I wonder if the male hierarchy of the Catholic Church, so determined to maintain their hegemony even in the face of the ultimate crimes against their own faith, has even begun to come to grips with this utter sense of anger and disgust. It has taken so much time for those in positions of power to acknowledge that this is not some legal problem. It is a total failure of everything we were told our Church stood for. Everything I was literally taught from birth was trashed by the evidence. I am a mother of two boys, also raised as Catholics. The betrayal is of course most appalling for victims but the Church needs to understand it has been a betrayal of all of us.

The legislation passed here in June provided for the prosecution of individuals who held positions of trust and duty of care in institutions where the royal commission found large-scale child sexual assault had occurred over a period of decades. It is particularly heinous that those clergy and lay people upon whom young children relied for protection and to whom those young children turned for help knowingly chose inaction and cover-up, thus empowering and enabling the paedophiles and condemning hundreds of more children to become victims of their crimes. I acknowledge Mr Rob Roseworne who made representations to me and others requesting a review of an earlier decision of the Director of Public Prosecution [DPP] not to prosecute one such case in relation to a brother's devastating failure to fulfil his duty of care to boys under his protection as a Christian Brother at St Patrick's School in the 1970s and 1980s.

Mr Roseworne was a victim, tragically, as a result of this failure. To be a victim of such a crime not only engulfs a person's life but the realisation later that there was collusion and that the crime was preventable makes it so much worse. I do not know the precise date of the DPP's determination but the language stating that it is not in the public interest is very troubling. For example, "the staleness of the alleged offences" and the "relatively low level of criminality" surprises, notwithstanding they are legal expressions. It does not reflect community attitudes. I contacted the Attorney General on behalf of Mr Roseworne and requested the case be reviewed. He has subsequently written to the DPP making that request, and I am so grateful to him for that. In Mr Roseworne's words:

The landscape has changed and I believe the time is right for the determination to be reviewed and charges placed.

I thank the Attorney General for his prompt, compassionate and appropriate response. The hurdles to justice faced by victims are starting to fall and all of us have a role and a duty to ease their horrific journey as best we can. I await the review of the DPP, which is far more informed and empowered today than it was at the time of those offences. Justice has been shockingly delayed but that does not follow that it will be denied. The victims, the Parliament and the community anxiously await these outcomes.

The PRESIDENT: The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 19:17 until Thursday 16 August 2018 at 10:00.