New South Wales

Legislative Council

PARLIAMENTARY DEBATES
(HANSARD)

Fifty-Sixth Parliament
First Session

Wednesday, 26 September 2018

Authorised by the Parliament of New South Wales

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LEGISLATIVE COUNCIL

Wednesday, 26 September 2018

The DEPUTY PRESIDENT and CHAIR OF COMMITTEES (The Hon. Trevor John Khan), in the absence of the President, took the chair at 11:00.

The CLERK OF THE PARLIAMENTS read the Prayers.

Bills

CRIMINAL LEGISLATION AMENDMENT (CONSORTING AND RESTRICTED PREMISES) 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.

Committees

PUBLIC WORKS COMMITTEE

PORTFOLIO COMMITTEE NO. 5 - INDUSTRY AND TRANSPORT

Government Response

The Hon. ROBERT BROWN: I move:

That Standing Order 233 be varied so as to require that the Government response to the following committee reports be provided by 28 February 2019:

(a) report of the Public Works Committee on the Inquiry into the Sydney Stadiums Strategy; and

(b) report of Portfolio Committee No. 5 – Industry and Transport on the Inquiry into the Implementation of the Recommendations of the Inquiry into Commercial Fishing in New South Wales.

Motion agreed to.

Motions

ALSTONVILLE WOLLONGBAR CHAMBER OF COMMERCE BUSINESS AND COMMUNITY AWARDS

The Hon. BEN FRANKLIN (11:03): I move:

(1) That this House notes that:

(a) the Alstonville Wollongbar Chamber of Commerce Business and Community Awards were held on Saturday 11 August 2018; and

(b) the awards recognise and reward excellence in business and the community in Alstonville and Wollongbar.

(2) That this House congratulates the following awards winners:

(a) 2018 Business of the Year and Agricultural Business Award – Avocado Tom;

(b) Tourism and Hospitality Award – Alstonville Country Cottages;

(c) Professional Services Award – Mortgage Choice;

(d) Artist Business Award – Suzanne Whiteman Dance Studio;

(e) Personal Services Award – Alstonville Dental;

(f) Retail Award:

(i) Winner – Alstonville Quality Meats; and

(ii) Highly Commended – Landy's Bulk and Wholefoods.

(g) Home Based/Online Business Award – Tennis Direct;

(h) Environmental Warrior Award – Your Computer Wizard;

(i) Trade Service and Manufacturing Award – Alstonville Automotive Services;

(j) Business Community Award – North Coast Community College; and

(k) Individual Community Award – Ballina Mayor, David Wright.

(3) That this House recognises the important role chambers of commerce play in supporting local businesses to achieve excellence in their workplace.

Motion agreed to.

Committees

REGULATION COMMITTEE

Extension of Reporting Date

The Hon. SCOTT FARLOW: I move:

That the reporting date of the inquiry into the Cemeteries and Crematoria Amendment Regulation 2018 be extended to 9 November 2018.

Motion agreed to.

Motions

MASTER BUILDERS ASSOCIATION EXCELLENCE IN HOUSING AWARDS

The Hon. BEN FRANKLIN (11:05): I move:

(1) That this House notes that:

(a) the Master Builders Association of New South Wales Excellence in Housing Awards were held on Saturday, 1 September 2018;

(b) the awards showcase the very best in residential building, rewarding quality, workmanship and innovation in the building industry; and

(c) Atlanta Building from Byron Bay was recognised with a number of awards and nominations on the evening, including the best freeform/natural pool in New South Wales open category, runner-up in the best house for $4 million to $5 million and finalists for the energy efficiency award and the environmental award.

(2) That this House congratulates Cameron Paton, Paul Osborne and the whole Atlanta Building team on this prestigious recognition and on their leadership in the building industry.

Motion agreed to.

CHILD SEXUAL ABUSE

Mr DAVID SHOEBRIDGE (11:05): I seek leave to amend Private Members' Business item No. 2482 outside the Order of Precedence for today as follows:

(1) In paragraph (1) (e) omit "Government implementing" and insert instead "implementation of"; and omit "include all faith-based organisations" and insert instead "activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children".

(2) In paragraph (1) (f) omit "upon the Government to take immediate steps to implement" and insert instead "for the implementation of".

(3) In paragraph (2) omit "calls on the Government to formally respond to these calls and urgently provide a" and insert instead "notes the requests of stakeholders for a formal".

Leave granted.

Accordingly, I move:

(1) That this House notes that:

(a) on 12 September 2018, a large gathering of representatives from major survivor advocate groups and 20 faith-based organisations met together in Parliament House;

(b) the aim of the gathering was to establish a joint standing committee for the purpose of working together to tackle child abuse within religious settings;

(c) the impetus for the establishment of the committee came from the Ombudsman's Office and the Office of the Children's Guardian who invited the parties to meet together on this historic occasion;

(d) the meeting identified specific strategies so that joint work could be taken on strengthening faith organisations' child safeguarding frameworks and practices;

(e) action required includes the implementation of the recommendation of the Royal Commission into Institutional Responses to Child Sexual Abuse to expand the Ombudsman's oversight of institutional abuse allegations to activities or services of any kind, under the auspices of a particular religious denomination or faith, through which adults have contact with children; and

(f) the following organisations are now publicly calling for the implementation of the royal commission's recommendations for expanding the reach of the reportable conduct scheme to include faith-based organisations:

(i) Blue Knot Foundation;

(ii) Bravehearts Foundation Ltd;

(iii) Survivors & Mates Support Network [SAMSN];

(iv) Tzedek;

(v) AdSAFE Ltd (Seventh-day Adventist Church South Pacific Division);

(vi) Anglican Diocese of Armidale;

(vii) Anglican Diocese of Bathurst;

(viii) Anglican Diocese of Canberra and Goulburn;

(ix) Anglican Diocese of Grafton;

(x) Anglican Diocese of Newcastle;

(xi) Anglican Diocese of Riverina;

(xii) Anglican Diocese of Sydney;

(xiii) Catholic Archdiocese of Canberra and Goulburn;

(xiv) Catholic Archdiocese of Sydney;

(xv) Catholic Diocese of Armidale;

(xvi) Catholic Diocese of Bathurst;

(xvii) Catholic Diocese of Broken Bay;

(xviii) Catholic Diocese of Lismore;

(xix) Catholic Diocese of Maitland-Newcastle;

(xx) Catholic Diocese of Parramatta;

(xxi) Catholic Diocese of Wagga Wagga;

(xxii) Catholic Diocese of Wilcannia-Forbes;

(xxiii) Catholic Diocese of Wollongong;

(xxiv) Catholic Professional Standards Limited;

(xxv) Catholic Religious Australia;

(xxvi) Council of Social Service NSW;

(xxvii) Implementation Advisory Group for the Catholic Church;

(xxviii) Jewish House, Rabbinic Fellow and Great Synagogue, Sydney;

(xxix) Ministry of Churches of Christ in NSW & ACT;

(xxx) National Executive International Network of Churches;

(xxxi) Professional Standards Office of NSW and the ACT;

(xxxii) Uniting Church in Australia Synod of NSW and the ACT;

(xxxiii) Safe Church Office of Hillsong Church;

(xxxiv) Salvation Army Australia Eastern Territory;

(xxxv) Seventh-day Adventist Church (Greater Sydney Conference) Limited; and

(xxxvi) Seventh-day Adventist Church (North New South Wales Conference) Limited.

(2) That this House notes the requests from stakeholders for a formal policy and legislative response to address these essential child safety matters.

Motion agreed to.

Petitions

PETITIONS RECEIVED

Police Drug Dogs Program

Petition calling on the Government to end the NSW Police Force drug dogs program and stop the police practice of denying entry to patrons on the basis of a false positive indication from a drug dog, and requesting that cannabis be legalised, received from **Mr David Shoebridge**.

Human Organ Trafficking

Petition requesting that the Government outlaw human organ trafficking and harvesting, make it illegal for people in New South Wales to receive illegally trafficked and harvested organs, and urge the Federal Government to make changes to laws regarding overseas organ trafficking and harvesting, received from **Mr David Shoebridge**.

Irregular Petitions

HUMAN ORGAN TRAFFICKING

Mr DAVID SHOEBRIDGE: I move:

That standing and sessional orders be suspended to allow the presentation of an irregular petition from 10,119 citizens of New South Wales requesting that the Government outlaw human organ trafficking and harvesting, make it illegal for people in New South Wales to receive illegally trafficked and harvested organs, and urge the Federal Government to make changes to laws regarding overseas organ trafficking and harvesting.

Petition received. [*During the giving of notices of motions*]

Notices

PRESENTATION

The ACTING PRESIDENT (The Hon. Trevor Khan): Order! Can we begin the day in a nice way and avoid—

[*Interruption*]

The ACTING PRESIDENT (The Hon. Trevor Khan): Order! Members will be called to order if they speak while I am addressing them. I invite members at the table to avoid banter across the table because it will inevitably lead to the outbreak of hostilities with the Chair.

Bills

CRIMINAL LEGISLATION AMENDMENT (CONSORTING AND RESTRICTED PREMISES) BILL 2018

Second Reading Speech

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (11:20): I move:

That this bill be now read a second time.

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

Leave granted.

The Government is pleased to introduce the Criminal Legislation Amendment (Consorting and Restricted Premises) Bill 2018.

The Government is committed to ensuring the NSW Police Force has effective powers to detect, target and disrupt serious and organised crime. The amendments introduced by this bill will continue to ensure police are able to respond effectively to the threat caused by serious and organised crime, including outlaw motorcycle gangs, while at the same time addressing concerns raised by the Ombudsman about the operation of some powers.

In 2012 the Government modernised the consorting law in Part 3A of the Crimes Act 1900. Section 93X of the Crimes Act now provides that it is an offence for a person to habitually consort with convicted offenders after having been given an official warning in relation to those offenders. The modernised consorting law was upheld by the High Court in the decision of *Taliour v New South Wales* [2014] HCA 35.

Part of the modernisation of the consorting law was a requirement for the Ombudsman to review the operation of the law after three years. The Ombudsman conducted a thorough review of the consorting law and made recommendations for improvement.

The Ombudsman's main concerns related to the potential disproportionate impact of the consorting law on young and vulnerable people, including Aboriginal people.

Thanks to the amendments made by the Government in 2012, New South Wales has one of strongest suite of anti-consorting laws in the country, which has been used successfully by the NSW Police Force to disrupt and prevent criminal activity. However, the Government accepts that further safeguards can be put in place to address the Ombudsman's concerns, while at the same time ensuring police can continue to use the consorting law effectively.

The bill excludes children under the age of 14 from the operation of the consorting law. This means children under the age of 14 cannot be given a warning for consorting with convicted offenders and cannot be charged with consorting. The bill also introduces expiry limits for consorting warnings. Warnings issued to a person under the age of 18 will expire after six months. Warnings issued to a person aged 18 and over will expire after two years.

The consorting law contains a number of defences to a charge of consorting whereby the court must disregard consorting in certain situations if it was reasonable in the circumstances. This includes, for example, consorting with family members.

In recognition of the Ombudsman's concerns about the potential disproportionate impact of the consorting law on Aboriginal people, the bill clarifies that a family member includes a person who is or has been part of the extended family or kin of a defendant according to the indigenous kinship system of the defendant's culture.

The bill also introduces new defences to consorting that relate to consorting that occurs during the provision of a welfare service, consorting that occurs in the course of complying with an order or direction by the State Parole Authority or Corrective Services NSW, and consorting that occurs in the course of providing transitional, crisis or emergency accommodation.

The bill also makes it clear that a consorting warning can be issued in relation to a person convicted of offences in another jurisdiction that would be indictable offences if committed in New South Wales. This is an important amendment. Outlaw motorcycle gangs and other organised crime groups do not confine their activities within the borders of a single State or Territory. The consorting law should therefore recognise convictions from other jurisdictions in order to prevent offenders from other jurisdictions consorting in New South Wales.

The Law Enforcement Conduct Commission will review the operation of the consorting law after three years of operation and report back to the Attorney General and Minister for Police. One of the main aspects of this review will be the impact of the consorting law on young and vulnerable people, including Indigenous people.

The Restricted Premises Act 1943 provides police with extensive powers, pursuant to a search warrant, to search premises suspected of being used by, or in connection with, outlaw motorcycle gangs and other criminal groups. The Act also provides a power to search premises subject to a declaration by the Supreme Court without a warrant.

In 2013 the Government enhanced the warrantless search powers under the Act by allowing police to search declared premises for weapons and explosives, in addition to drugs and alcohol. New offences relating to reputed criminals attending declared premises were also introduced. The Ombudsman was required to review the operation of the additional search powers and new offences after two years of operation.

In response to the Ombudsman's recommendations regarding the Restricted Premises Act, the bill clarifies police powers when executing a search warrant under the Act on premises suspected of being used for criminal activity or criminal gangs. The bill provides police with an express power to give a direction to any person found on the premises in order to minimise the risk to the safety of any person. Failure to comply with a direction will be punishable by up to 12 months imprisonment and a $5,500 fine, or both.

The bill also provides police with an express power to search any person found on the premises when they reasonably suspect that person might be in possession of an item mentioned in the search warrant. This could include weapons or drugs. The bill also provides police with a power to compel any person found on the premises to provide their name and address. Failure to provide a name and address, or the provision of false or misleading information, will be punishable by a $1,100 fine.

I now outline each of the amendments in turn.

Schedule 1 to the bill amends Division 7 of Part 3A of the Crimes Act 1900.

Item [1] amends section 93W of the Crimes Act to provide that for the purposes of the Division, "indictable offence" includes an offence in another jurisdiction that would be an indicatable offence if committed in New South Wales.

Item [2] amends section 93X to provide that section 93X does not apply to persons aged under the age of 14.

Item [3] amends the Crimes Act 1900 to clarify what information must be included in a consorting warning and also provides that warnings issued to persons under the age of 18 expire after six months from the date of issue, and warnings issued to all other people expire after two years from the date of issue.

Items [4] and [5] amend the Crimes Act 1900 to expand and clarify the defences to consorting. Consorting that occurs in the course of the provision of a welfare service or in the course of providing transitional, crisis or emergency accommodation is to be disregarded if reasonable in the circumstances. Consorting that occurs in the course of complying with an order granted by the State Parole Authority, or in with a case plan, direction or recommendations by a member of staff of Corrective Services NSW is also to be disregarded if reasonable in the circumstances.

Item [6] amends the Crimes Act 1900 to provide some new definitions for terms used in section 93Y. Of note is the definition of "family member" which includes, for a defendant who is an Aboriginal person or a Torres Strait Islander, a person who is or has been part of the extended family or kin of the defendant according to the indigenous kinship system of the defendant's culture.

Item [7] amends the Crimes Act 1900 to require the Law Enforcement Conduct Commission to review the amended consorting law within three years following the commencement of the amendments.

Schedule 2 to the bill amends the Restricted Premises Act 1943.

Items [1]-[3] amend the Restricted Premises Act to allow the owner or occupier of premises subject to a declaration under the Act to apply to the court to have that declaration rescinded. The court must be satisfied that the conditions that led to the declaration being made have ceased for a continuous period of at least 12 months and are unlikely to reoccur at the premises. The burden of establishing the cessation of conditions that led to the declaration is on the owner or occupier. An owner or occupier is not able to apply for a rescission of the order if they have applied for a rescission of the same order within the previous 12 months.

Item [4] amends the Restricted Premises Act to require a police officer exercising the entry power under section 10 of the Act to notify the owner or occupier of the premises about the entry as soon as practicable after the entry. Failure to notify the owner or occupier does not render the exercise of a power conferred by section 10 unlawful.

Item [5] amends the Restricted Premises Act to allow a police officer executing a search warrant under section 13 of the Act to do three things:

28.1. to issue a direction to any person found on the premises for the purpose of minimising a risk to the safety of any person on the premises, with a maximum penalty for failing to comply with the direction without reasonable excuse of 12 months imprisonment and/or 50 penalty units.

28.2. to search any person found on the premises where they reasonably suspect that person is in possession of an item mentioned in the warrant, for example a weapon or drugs.

28.3. to compel a person found on the premises to provide their name and address, with a maximum penalty for failing to comply with the direction without reasonable excuse or providing false or misleading information of 10 penalty units.

Conclusion

New South Wales has the toughest organised crime laws in the country. The reforms in this bill will ensure New South Wales continues to lead the nation in the fight against criminal groups and organised criminal activity.

I commend the bill to the House.

Second Reading Debate

The Hon. ADAM SEARLE (11:21): I lead for the Opposition in debate on the Criminal Legislation Amendment (Consorting and Restricted Premises) Bill 2018. The Opposition does not oppose the bill. The objects of the bill are to amend both the Crimes Act and the Restricted Premises Act in response to reports by the Ombudsman. This legislation has been carefully expressed to be in response to the reports, not to adopting the recommendations in the reports. The provisions of the bill are, in a number of respects, at variance with the content of the reports. The first of these reports is by the Ombudsman relating to the consorting provisions of the Crimes Act. The report was tabled in June 2016.

The second is the report by the Ombudsman relating to some of the police powers and offences under the Restricted Premises Act. It was tabled in the other place in November 2016. Two years or more after the reports were tabled, legislation has at last appeared. I note that the Attorney General in the other place made the defence in his reply speech that the Government did not want to rush such important reforms but preferred to take a considered approach. I could understand that were it a weighty undertaking such as the Uniform Evidence Act or some entirely new piece of legislative edifice, but to take such a long time to deal with these two reports shows a Government lacking an agenda and the competence and wherewithal to proceed expeditiously with these reviews. The end product suggests that the period between the tabling of the reports and now has been taken up by bureaucratic struggles over the provisions in the bill. That certainly seems to be the case with the consorting provisions.

The provisions in the bill do a number of things. Offences committed outside the jurisdiction can make someone a convicted offender for the purposes of the principal Act in relation to consorting. Any person under the age of 14 is excluded from the offence of consorting. A clearer statutory form of the consorting warning is provided, although lack of strict compliance does not, apparently, invalidate the warning. An official warning expires two years after it is given, or for someone under 18 years age six months after it is given, and the defence of reasonable consorting is extended to consorting that occurs while complying with an order by the State Parole Authority or complying with a case plan direction or recommendation by Corrective Services NSW or providing transitional crisis or emergency accommodation or a welfare service.

The defence of reasonable consorting between family members now takes into account the Indigenous kinship system of an Aboriginal defendant's culture. There is also a requirement that the Law Enforcement Conduct Commission [LECC] review the amendments made by this bill within three years of the provisions coming into force. The LECC is to report both to the Attorney General and to the Minister for Police as to the outcome of the review. Perhaps that is a worthwhile safeguard given recent events. Consorting laws in this State have had a long, chequered, unpleasant and contested history. They were introduced in the 1920s ostensibly in response to the razor gang phenomenon primarily in East Sydney. They grew from the vagrancy legislation that simply targeted the poor. They fell into disuse and were certainly an element in police corruption, as was recognised by the Wood royal commission—a situation that arose from the very wide discretion allowed to individual police officers.

This Parliament amended the law relating to consorting with the Crimes Amendment (Consorting and Organised Crime) Bill 2012, which commenced operation on 9 April 2012. It was subject to a High Court challenge instituted in 2012 and finalised in 2014. The 2012 Act provided for a review of the operation of the provisions. The Ombudsman's report, to which this bill responds, was the result of that review. The original review was to be two years after commencement but it was extended to three because it was assumed that the High Court proceedings would have reduced the use of the provisions. The Ombudsman's review covered the period from 9 April 2012 to 8 April 2015.

Consorting as an offence does not sit easily within the usual range of criminal laws. It does not punish someone for a criminal act per se, but is aimed at stopping people committing criminal acts in the future because of whom they associate with. It does so by targeting what could be ordinary, regular, innocent relationships that, on any rational view and in other circumstances, should not be the subject of intervention by the criminal law. But the wide discretion involved and the consequent potential for—and in previous times the actual occurrence of—corruption means that care should be exercised in designing and implementing laws of this nature.

This law can criminalise otherwise innocent behaviour and tries to control future conduct without demonstrating that someone is involved themselves in criminal behaviour. The majority of Australian jurisdictions have consorting laws—a point made by the Attorney General and the shadow Attorney General in the other place during the debate. Item [3] of schedule 1 to the bill amends section 93X (3) of the Crimes Act relating to a warning to be given. It is said to mirror more closely the elements of the offence and seems to respond to recommendation 2 of the Ombudsman's report.

It does not seem to completely correlate with the Ombudsman's recommendations, which in turn were the same as the NSW Police Force submission to the Ombudsman's review. If the Ombudsman and the police agree, it is curious that the Government does not. I note that the Attorney General in his reply speech in the other place said that the Ombudsman's recommendations had to be considered in close consultation with the New South Wales police because of the operational impact of any changes to consorting law on law enforcement. I note the Attorney General in the other place also said that the warning proposed by the Ombudsman in recommendation 2 of the report was not correct because of some technical analysis that the Attorney General then engaged in.

The Attorney General said that the warning in this bill was developed in consultation with the Police Force and the Parliamentary Counsel's office. It still does not really explain why the Government's actions here differ from the Ombudsman's recommendation given that the Ombudsman's recommendation was congruent with the submission of the police. An explanation of that would be useful, particularly should these provisions be applied judicially in the future. Given the lack of clarity, it would be useful for the Government to outline the deviance and diversion from the recommendations in this bill.

New section 93X (4) also arises from the Ombudsman's report. An official warning ceases to have any effect six months after the warning is given to someone under 18 or in other cases two years after the warning is made. This issue arose as a practical one because the 2012 legislation made consorting an indictable offence when previously it had been a summary offence with a set period in which prosecutions had to commence. There is no such limit on indictable matters. The police sensibly dealt with this as a matter of policy by deciding that criminal proceedings for consorting should not commence unless the occasions of consorting occurred within a six-month period, unless in exceptional circumstances. Most other jurisdictions in Australia also contain time limits. Recommendation 9 in the Ombudsman's report was that the Attorney propose for consideration by Parliament an amendment to the consorting laws to include a statutory time limit. Proposed section 93X (4) effectively achieves that objective.

The Ombudsman made a number of recommendations concerning defences to a charge of consorting. It is worth noting that the principal Act places an onus on the defendant to establish defence, reversing the onus in a way that is usually frowned upon in our criminal law system. The Ombudsman records the view of submissions to his inquiry that the existing defences are not extensive enough and exclude a range of circumstances that ought to be included, such as consorting in the course of sporting activities, religious activities or between neighbours. Recommendation 12 proposes amendments to section 93Y of the principal Act to provide additional defences. Items [4] and [5] of schedule 1 to the bill seem to do precisely that. Recommendation 13 proposes a definition of family members that includes kinship relations between Aboriginal persons, as I indicated earlier. That is contained in the proposed addition to section 93Y and the definition of "family".

Another amendment to section 93Y seems to deal with the Ombudsman's recommendation 14 that would allow consorting as part of attending a health service that includes therapeutic rehabilitation, drug and alcohol services. The shadow Attorney did ask that the Attorney explicitly confirm in his reply that the Ombudsman's recommendation 14 had been implemented in the bill. I did not find that confirmation in the Attorney's reply. I may have missed it, but it would be useful if the Government attended to that matter in this place, or at least point out my oversight. Preventing people seeking drug rehabilitation services because other people there might

have committed criminal offences seems genuinely bizarre when we consider the chain of circumstances often leading people to seek such rehabilitation services. Item [1] of schedule 1 includes as an indictable offence and brings within the consorting regime an offence committed in another jurisdiction that would be an indictable offence if committed in New South Wales. That does not appear to have come from the Ombudsman's report, but it is not objectionable.

Schedule 1 [7] provides a review provision, with the review to be carried out by the Law Enforcement Conduct Commission, which is also consistent with the Ombudsman's recommendation. The final provision in the bill dealing with consorting is the proposed addition to section 93X (1) in schedule 1 [2]. This would exclude from the consorting regime anyone under the age of 14. There is currently no age restriction in the principal Act, so this is a new restriction and a removal of one group previously included in the consorting regime. The Opposition finds it a troubling proposition. The Ombudsman's recommendation was for an exclusion for every person under 18 years rather than the New South Wales Government's proposal of under 14 years. The NSW Police Force adopted as policy that consorting charges should not be brought against those under 16 years of age unless in exceptional circumstances. The Government's proposal is not only less restrictive than that proposed by the Ombudsman but also less restrictive than that proposed by the police. I note in his reply speech the Attorney in the other place defended the approach taken by the New South Wales Government with this statement:

> Excluding people under the age of 18 from the consorting law may also result in certain young people being more susceptible to exploitation by organised crime groups.

And, of course, the statement that the Government approach was more consistent with the law of criminal responsibility. It does not explain why the New South Wales Government policy in the bill departs from that proposed by the Ombudsman and the police. I do not think either of those bases advanced by the Attorney in his reply speech gets to the pitch of the ball. Again I ask the Government in this place to give a more lucid and full explanation of these important departures. This goes to the core issue of what the consorting laws in fact intend to do. They were explicitly introduced to be utilised against serious and organised crime. Premier O'Farrell explicitly said that, as did other members from the Government side. In the debate and public discussion, that was unequivocally the Parliament's intention. It was even contained in the title of the 2012 bill. It has been restated in the Attorney's second reading speech introducing the bill in the other place, and I assume the Minister's remarks in his second reading speech in this Chamber. What is going on that people as young as 15 are supposed to be subject to consorting warnings and even charges? This reflects the fact that a significant use of consorting powers by the police appear to have nothing to do with organised or serious criminal activity. I quote from page 30 of the Ombudsman's report:

> General duties police attached to LACs were responsible for issuing 4,401 official warnings during the review period, amounting to approximately half the total number of warnings issued by police. These warnings were issued to 2,268 different people on 1,538 separate occasions. Overall, 2,601 different people were subject to use of the consorting law by general duties police officers, amounting to 79% of all people subject to use of the consorting law by all police.

It does not seem to be the purpose for which the Parliament created the law. It would be good if the Government could explain how this law has been applied and why it has been applied quite differently to that intended by the Parliament. The use varied dramatically between different zones and different local area commands [LACs], suggesting significant elements in the LACs did not see the need to use the consorting powers while others obviously did. It is clear that much of this had nothing to do with serious or organised crime and it is in stark contrast to the Gangs Squad, which used the powers in what seems to be exactly the way intended by Parliament. They also used it differently to general duties officers in ways set out at pages 32 to 34 of the Ombudsman's report. If the powers are being used other than for serious and organised crime, it can perhaps be understood why children have somehow got caught up in the use of the consorting laws. But the question is: Is this appropriate?

During the review period, the Ombudsman advises that 201 children and young people between 13 and 17 years of age were subject to the use of the consorting law; 41 were aged between 13 and 15 years; and nearly 60 per cent of them were Aboriginal, which is another very disturbing metric. Quite remarkably, 79 per cent of those warnings to children and young people were illegal, which is perhaps even more alarming. The police have been given these important powers but they are not being applied lawfully. This was almost exclusively done by general duties police. Only seven of the 201 were targeted by specialist squads. The Ombudsman quotes evidence from a regional director at Juvenile Justice that it is unlikely the use of consorting powers will in fact reduce juvenile offending. The extraordinarily high error rates suggest something has gone badly wrong. Of 133 children and young people in the consorting data whose associates or friends were warned about consorting with them, 105 were incorrectly identified by police as convicted offenders. I quote the Ombudsman at page 80:

> It appears that police are issuing consorting warnings in relation to children and young people who are known to them through repeated police contact and that these mistakes have arisen from a lack of understanding by police officers of the restrictions on the Children's Court's ability to record convictions. The Ombudsman notes there is evidence that these mistakes by police continue. However, the Ombudsman quotes at page 81 the submission from the police that concedes that the issue has some impact on the

> usefulness of consorting powers relating to those under 18 years of age. That is, only in very limited cases can consorting powers be used legally against young people. The police submission at page 82 of the Ombudsman's report went on to say that the consorting powers should be available against persons 16 years or over who commit serious indictable offences. Again, the police posit an age of 18 but the Government's bill states an age of 14. I quote from the Ombudsman at page 83: There is agreement among all the submissions that the consorting law should be amended to exclude its application to children aged 15 years and under. However, we are of the view that the consorting law should not be used in relation to any children and young people, that is, anyone who is not yet 18 years old.

The reason advanced by the Attorney General in the Legislative Assembly is not sufficient or compelling and obscures rather than clarifies why the Government has landed on this policy. The reality is that children can only very rarely be lawfully caught by the consorting regime, as conceded by the police, all of which means that the Government position is a bit confused and certainly confusing. It would be most useful if a bit of light was shone on this by the relevant Minister in this place. The Ombudsman's report states that very rarely can this be legitimately used against children or young people. The Government states in a piece of legislation that it will put an age limit of 14, the Ombudsman says 18 and the police say 16. It is all over the place.

Schedule 2 to the bill deals with amendments to the Restricted Premises Act which originally was the Disorderly Houses Act. While consorting laws dated from the 1920s and the razor gangs, the Restricted Premises Act originates with the Second World War and considerations of national security. In July 2013 the Labor Opposition introduced a private member's bill—the Firearms Amendment (Prohibition Orders) Bill 2013—to deal with people subject to a firearms prohibition order. Shortly after that and in response the then Premier introduced the Firearms and Criminal Groups Legislation Amendment Bill 2013. Apart from having provisions similar to Labor's private member's bill, it also contained provisions amending the Restricted Premises Act. These provisions expanded the existing search powers in the Act to enable police to search for weapons and explosives as well as to search for drugs, alcohol and related items, which they already could.

The amendments also created a new category of "reputed criminal declarations" and two new indictable offences that could be committed by owners and occupiers of declared premises of failing to prevent a reputed criminal from managing, attending or controlling the premises. That legislation was required to be reviewed by the Ombudsman for the two-year period 1 November 2013 to 31 October 2015. Schedule 2 to this bill seems to largely consist of provisions adopting the report's recommendations which is interesting because the police seem to have gone to some trouble to fail to provide all the information requested by the Ombudsman, which the Ombudsman thought was relevant to the review. The expressed aim of the Government's legislation, apart from running over the top of Labor's private member's bill, was to "make it easier for police to get premises declared on the grounds they were routinely used by serious criminals, such as gang clubhouses", according to then Premier O'Farrell.

In the debate in the Legislative Assembly the shadow Attorney General referred to one application being made concerning premises at Leppington, which was withdrawn when the use was altered. In his reply speech, the Attorney General said that the powers under the Restricted Premises Act have been used against bikie clubhouses being declared as restricted premises. He also indicated that from October 2017 the NSW Police Force had used this power 14 times to enter declared premises without a warrant. I ask the Government to indicate whether those are the only occasions when that has been used, whether they have been used more recently and in what circumstances. It would be useful to understand how this legislation has been applied in practice because we do not seem to have much visibility of that. As this Parliament and this House are being called upon to enact new laws without that information it should at least be a matter of public record. I understand there may be some operational reasons why the Government does not want to give chapter and verse but we need more information than we currently have.

Apparently there were seven occasions when police obtained warrants under section 13. Police can apply for a warrant under this section before applying for a declaration if they have reasonable grounds to believe that prescribed activities are taking place at a particular location. Material gathered is meant to be used in preparing an application under the Act. Section 13 search warrants were executed during the review period on premises in Girraween, Boolaroo, Newcastle, Woy Woy, Leppington, Warwick Farm and Burwood. The section 13 searches seem to have led to the closure of motorcycle gang clubhouses. Despite Parliament's expectation, declarations were not sought or needed. All these seven locations were gang clubhouses. Many other clubhouses were not raided. This is apparently consequence-based policing. The police do not target clubhouses generally, only those that require a response for particular reasons.

The exercise of the section 13 search warrants has given rise to recommendations by the Ombudsman which are adopted in the bill. Recommendation 2 is contained in proposed section 13AA, as is recommendation 3. While executing a section 13 warrant the police may give a reasonable direction to a person on the premises to minimise risk to any person, and it is an offence not to comply. Given that the situation involves such circumstances, these provisions make perfect sense. For example, 60-odd people present at the Rebels clubhouse

at Leppington when a warrant was executed is a situation where the need for such powers being clarified seems logical.

Proposed section 13AB implements recommendation 4 of the review, giving police power to search any person on the premises whom they reasonably suspect of having in their possession something mentioned in the warrant. Recommendation 5 is replicated in proposed section 13AC, a power of the police to demand a name and address of anyone present during a section 13 search. Proposed section 10 is amended by schedule 2 [4] in accordance with recommendation 9 so that police must notify the occupier of premises searched under section 10 of the search if they were not present, which is a useful clarification of the provisions, although there was no use of the additional section 10 powers during the review period. Schedules 2 [1], 2 [2] and 2 [3] make amendments to section 4 of the principal Act to allow for the rescission of a declaration on the application of the owner or occupier of premises. The changes introduced by schedule 2 seem comparatively non-controversial and are in line with the recommendations of the Ombudsman's report. The Opposition does not oppose the bill, despite the confusion and lack of clarity on the part of the Government, but I ask for the clarifications that I have sought and identified.

Reverend the Hon. FRED NILE (11:46): On behalf of the Christian Democratic Party I support the Criminal Legislation Amendment (Consorting and Restricted Premises) Bill 2018. This bill amends the Crimes Act 1900 and the Restricted Premises Act 1943 to implement the New South Wales Government's response to legislative recommendations from the Ombudsman's review of the consorting law in part 3A of the Crimes Act 1900 and the Ombudsman's review of the Restricted Premises Act 1943. The Restricted Premises Act was introduced in 1943 during wartime when Sydney was experiencing serious problems, some of them caused by servicemen on leave in the city. That led the Government to introduce the concept of restricted premises which the Christian Democratic Party believes has helped the police to carry out their duties in New South Wales. These laws have been amended over the years.

In 2012 the Government modernised the consorting law. Section 93X of the Crimes Act makes it an offence for a person to habitually consort with two or more convicted offenders, after having been given a warning in relation to these offenders. The Ombudsman was required to review the modernised consorting law after three years of operation. The Ombudsman's report identified a number of concerns mainly relating to the potential disproportionate impact of the consorting law on young, vulnerable and Indigenous people. Members have always been concerned that legislation may have an unintentional and negative impact on Indigenous people for a variety of reasons. That is why laws have to be carefully assessed to determine whether exemptions can be made for Indigenous people in certain circumstances now or in the future.

In 2013 the Government amended the Restricted Premises Act to allow police to search for weapons and explosives when searching premises declared under the Act. In addition to drugs and alcohol, new offences relating to reputed criminals attending declared premises were also introduced. The Ombudsman was required to review the operation of the additional search powers and new offences after two years of operation. Some members may feel that the powers the police have are excessive or draconian, but I believe we must make certain that we have equipped police with the weapons they need to combat crime and organised crime successfully and bring people to justice.

The consorting amendments are contained in schedule 1 to the bill. Schedule 1 [1] clarifies that a consorting warning can be issued in relation to a person who has been convicted of an indictable offence in another jurisdiction. That is to resolve an operational issue identified by the NSW Police Force and is not in response to the Ombudsman's report. Schedule 1 [2] excludes children under the age of 14 from the operation of the consorting law. We could have a long debate about the ages that should be included in legislation such as we have when debating legislation relating to the age of consent and so on. As we know, in our modern society a young man of 14 could have a big build. They are not children, even though that is their classification. They are virtually young men. Our laws should take that into account.

Schedule 1 [3] outlines what information must be included in a consorting warning, which is in response to recommendation 2, and introduces expiry limits for consorting warnings. A warning issued to a person under the age of 18 will expire after six months. A warning issued to a person aged 18 and above will expire after two years. Schedule 1 items [4], [5] and [6] expand and clarify the defences to consorting. The consorting law contains a number of defences to a charge of consorting whereby the court must disregard consorting in certain situations if it was reasonable in the circumstances. For an Aboriginal person or Torres Strait Islander, kinship relationships will be included in the defence for consorting with family members.

New defences relate to consorting that occurs during the provision of a welfare service, consorting that occurs in the course of complying with an order or direction by the State Parole Authority or Corrective Services NSW and consorting that occurs in the course of providing transitional or emergency accommodation. Schedule 1 [7] requires the Law Enforcement Conduct Commission to review the operation of the amended

consorting law after three years of operation. We support that initiative and the Government's policy of inserting automatic reviews into sensitive legislation after three years of its operation to see what further changes or amendments should be made to make it more effective.

The restricted premises amendments are contained in schedule 2. Schedule 2 items [1], [2] and [3] allow the owner or occupier of a declared premises to apply to the court to have the declaration rescinded. Schedule 2 [4] provides that if the occupier is not present during entry to a declared premises the NSW Police Force must notify the occupier of the entry as soon as practicable. Schedule 2 [5] allows police executing a search warrant under the Act to issue a direction to any person found on the premises to mitigate safety risks. The penalty for noncompliance is 12 months imprisonment and/or a fine of $5,500. Police may also search any person found on the premises suspected to be in possession of an item mentioned in a warrant such as a weapon, which includes a pistol and gun, or drugs. Finally, when executing a search warrant police may compel any persons found on the premises to provide their name and address. The penalty for noncompliance is $1,100. For those reasons, we are pleased to support the bill.

Mr DAVID SHOEBRIDGE (11:54): On behalf of The Greens I speak in debate on the Criminal Legislation Amendment (Consorting and Restricted Premises) Bill 2018. I note at the outset that The Greens do not oppose the bill, but we are very concerned that it does not go anywhere near far enough to remedy the unfairness that the Ombudsman has identified as a result of the changes made in 2012. The bill makes amendments to the consorting laws that this Parliament pushed through in 2012. It also implements a small number of the changes that the Ombudsman recommended in his review of the extended powers that this House granted to police unquestionably and without amendment in 2012.

The Ombudsman raised real concerns about the disproportionate impact on young and vulnerable people, including Aboriginal people. The changes proposed in the bill will exclude children under 14 from the operation of the scheme—of course, the Ombudsman recommended that all children be excluded from the scheme. They mean that consorting warnings issued to children aged between 15 and 17 will expire after six months and warnings given to people over 18 will expire after two years. The bill also extends some defences to consorting to recognise Aboriginal kinship structures as properly exempt from the operation of the laws. I said at the outset that we will not oppose the bill because it makes marginal improvements, but it does not go anywhere near far enough. The changes in the bill follow the NSW Ombudsman's legislative review of the consorting laws. In a communication the Acting Ombudsman issued when the report was released, he said:

> The breadth of the new consorting law means that the main constraint on its application is the sensible exercise of discretion by police officers.
>
> Police have significant discretion in deciding who they will warn, who they will be warned about, and whether to bring charges. There is no legal requirement for the associations targeted by police for consorting to have any link to planning or undertaking criminal activity.

Stopping there, it is unbelievable that in 2012 this House passed a bill that I believe only The Greens opposed to massively expand consorting laws and hand all that power to police without any limitation on their discretion. We knew those laws would be abused and the Ombudsman found routine systemic abuse of them by police. The Acting Ombudsman's release continues:

> The Ombudsman's report outlines use of the consorting law in relation to members of criminal gangs, but also in relation to people experiencing homelessness, children and young people and people with no criminal record. In some areas the proportion of use in relation to Aboriginal people was very high.
>
> The Ombudsman's report recommends the adoption of a statutory and policy framework to ensure police apply the consorting law in a way that is focused on serious crime, closely linked to crime prevention, and is not used in relation to minor offending.

The figures in the Ombudsman's review are startling. On page 114 the following is stated:

> Approximately half of all consorting warnings were issued by general duties police (n=4,401), and nearly 80% of people subject to the consorting law were affected as a result of an interaction with general duties officers (n=2,601).
>
> General duties officers were responsible for 85% of all occasions of use of the consorting law during the review period (n=1,538) but charged only 12 people with consorting. Charges against three of these people were required to be withdrawn as they had been incorrectly laid.

After reviewing the law and the excessive way in which police applied it the Ombudsman made a series of recommendations. In his foreword the Acting Ombudsman said: I recommend the adoption of a new statutory and policy framework for use of the consorting law, to ensure its use is focused on serious crime, is closely linked to crime prevention, and is not used in relation to minor offending such as summary offending. This framework is consistent with the overarching intent of Parliament that the consorting law adequately equips police to combat serious and organised crime and criminal groups. Unless these changes are made it is likely that the consorting law will continue to be used to address policing issues not connected to serious and organised crime and criminal gangs and in a manner that may impact unfairly on disadvantaged and vulnerable people in our community. My

view is that the implementation of these recommendations is essential to maintain public confidence in the NSW Police Force and its use of the consorting law.

The case studies in the Ombudsman's report make disturbing reading. I will put onto the record a series of case studies that show why the reforms proposed by the Government go nowhere near far enough. Case study 7, at page 68, involved a matter that came before Manly Local Court. It states:

> **B is a homeless man with terminal and chronic pancreatitis. He had been warned by police for consorting with three people while sitting and talking with them on park benches at Manly Oval and at the beachfront. At his sentencing hearing the locations were described by his lawyer as "areas where homeless people hang out".**
>
> **His lawyer advised the court:**
>
> **He is ostensibly a homeless man. I have got some material to hand up to your Honour about him suffering chronic pancreatitis which is terminal. So he is a homeless man with significant medical problems. He's not the person that this legislation is designed to be targeting. Technically [the prosecution] have all the elements there and that's why we've entered the plea.**

The magistrate noted that the criminal histories of the three people B had been warned about consorting with did not contain serious indictable offences. B received a 12-month bond to be of good behaviour under section 9 of the Crimes (Sentencing Procedure) Act 1999. If this House intended those laws to be used in that way, then it was an appalling piece of legislation by this House at the time. I doubt that it did.

The Hon. Adam Searle: Clearly it didn't.

Mr DAVID SHOEBRIDGE: I note the interjection from the Leader of the Opposition. At the time a series of stakeholders stated—and it was put on the record by me—that there were no limits on these powers and that it would simply be up to the police to do whatever they liked with it. Now we see case after case where the police abused their powers and we are still not moving to properly limit them with this bill. Case study 4, at page 54 of the report, notes:

> **Police and ambulance services were called to attend a location to search for two bushwalkers. The bushwalkers had contacted Emergency Services after becoming lost. Once the men had been found, police conducted checks and discovered that both men had convictions for indictable offences. One man had been convicted of drug supply (not cannabis) almost 10 years earlier. There is nothing in the police records to indicate continued involvement in the supply of illicit drugs and the only police contact since that conviction involved traffic matters. The other man had been convicted of common assault five years earlier and is described in police records as a "self-confessed cannabis user". His police record also indicates concerns for his mental health. Neither man has ever been identified by police as a high risk offender.**
>
> **In speaking with the men individually, police were told that neither of them knew the other had been convicted of an offence. Police were also told that they were bushwalking and one man was showing the other Aboriginal rocks and boulders in the area. The men were each issued with a consorting warning. Police recorded a suspicion the pair may be involved in cultivating cannabis although officers did not locate anything on the men or nearby to support this suspicion.**

Again, that was an abuse of the powers granted to police. Case study 13 notes that on 28 January 2013—so less than two months after these laws were gifted to the police by this House:

> **… two 16 year old males were charged with habitually consorting with each by a Sydney metropolitan command. We [the Ombudsman] became aware of the charges as part of the information sharing arrangements in place for this review. When we checked the criminal histories of the young people we became concerned that neither of them was a "convicted offender" and therefore the charges appeared to have been wrongly laid. Of further concern was that one of the young people appeared to be in custody due to breaching bail conditions in place relating to the consorting charge.**

Young people's lives can spiral out of control because of the gross abuse of police discretion—gifted to them by this Chamber, I might add. I return to the quote:

> **We contacted the Commander of the Prosecutions Command, who confirmed that a variety of errors had been made, including the mistake about the "convicted offender" status of both young people. The charges were then withdraw. In an interview with the ABC, Jane Sanders, principal solicitor for the Shopfront Youth Legal Centre, said that one of the young people, who was a client of the centre, had experienced periods of homelessness and had spent a lot of time out on the streets.**

Case study 12 notes:

> **E is a young person who accesses the youth service regularly. In his teens, E was hit by a train and acquired a brain injury. Among other effects, the acquired brain injury resulted in limited impulse control. E has been homeless since the age of 13 and, given his tendency to occupy public areas, has had regular contact with police. In some instances, this contact led to charges including resisting arrest and offensive language charges. E was issued with several consorting warnings for associating with his peers in public areas such as the local mall. After receiving these warnings, he would become upset and confused, stating that he had not committed any crime and that he lives with the people he had been warned about consorting with. The appropriateness of issuing consorting warnings in these circumstances was raised by youth service staff at an integrated Case Management Panel meeting, involving Corrective Services, NSW Police Force, Juvenile Justice and NSW Housing and attended by the Commander of the LAC. E was not issued with any further consorting warnings after this time.**

He should never have been issued with consorting warnings. It was abuse of police discretion. Case study 8 states:

> **D was a middle-aged man with two children. He had close to 30 convictions, mainly in relation to drug use, offensive behaviour and property crimes. The majority of these convictions were for summary offences and all matters were dealt with in the Local Court. In relation to each of the convictions, the Local Court had ordered D to pay a small fine or to be of good behaviour for 12 months.**
>
> **Police records indicate that D had been homeless for several years, and was regularly observed sleeping rough in public parks with other homeless people. The records also indicate that over the years D had been in psychiatric hospitals on numerous occasions as a consequence of his drug use and mental health. In mid-2012 D was in hospital for close to three months.**
>
> **When the new consorting law commenced, D received numerous consorting warnings.**

This is a homeless person, in hospital, seeking regular psychiatric treatment. But notwithstanding that, he received numerous consorting warnings from the police. The quote from the Ombudsman continues:

> **Each warning followed D having short conversations in public places with people who also appeared to be homeless. On one occasion when D was issued with a consorting warning, he had been having a conversation with two other people in a park, while he was packing up his sleeping bag.**
>
> **In August 2012, police issued D with a Court Attendance Notice for habitually consorting under section 93X of the Crimes Act. They were unable to locate him to serve the notice and it was withdrawn in 2013 when D died.**

What a waste of police resources. What an abuse of police powers. I say again: It was inevitable because this House granted the police all those powers without any constraints. That kind of unfettered discretion to police has been abused in the past—the police were going to abuse this and they did. Case study 16, which is on page 105 of the report, states:

> **A magistrate found F not guilty of a consorting charge on the basis that the prosecution failed to establish that two of the three alleged incidents that formed the basis of the charge amounted to consorting. These two incidents involved official consorting warnings being issued to F and two others while at bus stops after being observed by police for less than a minute. The third incident, which the magistrate found did amount to consorting, involved the police stopping a vehicle that F and a number of others were travelling in. F told police they were travelling to the hospital to visit his brother who had recently been seriously injured. Other records verified that F's brother had been seriously injured and was a patient at the time. The court could not consider whether consorting in these circumstances was reasonable as it did not fall within the list of defences.**

F was found guilty and again we had an abuse of powers granted to the police. We support these changes to the scheme, but we note that the ongoing problems with the consorting laws remain. Laws that criminalise association, rather than actual criminal activity will always lead to unjust outcomes. When the consorting laws were first presented to this Parliament in 2012 we raised many of the concerns mentioned by the Ombudsman in his review. The problems with the scheme were entirely predictable and entirely preventable. The current Attorney General is seeking to remove some of the most odious parts of the scheme. However, the simple fact is that the whole scheme should be repealed and, if it is to be continued, it should be limited to serious criminal activity, such as organised crime and the like.

If anything, the current law is an obstacle to justice, an obstacle to good policing and destructive of relationships between the police and particularly Aboriginal members in this community. The Ombudsman's review found that police issued more than 9,000 warnings and 46 charges for the offence of consorting. While some of those related to so-called bikie gangs, many of them were also in relation to minor and nuisance offending. The foreword to the Ombudsman's report states:

> The report details use of the consorting law in relation to disadvantaged and vulnerable people, including Aboriginal people, people experiencing homelessness and children and young people. In addition, this review found an exceptionally high police error rate when issuing consorting warnings to children and young people.

It is telling that of the 34 submissions received by the Ombudsman as part of the review, overwhelmingly those submissions called for the laws to be repealed—not just tinkered with, but repealed. The laws question the impact on Australia's commitments under the International Covenant on Civil and Political Rights, the impact on vulnerable people and, in particular, the laws have had an impact on convicted offenders and can block attempts to rehabilitate people and reintegrate them into the community. The Ombudsman's report also found: At the outset, the NSW Police Force made a policy decision not to limit the use of the new consorting law to organised crime and/or criminal gangs. This broad implementation resulted in the law being used across New South Wales to target a variety of local policing issues.

It is claimed that this use of consorting on broader issues serves as a deterrent function. If that is the case, we would ask the Government to table any evidence to support this. As the scheme has been in operation for six years, it should be possible to demonstrate that those issued with warnings under this scheme are less likely to engage in offending. However, there is no evidence, no review and no support for that. In fact, the Government has already admitted that it does not have this evidence. The concerns raised by the Ombudsman primarily relate to the use of consorting powers outside of bikie gangs and organised crime. The Greens share those concerns. We knew at the time that they were predictable and inevitable; that has been shown to be the case.

The logical response by any government serious about making smart laws directed at issues would be to limit the use of consorting laws to those matters. Indeed, that was the stated intention of the laws when they were introduced and rammed through Parliament. I note that they were rammed through Parliament with the support of the Labor Opposition, the Christian Democratic Party and the Shooters, Fishers and Farmers Party without question or limitation, knowing full well that they were likely to be abused—and abused they were.

I note also that nearly 60 per cent of the children and young people who have been subject to orders and directions under these consorting laws were Aboriginal. That fact was utterly predictable; almost inevitable. This is significantly higher than the proportion of Aboriginal people in the overall consorting data—namely, 37 per cent of all people issued with a consorting order across the State were Aboriginal, both adult and juvenile. Aboriginal people are grossly over-represented. The highest proportion of Aboriginal people is in the youngest category of children and young people subject to the consorting law. Table 15 shows that 29 of the 41 children aged 13 to 15 years—71 per cent of that cohort—were Aboriginal and that 56 per cent of the 16-year-olds to 17-year-olds subject to consorting orders were Aboriginal.

In this way the consorting laws operate much like the Suspect Target Management Program [STMP]. It is little surprise that police do not want to change the scheme substantially despite these numbers. Police do not like constraints but as legislators it is our job to put constraints in these laws. What is surprising is that they continue to gain near universal support in this Parliament, other than opposition by The Greens. It can be seen from the data that these kinds of unfettered police discretionary powers end up becoming demonstrably racist in their application. Consorting laws curtail freedom of association and communication between people and, as the review shows, often do so when the link to bikie gangs or serious crime of any kind is completely absent. The Greens support the bill insofar as it tinkers with the worst parts of the consorting laws, but it is unfinished business for this Parliament to scrub these consorting laws, in their current form, off the statute books. They are grossly unfair and subject to abuse. They have been abused in the past and even with these changes they will be abused in the future.

The Hon. SCOTT FARLOW (12:12): On behalf of the Hon. Don Harwin: In reply: I thank the Hon. Adam Searle, Reverend the Hon. Fred Nile and Mr David Shoebridge for their contributions to this debate. I wish to address some particular matters that were raised in this debate. The Hon. Adam Searle commented on the delay in the introduction of this bill following the tabling of the report in 2016. As the Attorney General said in the other place, the New South Wales Government does not rush this type of important reform; instead it prefers to take a considered approach. The New South Wales Government carefully considered the Ombudsman's report. Due to the operational impact of any changes to the consorting law on law enforcement, the Ombudsman's recommendations had to be considered in close consultation with the NSW Police Force. The Ombudsman also released a number of other reports from other relevant reviews around the same time as the report on the review of the consorting law, including the report on the review of the Restricted Premises Act 1943, which is also a part of this bill. For practical purposes, the reports were considered concurrently and that meant more time was required to carefully consider the recommendations from each report.

The Hon. Adam Searle also commented on the official warning proposed in schedule 1 [3] to the bill. Strictly speaking, the warning proposed by the Ombudsman in recommendation 2 of the report is not accurate. That is because the offence of consorting requires a warning to be issued about consorting with two convicted offenders on two separate occasions. If those warnings have not been given, then it is not an offence to consort with a particular person. The explanation provided by the Attorney General in the other place for the variation of the Ombudsman's recommended warning was clear, as I have indicated. The warning proposed in the bill was developed in consultation with the NSW Police Force and the NSW Parliamentary Counsel's Office.

I note also the comments of the Hon. Adam Searle as to why the Government has excluded children under the age of 14 from the application of the consorting law, and not under 16 as provided by the NSW Police Force policy, or aged 17 years or less as recommended by the Ombudsman. The decision to remove children under the age of 14 from the application of the consorting law was made in consultation with the NSW Police Force. In New South Wales the age of criminal responsibility is 10 years. The common law presumes that children aged from 10 years to under 14 years are incapable of forming the criminal intention to commit a crime. However, the presumption can be rebutted by proof that a child understood the wrongfulness of what they did. That is known as the doli incapax rule. The New South Wales Government has adopted an age for the application of the consorting law that is consistent with the age of criminal responsibility and supported by the NSW Police Force following a consultation process. The Hon. Adam Searle also commented on the implementation of recommendation 14 of the Ombudsman's review. I point out that recommendation 14 is implemented in proposed section 93Y (2) (b) under the definition of "health service" as:

(b) Another service:

(i) relating to the maintenance or improvement of the health, or the restoration to health, of persons …

He also commented on the use of the powers. Although the powers under section 10 of the Act were not used during the review period, the NSW Police Force are putting the powers to good use. The Supreme Court has declared bikie clubhouses to be declared premises. Indeed, police are entering declared premises without a warrant, including on 14 occasions in the past year.

Mr David Shoebridge said that this bill does not go far enough to address the Ombudsman's recommendations. The New South Wales Government agrees with the overarching intent of the Ombudsman's recommendations, and 19 of the Ombudsman's 20 recommendations are either supported, supported in part or supported in principle. Minor departures from some of the Ombudsman's recommendations are necessary to ensure that the additional safeguards and oversight continue to allow the wider application of the consorting law as a tool to deter and prevent crime. The bill will address the concerns identified by the Ombudsman by introducing new safeguards for young, vulnerable and Indigenous people, including introducing new defences to consorting, including consorting that occurs during the provision of a welfare service and consorting that occurs during the provision of transitional or emergency accommodation; clarifying that the defence of consorting with family members includes Aboriginal kinship relationships; and introducing time limits for consorting warnings.

New South Wales has one of the strongest consorting laws in the country. It is used very effectively by the NSW Police Force to disrupt organised crime by ensuring that convicted offenders cannot associate with one another. A good example of this is the use of the consorting law to prevent members of outlaw motorcycle gangs from associating with one another, much to the dismay of those gang members. The consorting law is also very effective at deterring people from offending, or further offending, by stopping them from associating with criminals.

The bill addresses the concerns identified by the Ombudsman about the operation of the consorting law while at the same time ensuring that police can continue to use the consorting law to prevent criminal activity very effectively. A further review will be conducted by the Law enforcement Conduct Commission after three years, which will allow an opportunity for further consideration of the issues raised by Mr David Shoebridge. New South Wales has the toughest organised crime laws in the country. The reforms in the bill will ensure that New South Wales will continue to lead the nation in the fight against criminal groups and organised criminal activity. I commend the bill to the House.

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

Motion agreed to.

Third Reading

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

That this bill be now read a third time.

Motion agreed to.

PARLIAMENTARY BUDGET OFFICER AMENDMENT BILL 2018

Second Reading Speech

The Hon. BRONNIE TAYLOR (12:19): On behalf of the Hon. Don Harwin: I move:

That this bill be now read a second time.

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

Leave granted.

The Parliamentary Budget Officer [PBO] is established as an independent officer of Parliament by the Parliamentary Budget Officer Act 2010 to provide costings of election policies in response to requests by parliamentary leaders, and budget impact statements for all costed policies.

The Parliamentary Budget Officer assists to promote transparency and accountability in New South Wales State elections. It is important that the legislative framework supports the Parliamentary Budget Officer to prepare accurate, high-quality and independent election policy costings to parliamentary leaders.

The Parliamentary Budget Officer Act 2010 requires the Parliamentary Budget Officer to report to the Public Accounts Committee as soon as practicable after the holding of the State general election for which he or she was appointed. The report may include recommendations on operational arrangements and activities of the Parliamentary Budget Officer in respect of future general elections.

In June 2015, the Parliamentary Budget Office published a report in relation to the 2015 State general election.

In October 2015, the Public Accounts Committee delivered a report which recommended the Government implement each of the recommendations made by the Parliamentary Budget Office 2015 Post-election Report, and consider the findings and observations made by the Report.

In April 2016, the Government broadly endorsed 12 out of the 13 recommendations made in the Parliamentary Budget Office's Report, and endorsed one with a slight amendment. The Government committed to drafting amendments to the Parliamentary Budget Officer Act 2010 to address legislative changes recommended by the Parliamentary Budget Officer and the Public Accounts Committee.

Consistent with these recommendations, this bill makes amendments to the operational arrangements and activities of the Parliamentary Budget Officer as set out in the Parliamentary Budget Officer Act 2010, including in relation to pre-election budget updates, confidentiality obligations, operational plans and budget impact statements.

Pre-election budget update

Recommendations 1 and 2 of the Parliamentary Budget Office 2015 Post-election Report are to amend the Act to:

- require NSW Treasury to publish, at the start of the caretaker period, a list of all Government decisions affecting the forward estimates taken since the Half-Yearly review and new totals for budget aggregates; and that the PBO use this as a starting point for budget impact statements; and
- remove the requirement for a Statement of Uncommitted Funds.

The bill implements these recommendations by amending section 24 of the Parliamentary Budget Officer Act 2010 to provide for the Secretary of the Treasury to publicly release, on or as soon as reasonably practicable after the commencement of the caretaker period, a pre-election budget update statement that updates the matters set out in the previous half-yearly review of the budget issued by the Treasurer.

This will ensure that the Parliamentary Budget Officer is able to prepare budget impact statements having regard to the most up to date budget figures and forward estimates.

Timeframes

Consistent with the Parliamentary Budget Officer's third recommendation, the bill provides that an election costing request may be withdrawn at any time before the election policy costing is publicly released by the Parliamentary Budget Officer under the Act. This allows scope for policies to be refined and further developed following costing information provided by the Parliamentary Budget Officer where this is considered appropriate.

The bill gives effect to recommendation 4 of the Parliamentary Budget Office 2015 Post-election Report by requiring that parliamentary leaders notify the Parliamentary Budget Officer of their final list of policies for inclusion in the budget impact statement on the ninth last day before the election. This is four days before the budget impact statement is due to be released. This will allow more time for parliamentary leaders to provide their final list of policies for inclusion in the budget impact statement, while also having regard to the need for accurate and quality-assured budget impact statements.

The bill also amends section 16 of the Act to provide that if a request for information is made by the Parliamentary Budget Officer to the head of any Government agency during the caretaker period, the head of the agency must respond within six business days or such other period as is agreed between the head of the agency and the Parliamentary Budget Officer. This amendment ensures that the Parliamentary Budget Officer will have quick access to agency information during the critical pre-election period, and gives effect to the Parliamentary Budget Officer's fifth recommendation.

Confidentiality obligations

The bill strengthens confidentiality obligations by providing that non-disclosure provisions apply to the staff of Government agencies, as well as the head of a Government agency. This was the Parliamentary Budget Officer's sixth recommendation.

Consistent with the Parliamentary Budget Officer's findings and observations, the bill also includes an amendment to allow the Parliamentary Budget Officer to provide copies of election policy costing requests and responses to the Secretary or a member of staff of the Department of Premier and Cabinet [DPC], subject to strict confidentiality restrictions.

The amendment will greatly assist with preparing briefings for an incoming Government on its own election commitments and policies. As noted by the Parliamentary Budget Officer, this will make DPC's coordination role more effective and enhance the accuracy of the financial implications of policy implementation plans prepared for parties forming government.

Operational plans

Recommendation 7 of the Parliamentary Budget Officer's 2015 Post-election Report is that the Act be amended to require the Parliamentary Budget Officer to provide a draft operational plan to the Presiding Officers within one month of appointment. The proposed amendment to section 14 (3) of the Act implements this recommendation. Under section 19 of the Act, a parliamentary leader can only make election policy costing requests after the operational plan has been approved by the Presiding Officers and tabled in each House of Parliament. Requiring the PBO to provide the draft operational plan to the Presiding Officers within one month of appointment will provide a greater degree of certainty about the timing of this process.

Budget impact statements

Consistent with the Parliamentary Budget Officer's findings and observations, the bill amends section 23 (2A) of the Act to reduce the number of fiscal aggregates to be reported against in the budget impact statement. Amendments to section 23 provide that the Parliamentary Budget Officer is to prepare a budget impact statement showing the impact of all costed policies on budget results, capital expenditure and net lending/borrowing for the general government sector. The budget impact statement will also show the impact of costed policies on these financial indicators for the public non-financial corporations sector and the public financial corporations sector where applicable.

It is critical that the legislative framework supports the Parliamentary Budget Officer to prepare accurate, quality-assured and independent election policy costings.

This bill ensures that the Parliamentary Budget Officer will be better supported to report to the legislature on important economic and financial matters and further enhance transparency and openness in government.

I commend the bill to the House.

Second Reading Debate

The Hon. ADAM SEARLE (12:20): I lead for the Opposition on the Parliamentary Budget Officer Amendment Bill 2018. We support the legislation, but we will move amendments during the Committee stage. On this side of the House, we are very aware of the important role that the Parliamentary Budget Officer plays. It is a role that we support and believe in, and everyone in this Chamber should do so as well. Our amendments seek to strengthen and enhance the institution. The Parliamentary Budget Office is critical because it provides or should provide a real opportunity for the Parliament as a whole to propose, identify and flesh out policies and proposals that are in the public interest.

Presently the only two clients of the Parliamentary Budget Office are the leaders of the major parties. We have a vision for the Parliamentary Budget Office more akin to what is seen in Canberra and what is now in place in Victoria. Our vision is to have a facility, a resource, available to each member and all parties to assist them to develop their policies and proposals, to do so in a way that is responsible, to do so in a way that enables them to test their ideas and to have them fleshed out. Where they do not get to the pitch of the ball or they are flawed, we want to be able to review, revise and improve on them, because we recognise that that is ultimately what is in the public interest. It is not in the interest of the community that we seek to serve if parties have flawed proposals or ideas that are put before the community.

It is a great privilege to come into these Chambers of Parliament. It is a great privilege, particularly in the major parties, to propose policies for government. There should be a proper full-time Parliamentary Budget Office in place that is available to all members to rigorously test and enable them to analyse, prosecute and evaluate their policy proposals and ideas. Policies that are properly thought out, developed, tested, critiqued and improved are ultimately in the public interest and something that we should all support. When we aspire to be part of a government, our policies should bring about positive change in a realistic way. To do that we need to ensure that they are affordable, that the State and these communities can pay for them, and that there are not unintended consequences. The Parliamentary Budget Office process that we envisage will certainly enable that.

Recently the Victorian Labor Government has implemented a full-time Parliamentary Budget Office. Victoria's Parliament and Government is smaller than ours, but it understands the benefits of having an independent, fully fledged, fully operational and properly staffed Parliamentary Budget Office in place, not only in the lead-up to an election, but in an ongoing way. As the shadow Treasurer noted in the other place, parliaments are not just for six months before an election; they are for four years. Issues arise that need responses from governments, oppositions, other parties and members in the meantime. There need to be appropriate mechanisms through which members and parties can develop appropriate public responses to those issues. The Parliamentary Budget Office is an important mechanism to do that.

As I indicated, the Parliamentary Budget Office is fully operational in the Commonwealth Parliament. Members of the Labor Opposition and any other party or member can put forward proposals to be critiqued, reviewed and costed. That should be available to all members in this place. Despite the taunts from those opposite over the last eight years, New South Wales Labor takes fiscal responsibility seriously. It is not a debating point, but it is a matter of record, that in the 16 budgets delivered under various Labor governments only two were in deficit. Fourteen years of surpluses were not propped up by privatisation proceeds, but through the diligent and hard work of reining in both debt and public expenditure.

We have the track record for fiscal discipline. We take that seriously. If you fail that test in the community, you will not be given the opportunity to govern this State. As the shadow Treasurer stated in his contribution in the other place, we have established our own expenditure review committee to review, cost analyse and critique all of our policies and proposals. When the Parliamentary Budget Office tables its operational plan, the Opposition will be ready to go with policies to be costed through the Parliamentary Budget Office process. We will be utilising the skills and expertise of the Parliamentary Budget Office to ensure that the policies we put before the people of this State in the days, weeks and months before the March election enable the public to have the confidence that a future Labor Government understands and respects fiscal discipline and it will be part of everything that we do and put before the people.

The Leader of the Opposition and the shadow Treasurer have already met with the Parliamentary Budget Officer and staff and have been actively engaging with him and them in the lead-up to the election. This is not a reflection on the Parliamentary Budget Office or its staff. However, because of staffing issues, the Opposition was fairly jammed in the lead-up to the last election. Many of our policies and costings were not available or had not been processed, in some cases, until the February before the election. That is not democratic and it is not fair. One

of the benefits of having a permanently established and operational Parliamentary Budget Office will be that jamming effect on an opposition or any non-government party should not and will not happen.

Ultimately the government of the day gets a tactical advantage, but it should not stop the Opposition putting its policies before the community. It is anti-democratic and harms confidence in politicians and political processes more generally. That should be made a factor of the past. It is important to have a Parliamentary Budget Office in place. As indicated here and in the other place, we have a series of amendments that will be moved in Committee. We invite all parties in this place to give open-minded and fair consideration to our four amendments because they will substantially improve the Parliamentary Budget Office as an institution.

The first of the amendments will change the length of time that a government agency has to respond to requests. The bill currently provides for 10 days; we propose to reduce that to five days if the request is made before the commencement of the caretaker period. There is no need for a response to take 10 days; most of the proposals should not even take anywhere near the five days because a number of the Labor caucus and the shadow ministry have worked in government—some of us have been public servants as well as undertaking other callings. Many proposals have standardised costs, although they do not take into account every variable. There are average and standard costs for things like schools, hospitals of a certain classification or public sector workers, whether those are teachers, nurses or police officers. Many proposals will be very simple and it will be easy to provide costings that ultimately will be sought and delivered by the Parliamentary Budget Officer. We therefore think that the reduction from 10 days to five days is fair and reasonable.

We also propose that the length of time that a government agency responds to a request be changed from six days to five business days if the request is made on or after the caretaker period, which is also a simple proposal. During the caretaker period much of the day-to-day operations of government do not go at the same pace because obviously it is a status quo situation—there are no new policies or initiatives being pursued by the Executive Government, which takes up a lot of day-to-day operational capacity in public sector agencies. That will be missing because in the caretaker period the Government will not be undertaking those new activities, so there is no reason the permanent public service should not be able to produce the information in the time that we are proposing in the second amendment.

The third amendment relates to whether or not a government agency holds any information. We are simply requiring the Government to respond to the Opposition in two business days if it does not hold any of the information requested. Our experience in the past was that the official response would take every day of the allotted time, and where that ultimate response is "We do not have the information", that causes the Opposition lost time and lost opportunities. Where the government agency does not have the information it should have a lesser period of time in which to respond and we think two business days is very fair and reasonable.

Our final proposal deals with the issue of whether the Parliamentary Budget Officer should provide copies of material to the Secretary of the Department of Premier and Cabinet [DPC] ostensibly to enable the department to prepare material for an incoming government. I was an Opposition staffer the last time the Labor Party won government from opposition in 1995, and there was absolutely no need for the public service to have documents of this sensitivity. The permanent public service delivers the package for the incoming government—the blue books—based on publicly announced policies put forward by the Opposition during the campaign. That is done professionally, competently and diligently by the permanent public service and those who are given the custody and control of those institutions and we have every expectation that they will do a competent and diligent job this time, but they do not need the information provided to and generated by the Parliamentary Budget Officer. That should be a matter between the Opposition and the Parliamentary Budget Officer.

Obviously, the Parliamentary Budget Officer has its own statutory charter to make public the costings of the Government and the Opposition that have been publicly released during the campaign—essentially the score card of what each of the Government's and the Opposition's policies will cost, in a net sense, the taxpayers of our State, and that is all. The Executive Government and its agencies, led by the Secretary of the Department of Premier and Cabinet, do not need that material. In fact, giving the Secretary of the Department of Premier and Cabinet that material strikes at the independence of the Parliamentary Budget Officer and also runs the risk of compromising the very purpose for which the Parliamentary Budget Officer was created: so that the Opposition has the capacity to have its policies tested and costed in an independent way without the anxiety that what are often works-in-progress policies that evolve in response to Parliamentary Budget Officer feedback are not being fed to the elected government for it to seek a tactical advantage at what is obviously a sensitive time in the democratic cycle.

This is not a reflection on the current Secretary of the Department of Premier and Cabinet, but the DPC, being so closely identified with the Executive Government of the day, if there were to be leak of sensitive information, would be implicated if it was to receive these sensitive materials. The Parliamentary Budget Officer obviously had to liaise with relevant departments and agencies and there was an apprehension during the last

election whether there would be a leak of Opposition policies at that level. I am very happy to say that, as far as I am aware, there was not. The Parliamentary Budget Officer and each of the staff in the various agencies of the State with whom it had to liaise were absolutely professional and maintained the confidence of all parties. That is vital if the Parliamentary Budget Officer is to have value and it is vital that it does so to ensure that the democratic process in the lead-up to the election is not compromised.

We believe it is very important that the Secretary of the Department of Premier and Cabinet not be provided with this information. The reason advanced for it to have that information is simply not necessary; it does not need that information in order to prepare the blue books for the incoming government, whether it is the existing government or whether the Opposition is given the great honour of forming the next administration. We understand the mountain we have to climb and the difficulty we have to find the additional seats, but on this side of the House we take nothing for granted. But whoever is given that honour of being the government of this State, we know that the public service will have prepared the plan for the incoming government based on announced policies. They do not need this material and providing this material runs a very significant risk to the institution of the Parliamentary Budget Officer.

We do not oppose the legislation. We support the legislation as we support the institution of the Parliamentary Budget Officer. The amendments we have put forward are to improve the operation of that institution and, again, to maintain its integrity and the integrity of the process that it oversees, which is the costings of the policies put forward by the Government and the Opposition. Ensuring that the Secretary of the Department of Premier and Cabinet does not get that information is very important to maintaining that integrity. As I said, it is not a reflection on the institution or the current leadership of that institution; it is just that the institution is so vastly identified with the existing government—whoever the government of the day is—it ought not have access to the information passing between non-government parties and the Parliamentary Budget Officer for the purposes of evolving, testing, developing and costing those policies that are ultimately put before the people. With those observations, I urge the Government and indeed all parties to support our reasonable amendments.

Mr JUSTIN FIELD (12:38): I speak on behalf of The Greens to make a contribution to the debate on the Parliamentary Budget Officer Bill 2018. I say at the outset that The Greens will not oppose this bill. We strongly supported the creation of an independent Parliamentary Budget Officer. My late colleague Dr John Kaye spoke to the 2010 bill and said of the proposal at that time:

> The Parliamentary Budget Office will also empower parliaments with knowledge and expertise. Over the past two decades we have seen an increased transfer of power from Parliament to the Executive. It is part of a centralisation of power within our society that also sees the transfer of power from States to the Commonwealth, and within the workplace. It is important that we reverse this trend; that we create a society with diverse power. The executive, because of its access to information and the capacity for analysis within bureaucracy, has increasingly been able to control debate within the Parliament. All members in this House belong to a Chamber that is elected by proportional representation and charged with providing checks and balances against the activities of the Government of the day.

Dr John Kaye vehemently opposed the 2013 bill to make the office part time and refocus its work only to election periods. He said at that time:

> This bill shuts off an important avenue of innovation and new policy ideas coming into the public domain. It does so because of the Government's arrogance in thinking it has all the answers. Everything the Government does is fine; it does not need to hear even from its own backbenchers, let alone the Opposition, Independent members, The Greens or the conservative crossbenchers. There is no question that the quality of a democracy is determined by the quality of the debate that happens in society. By crimping the quality of that debate, the Government is attacking democracy. This legislation turns the position of Parliamentary Budget Officer into a part-time job. Once every four years, for six months, the Government will appoint a Parliamentary Budget Officer; they are there for six months and then they disappear. Therein immediately lies a major problem in respect of the loss of expertise.

The Greens do not oppose this bill. We recognise it will make some improvements to the function of the Parliamentary Budget Officer, but ultimately the people of New South Wales would be much better served by a permanent, ongoing and independent body that would allow all members of the Parliament to advance ideas, have them costed, and contribute them to the public debate with the backing of independent analysis that was trusted in the community. It would strengthen the position of the Parliament to challenge the ideas of the executive. The public debate would be greatly improved, parliamentary debate would be improved and hopefully policy outcomes and legislation as well would be improved.

I note that at this point it is only the Government and Opposition who have the ability to access the Parliamentary Budget Officer to have campaign policies costed. Other members of the Parliament are excluded from access to the Parliamentary Budget Officer. I flag that I will move amendments in Committee to give minor parties the ability, if they so choose, to submit policies for costing. I take this opportunity to reflect more broadly on the way in which the Parliament and the public assesses the policies of political parties, policies that will be put forward into the public arena for debate.

It has become clear over time that the focus on fiscal responsibility, on growth, on the fundamental economics of a particular policy do not well serve the broader needs of the community. They do not reflect how we go about improving the wellbeing in general of our society. Over the past decade or so civil society groups, leaders, economists and increasingly governments around the world have recognised the need for measures of progress in societal success that move beyond simplistic economic measures like gross domestic product or gross State product to reflect the wellbeing of people, communities and the environment.

The Hon. Dr Peter Phelps: Gross national happiness, like Bhutan. We can elevate ourselves to the level of Bhutan, can we, under a Green leadership?

Mr JUSTIN FIELD: Whilst one of the most widely recognised alternative indicators is the happiness index that Bhutan has had in place for a long time, in recent years many other governments have taken steps to implement alternative indicators of wellbeing. Last year the New Zealand Government announced that its 2019 budget will be a wellbeing budget. It has put in place a series of measures to more accurately reflect those things that it thinks will measure the wellbeing of the people of New Zealand. It has become clear to me that our governments have become focused not on what really matters to people but on the economic bottom line. It is used to justify all sorts of infrastructure promises or policy announcements.

A clear reflection of this is the contrast between the definition of purpose between the New South Wales Treasury and the New Zealand treasury. This is an example of how governments set the parameters by which we measure and define what we do in this place, what politics is trying to do and what parliaments are trying to do. The stated purpose of the New Zealand treasury is to "Improve the wellbeing of all citizens". It is as simple as that. The purpose of the NSW Treasury will take more than one breath, it states:

> Ensuring that the people of NSW have access to services and infrastructure that deliver social and economic benefits underpinned by a strong and sustainable economic and financial position.

I could use that purpose to justify just about anything that served my political interest. It does not in any way, shape or form enable a government or a bureaucracy to direct their efforts at improving the wellbeing of the people of this State.

Earlier this year I introduced into this Parliament the Wellbeing Indicators Bill 2018 advancing ideas put forward in 2014 by Ms Jan Barham, when she was in this place. This would establish a parliamentary inquiry to look at how we in New South Wales would go about setting up alternative indicators that served the wellbeing of the people of this State. It would create a commissioner for wellbeing to report on the wellbeing of the State. If we had something like that, the direction of government, the direction of Treasury, the direction of a Parliamentary Budget Officer could be expanded to reflect more broadly how policies impacted on the people of this State and their wellbeing, not just on the financial position of a particular policy.

Wellbeing indicators provide a far richer picture of community life and happiness across the State. Surely that is an important measure for people to consider when weighing up who they vote for at election time, what policies they vote for at election time and how policy debate happens in the public space. We are living longer but do we have the resources and social networks for quality of life in our later years? How do we measure that in our budgets and pre-election commitments? Are we setting up our children for the best possible health and education in early life? Do we even have measures to enable that to be tested? Are we learning the lessons of historical injustices to Indigenous Australians to ensure we correct them? How is that measured in budgets and costings?

A budget, a policy costing, does not measure how we enjoy freedom or the leisure time we have. It does not measure whether or not we feel safe in our society. Those are some of the things that impact on people's wellbeing and are factors that they weigh up when they go into a ballot box. The insights that could be provided by a wellbeing approach to budgets and policy costings would deeply enhance the discussions in this place, the discussions in public and the way that the public engage with the political process, political debate and potentially how the public engage with political parties. The Greens will not oppose this legislation. We do support long-term restoration of the Parliamentary Budget Officer into a full-time position that is available to all members of Parliament to advance ideas, to have them costed and enable them to be put into the parliamentary and public debate. We also want to advance ideas about how we can expand the analysis of public policy to more accurately reflect our wellbeing, the things that really matter for people in their lives. I reiterate that I propose to move amendments in Committee to extend the role of the Parliamentary Budget Officer to have that effect.

The Hon. JOHN GRAHAM (12:49): I briefly contribute to debate on the Parliamentary Budget Officer Amendment Bill 2018. I welcome the debate we have had and support the position that was put by the Leader of the Opposition in this place. He outlined two different models for how the Parliamentary Budget Office might work. The first is the one we have now and the second is the one that a Labor Government would implement. There are two key differences. The first is to have it on a permanent footing. The second is to open it up to ensure

that all parties have access to the process so they able to use it, they are encouraged to use it and, in practice, they make use of it. I strongly support that model. It is not only good for the public but also good for the Parliament. The Parliamentary Budget Office supports the work of Parliament and would strengthen the work of individual members, Opposition members and particularly crossbench members. That is a good step if this key institution is going to be as powerful and as effective as it can be. I strongly support that model and I am pleased to support the position put by the Leader of the Opposition.

I also speak in favour of one specific amendment, which sees policies handed over prior to the election date to the head of the Department of Premier and Cabinet. It was well explained in debate why that is not necessary and why it may be unwelcome because policies could be leaked in the course of an election campaign. Policies are sensitive documents and we should build the strongest firewalls possible around the processes. I strongly support that measure. It is unsurprising that the Government takes the position that it does. The position of any Government is usually that it is unconcerned about the needs of the Opposition or crossbench members. The Government took that position today, but it has been taken by governments of both stripes in the past.

I say to crossbench members who are considering this amendment that the amendment is fundamental to making this institution work in a way so that crossbench members down the track will be comfortable submitting policies to this institution, having them costed and knowing they are kept confidential. That is important to a future Opposition. Under our model, it is also important to any future crossbench member. I strongly advocate for that particular amendment. It is fundamental to maintaining faith in this institution. If we maintain faith in this institution, it is a step forward not only in strengthening the role of this Parliament but also parliamentarians in Opposition, on the crossbench and private members in Government. I support the model that has been outlined and that specific amendment.

The Hon. BRONNIE TAYLOR (12:53): On behalf of the Hon. Don Harwin: In reply: I thank all members for their contribution to debate on the Parliamentary Budget Officer Amendment Bill 2018, particularly the Leader of the Opposition the Hon. Adam Searle, Mr Justin Field and the Hon. John Graham. New South Wales was the first Australian jurisdiction to establish the Parliamentary Budget Officer. The first Parliamentary Budget Officer was in place for the 2015 general election. He stated in his post-election report that the overall message was that the 2014-15 Parliamentary Budget Officer processes were very successful and enhanced the reputation of New South Wales for transparency and good governance.

However, some recommendations were suggested for its improvement. In April 2016, the Government broadly endorsed 12 out of the 13 recommendations made in the Parliamentary Budget Officer's report. The Government committed to drafting amendments to the Parliamentary Budget Officer Act 2010 to address legislative changes recommended by the Parliamentary Budget Officer and the Public Accounts Committee. Those amendments will ensure that New South Wales continues to have a high-quality independent, impartial and effective process for the costing of election policies. This enhances transparency and accountability and helps ensure that fiscally responsible policies are presented to the electorate. I thank everyone who has worked on this legislation, including the Parliamentary Budget Officer, the Public Accounts Committee, Treasury and the Department of Premier and Cabinet. I commend the bill to the House.

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

Motion agreed to.

The Hon. BRONNIE TAYLOR: I move:

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

Motion agreed to.

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

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

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

Questions Without Notice

ARTS AND CULTURAL DEVELOPMENT FUND

The Hon. ADAM SEARLE (14:30): My question without notice is directed to the Minister for the Arts. Given that documents obtained under freedom of information laws show that the Minister personally redirected more than $400,000 in arts funding, which had been recommended for 11 projects under the Arts and

Cultural Development Fund, to a single arts group, did the Minister mislead the House on 14 August when he said, "The … assertion that funds were directed to one organisation is inaccurate."?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:31): No, I did not mislead the House. When the funds were transferred they were not redirected to one organisation; they were redirected to the strategic support budget.

PETROLEUM EXPLORATION LICENCES

Mr SCOT MacDONALD (14:31): My question is addressed to the Minister for Resources. Can the Minister update the House on how the New South Wales Government is delivering a regulated and sustainable resources industry for 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) (14:31): I thank Mr Scot MacDonald for his question. When we came to government, more than 60 per cent of the State was covered in petroleum exploration licences. It is because of this Government's actions that petroleum exploration licences now cover only 7 per cent of New South Wales. We introduced the NSW Gas Plan and ended the disastrous scheme that operated under the Labor Government. No new petroleum exploration licences have been granted in New South Wales since the Government was elected in 2011. This morning I was delighted to announce that the Government has bought back and cancelled the last remaining petroleum exploration licence on the Central Coast. PEL 461 was held by Our Energy Group and was granted in September 2008 by Ian Macdonald. We have worked cooperatively with Our Energy Group and provided the Central Coast with the certainty that gas exploration will not occur in that region. This buyback is part of the Government's commitment to deliver a strong, regulated and sustainable industry for New South Wales.

Our Government has not granted any new petroleum exploration licences so far and any new releases will occur only in accordance with the NSW Gas Plan. As part of the gas plan, the Government introduced legislation to prevent gas developments from encroaching on critical industry clusters or residential areas. Let us compare this to the Labor Government and its cavalcade of corrupt resources Ministers, two of whom are currently serving at Her Majesty's pleasure. Eddie Obeid and Ian Macdonald, whose protégés remain in this place, sold out this State—

The Hon. Walt Secord: You're the corrupt one!

The Hon. DON HARWIN: —and created uncertainty in so many communities across New South Wales.

The Hon. Scott Farlow: Point of order: I cannot hear the Minister's answer because of the number of interjections from those opposite. I ask that those members be called to order.

The PRESIDENT: I would have thought the Parliamentary Secretary was having difficulty because of the level of screaming on his side of the Chamber, as well as the screaming of members opposite. I could not tell who was screaming the loudest. I note that no members were called to order in my absence this morning. I would hate to think that members feel obliged to act in that way only when I am in the chair. That would disappoint me enormously. The Minister has the call. I warn members that interjections from either side of the Chamber will not be tolerated.

The Hon. Shayne Mallard: Point of order: During that altercation the Hon. Walt Secord made a statement about the Leader of the Government that was unparliamentary. The Hon. Walt Secord should be called to order and should withdraw the comment, which I do not want to repeat.

The Hon. Walt Secord: To the point of order: It has been some time since the interjection to which the member is referring. I was referring to the Government as a whole.

The Hon. Niall Blair: To the point of order: It was quite clear to whom the Hon. Walt Secord was directing those comments. He was directing them to the Leader of the Government and he should withdraw them.

The Hon. Walt Secord: Further to the point of order: I was referring to the entire Government. However, if the Deputy Leader of the Government feels that the comments should be directed at the Leader of the Government I can understand why he feels that way. I was referring to the entire Government.

The PRESIDENT: Order! The last contribution by the Hon. Walt Secord was not an appropriate response to the point of order. The member knows better than that. I will reserve my ruling on the matter and look at *Hansard* to ascertain what words were said. I call the Hon. Walt Secord to order for the first time because of the last comments he made to the point of order. It was clearly a debating point meant to be an attack on the Leader of the Government. The Minister has the call.

The Hon. DON HARWIN: The Government has listened to the community and got on with the job of cleaning up Labor's mess. We have restored community confidence that this Government works for them and acts in their interests. The Government has got the settings right for a safe, sustainable and regulated gas industry that ensures exploration is done in the right places. As usual, we have Labor's mess and the biggest risk to the people of New South Wales is returning the Labor Party to government. What we do not want is part two of 16 failed years. We all know that 20 of the 46 people who sit on the opposition benches, the current stock of Labor members in both this House and the other House, were then either MPs, MLCs, Ministers, Parliamentary Secretaries, staffers or worked at Sussex Street under the Labor Government and of those 20 people, 15 are now on the frontbench. If we want a repeat of the 16— [*Time expired*.]

ARTS AND CULTURAL DEVELOPMENT FUND

The Hon. WALT SECORD (14:38): My question without notice is directed to the Minister for the Arts, and Leader of the Government in this Chamber. Given that an official ministerial diary discloses that the Minister met on 27 October 2017 with the chief executive officer of the Sydney Symphony Orchestra, will the Minister now confirm that he agreed to divert additional funding to that organisation, and did those funds come from the Arts and Cultural Development Fund?

The Hon. Daniel Mookhey: Caught red-handed. Busted.

The PRESIDENT: I call the Hon. Daniel Mookhey to order for the first time for his comment "caught red-handed" and his subsequent comment "busted". He should be on two calls to order.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:39): I cannot help but start by saying that because of the transparency of this Government people do know. I am happy that the honourable member is able to stand up in this Chamber and point to what he sees in my diary because there is nothing I need to hide about anything that I am doing in my relationships with arts organisations. I disclose my diary, as does every member of Cabinet. On 15 June 2018 a one-off grant of $1 million was made to the Sydney Symphony Orchestra [SSO] for an acoustic enhancement at the Darling Harbour theatre at the International Convention Centre.

The funding agreement requires the funding to be used for this purpose and the Sydney Symphony Orchestra has been advised that the funds would need to be returned if they are not used for that purpose. The Sydney Symphony Orchestra is a very significant organisation. It has a history that stretches back to 1905. It has had a long-term relationship with the Australian Broadcasting Corporation [ABC] as its principal funder. At the end of World War II a cash-strapped ABC appealed to the New South Wales Government and the City of Sydney to take the orchestra off its hands and jointly fund it. That did not happen but that began a long tradition of support from the Government.

The Hon. Walt Secord: Point of order: My point of order relates to relevance. My question was specific and the Minister should be brought back to it. Will he confirm that he agreed to divert additional funds to the organisation and did those funds come from the Arts and Cultural Development Fund? My question was very specific.

The PRESIDENT: The Minister was being generally relevant.

The Hon. DON HARWIN: It is not that I have not answered it; I intend to go to that point. In 1973, at the opening of the Sydney Opera House, the Sydney Symphony Orchestra became the venue's resident orchestra and has since been largely funded by a combination of New South Wales Government, Federal Government and philanthropic funds. The Hon. Walt Secord is probably also aware that in 1994, under the Keating Government's Creative Nation statement, the Sydney Symphony Orchestra was transferred from the ABC to come under the control of an independent board. It is an arts and cultural powerhouse in the country employing approximately 107 full-time musicians, plus a core of about the same number of temporary musicians who contribute to their performances.

Coupled with approximately 55 administrative non-performing creative and musicology staff, the SSO has a huge reach across the New South Wales arts and cultural sectors. It has more than 150 performances a year and 277,000 concertgoers. It has great reach. It has difficulties because the concert hall is being upgraded and it will have to have some support during that process. Is the Hon. Walt Secord suggesting that I let that great orchestra fail? Of course not. Yes, there was some support from the Arts and Cultural Development Fund and there was other support from underspends in the department's budget. [*Time expired.*]

The Hon. WALT SECORD (14:43): I ask a supplementary question. Would the Minister elucidate his answer relating to the aspect where he referred to the transparency of his Government? Does that transparency extend to the redaction of the name of the one organisation that received the diverted funds?

The Hon. Scott Farlow: Point of order—

The Hon. Walt Secord: This is all in the answer.

The PRESIDENT: The Hon. Walt Secord asked a supplementary question and a point of order has been taken. I do not need the Hon. Walt Secord to rule on the point of order before I have heard it. He should never rule on it even after I have heard it.

The Hon. Scott Farlow: It is a new question and the member is not seeking elucidation of the answer that the Minister gave.

The PRESIDENT: I am finding it difficult to see how the question is seeking an elucidation from that part of the question that was answered by the Minister. I am happy to give the member a call on the point of order if he wishes to explain to me how it is linked.

The Hon. Walt Secord: To the point of order: At the beginning of his answer the Minister spoke at length about the transparency of his Government in relation to arts funding. I want to know whether the transparency of his Government to which he referred extends to the redaction of the name of the one organisation to which this whole scandal relates.

The Hon. Don Harwin: To the point of order: I will leave aside the considerable amount of argument that was in the point of order. The Hon. Walt Secord is saying that my remarks about transparency on which he is seeking elucidation were about arts funding. My remarks about transparency related to ministerial diaries. Therefore, the Hon. Walt Secord is not seeking an elucidation of an aspect of my answer; he is trying to weave an argument essentially to justify a new question.

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

ANIMAL WELFARE

The Hon. MARK PEARSON (14:45): My question is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Rural media is reporting that farmers are having serious difficulty sourcing hay for their sheep and cattle due to the ongoing drought. In one instance a farmer accidentally killed his sheep by feeding them excessive amounts of grain in an attempt to make up for the lack of pasture. Alternative feed such as watermelons and potatoes are being offered to feed hungry animals, with serious concerns about nutritional deficiencies, and animal health and welfare. Given that there is no end in sight for this drought, and with climate change indicating more frequent and prolonged droughts, is the Minister's department preparing a strategy for farmers who will need to abandon animal farming in areas where it will no longer be environmentally or economically viable?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:46): At the outset I make it clear that the Department of Primary Industries and Local Land Services provide a range of services to farmers during times of drought. One of those services is to provide information on nutritional requirements and advice on what type of feed is appropriate for livestock in New South Wales. In times like these our farmers are turning to a range of feeds not only to provide the roughage but also to provide the protein required for livestock—things that some farmers may not have used previously. We have a team of experts to provide advice on the safest and best type of ration to mix up for livestock.

The Department of Primary Industries has programs such as the feed cost calculator to ensure that farmers are feeding their livestock appropriately. The welfare of animals is the utmost priority of farmers in New South Wales. Farmers are looking at what can be done to keep their livestock alive which demonstrates that they are well and truly concerned about their welfare. The department also plays a role in preparing for climate change, how it can do more with less to ensure that farmers remain profitable, and how to manage risks in the future to ensure that farmers stay on the land. We strive to develop innovative ways to ensure that regional New South Wales produces high quality goods and that it is one of the most productive farming jurisdictions in the world.

We are not going into this to establish how we can close down areas; we are using research to see how our farmers can better adapt to some of the conditions. The member may have heard me struggle through an answer yesterday when I clearly indicated that one of the things we visited last week was the use of solar energy and how we can embrace renewable energies and incorporate them onto our farms to ensure that our farmers continue to remain profitable and adaptable to the challenges they face, including the challenges that climate change and any other variables right across the State throw at our farmers. We are doing a lot in this space, but it is not to get farmers out of farming; it is to keep them in farming. Our job is not only to ensure that we continue to have farmers in this State who are sensitive to the landscape and natural resources but also to ensure that they are profitable and that they continue to contribute to the food and fibre production of this State and continue to

contribute to the social fabric of our regional communities. We love our farmers. We want to keep them on the land and profitable, not get rid of them. [*Time expired*.]

The Hon. MARK PEARSON (14:50): I ask a supplementary question. Will the Minister elucidate how his department uses innovative programs to assist farmers to adapt to this situation where animal farming is considered not to be the way to farm in the near future because of these factors?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:50): I think I made it clear that we are doing a lot to ensure that the producers of this State continue to do what they do best. But this is where the honourable member and I and those of us on this side of the Chamber start to differ. We believe that we can continue to have responsible farmers in this State who are farming animals for food and fibre production and are incorporating natural resource management practices, good animal husbandry practices and essential high-quality animal welfare practices. We believe that should be supported.

While I am in this position, we will not be sending our departments down a policy path to try to stop that as a principle because of the ideology that some oppose animal farming in this State. We will ensure that those good, law-abiding citizens and businesses that contribute to all of our regional communities practice the highest standard of animal welfare and the highest standard and best use of natural resources and sustainability. We will ensure that they are in tune with the social licence and consumer expectations of not only our domestic customers but also our international customers. We will continue to support our farmers. New South Wales is good for farming and farmers are good for New South Wales. We probably share a different view about the role of this sector in the future, but while I am in this position we will back our livestock producers.

WATER RESOURCE PLANS

The Hon. BRONNIE TAYLOR (14:52): My question is addressed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Will the Minister update the House on what the New South Wales Government is doing to deliver on water policy across New South Wales?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:53): I thank the Parliamentary Secretary for her question. The Liberals and Nationals have been committed to fairer water policy since we came to government in 2011. Last week I updated the House on the funds we have contributed to help local water utilities ensure all residents across the State, whether in Broken Hill or Bermagui, have access to clean water. Today I will share with the House the work that we have done in implementing the Murray-Darling Basin Plan, which was initiated in 2007 by John Howard and Malcolm Turnbull at a Federal level and was agreed to by New South Wales in 2012.

There have been disagreements and it has not always been smooth sailing, but the New South Wales Government is delivering the plan because it is the best solution we have to a 100-year-old problem. As I have said previously, we will gladly walk away from the implementation of the plan when it is no longer in the best interests of regional New South Wales. However, this Government is about ensuring that our regional communities can live with certainty, not instability. That is why I was pleased to announce yesterday that the New South Wales Government has released the first of its 20 water resource plans for public exhibition.

The Lachlan Alluvium Water Resource Plan refers to a groundwater resource in the Lachlan Valley catchment. Water resource plans outline how each region aims to achieve community, environmental, economic and cultural outcomes and to ensure that State water management rules meet the Basin Plan objectives. This is a significant achievement and adds to the other progress we have made in this area. Since 2012 we have recovered more than 980 gigalitres of water through efficiency measures and strategic buybacks. At the most recent ministerial council meeting we secured agreement to develop firm criteria to ensure that any future work to recover the 450 gigalitres is best informed through State-approved, industry-certified methods in which the community can have confidence.

We have completed other significant projects, such as the Nimmie-Caira water-saving initiative. I was lucky enough to be a part of the ceremony where we handed the stewardship of the land back to the traditional owners who have incredibly strong cultural links to the land. We recognise that the process to get to this point has been difficult for stakeholders. The uncertainty caused by politicking from Federal Labor and The Greens in anticipation of the South Australian election threw the plan into six months of uncertainty. Finally, last week we saw the Northern Basin Review confirmed. This is something that we fought for, delivering $180 million as part of the Northern Basin toolkit, and saving 100 jobs in the Northern Basin, while those opposite sold the New South Wales people down the river and got in behind the campaign to return their mates in South Australia.

This is what the Nationals and Liberals do—we are the party of the people, we are the party of regional communities and we are the only ones who can deliver a Basin Plan that cements our communities futures. We

are doing the lion's share in New South Wales in our water resource plans. We have 20 water resource plans to deliver. Unfortunately, because of the politicking we lost six months in the process. We want to ensure that we get a result with this plan. We want to ensure that our communities can continue to rely on the industries that productive water presents right throughout regional New South Wales. We want healthy rivers, a healthy environment, healthy communities and healthy industries. We are committed to a triple bottom line when it comes to the Murray-Darling Basin Plan. We will hold to account those who have drafted that plan to ensure that it is in the best interests of New South Wales and our communities and we will continue to work with anyone who also wants to achieve that outcome.

[*Business interrupted*.]

Visitors

VISITORS

The PRESIDENT: I take the opportunity on behalf of all honourable members to welcome into my gallery this year's participants in the Working in the Legislative Council professional development program: Liz Gould from NSW Health and Ross Anderson from the NSW Rural Fire Service. As members may be aware, this program has been running since 2004. Departmental officers undertake a three-month secondment during which they gain firsthand experience of the operations of Parliament, particularly the annual budget estimates process. I wish Liz and Ross well during their time in the Legislative Council.

Questions Without Notice

MUSIC FESTIVAL POLICING

[*Business resumed*.]

Mr DAVID SHOEBRIDGE (14:57): My question without notice is directed to the Hon. Niall Blair, representing the Minister for Police. When asked in budget estimates whether the NSW Police Force had a policy or a practice to cancel tickets of concertgoers or prevent them from entering a venue after a false positive search following a drug dog indication, the police Minister answered, "The NSW Police Force does not have a policy or practice of cancelling tickets of concertgoers. The cancelling of tickets held by concertgoers is at the discretion of the promoter and venue licensee." Given that, can the Minister now clearly advise whether or not the NSW Police Force has a policy or practice of excluding people from venues after false positive searches following drug dog indications?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:58): I thank Mr David Shoebridge for his question—a question that he directed to me representing the Minister for Police in this House. Obviously, he refers to a question on notice during budget estimates. Knowing that the police Minister was one of the first Ministers to attend at budget estimates this year and knowing when my questions are due, I am guessing that Mr David Shoebridge has a response to that question from notice.

Mr David Shoebridge: I gave you that response.

The Hon. NIALL BLAIR: The member is seeking further information from the Minister. I was not involved in that estimates hearing. I was clarifying. As it involves some detailed information that I do not have with me representing the Minister in this House today, I will take the question on notice and refer it to the police Minister. He will look at the detail of this question, the answer he has provided and come back to the member in due course.

ARTS AND CULTURAL DEVELOPMENT PROGRAM

The Hon. PENNY SHARPE (14:59): My question without notice is directed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. Given the Minister personally intervened to redirect funds away from grassroots artists under the Arts and Cultural Development Program [ACDP], will he explain to the House his response to written concerns from his own department that "funding decisions are being politicised" and his intervention would lead to "a loss of trust of agency and independence by peers"?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:00): With respect, I reject them. The funding supplied to the Arts portfolio for support for arts organisations, artists and performers is something which I have ministerial responsibility for. I am responsible to the people of New South Wales through this House. The buck stops with me.

The Hon. Penny Sharpe: Well, explain the funding then.

The Hon. DON HARWIN: I am very happy to. What I do not do is get involved in merit assessment. I leave that to panels of peers.

The Hon. Walt Secord: And then you ignore those panellists.

The Hon. DON HARWIN: They make the decision about art forms and the mix of funding, about individual applications.

The PRESIDENT: Order! The Minister will resume his seat. Stop the clock. The Hon. Penny Sharpe asked the question—I might add that it is a serious and important question. The Minister is attempting to answer the question, whilst being heckled by Opposition members. That will cease. If the heckling is distracting me, I can only imagine what it does for a Minister trying to answer the question. The Minister has the call.

The Hon. DON HARWIN: I will try to resume my train of thought despite the interjections. My recollection of what I was saying is that the assessments of individual applications are left to assessment panels of peers. They make the decision about how much for one art form or another, and they make the recommendation as to which organisation or which individual artist or performer merits support. The final decision about how the just over $50 million in the Arts and Cultural Development Program [ACDP] is split up between categories is one that I make. I will always reserve the right to vary the amount that is allocated to each of the categories according to the policy of the Government and myself in relation to priority. The particular instance of arts and cultural projects last year is as follows. Let me give you more information about the actual projects that were funded.

The Hon. Shaoquett Moselmane: Yes, please go ahead.

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

The Hon. DON HARWIN: In 2017-2018, as I have told the House before, the number of applications received for arts and cultural project funding increased by a significant amount—from 153 applications the previous year to 378 applications last year. Unfortunately, not all worthy applications can be funded given the highly competitive nature of the applications that were received. There was a ranked list supplied to me from the peer assessment panel about which projects in its opinion could be funded and I chose the top six and did not vary the top six. I made no decision to vary the panel's ranking. I did, and it is a matter of record, change the amount of money available to that particular category. As I have answered earlier in question time, I moved some of that money to the strategic category of the ACDP. It will always be the responsibility of the Minister to make those decisions. [*Time expired.*]

ABORIGINAL CHILDREN EARLY CHILDHOOD EDUCATION

The Hon. NATALIE WARD (15:05): My question is addressed to the Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education. Will the Minister update the House on how the New South Wales Government is supporting Aboriginal children's early learning and development?

The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (15:05): I thank the honourable member for the question. The New South Wales Government knows the importance of early childhood education and is committed to ensuring all children in New South Wales get the best start in life. As I have said many times before in the House, evidence shows participation in a quality early childhood education program supports children's early learning and development, future academic success and overall life outcomes. I am pleased to say the Government invests in a number of programs to enhance the inclusion of Aboriginal children in early childhood education.

As a mother and as the Minister for Early Childhood Education—and I am sure other parents in the Chamber will agree with this—I recognise that families play a critical part in children's learning and development. This is reflected in the Early Years Learning Framework, which encourages early childhood educators to work in partnership with families, a child's first and most influential educator. That is why in 2018-19 the Government has committed more than $1 million to the Aboriginal Families as Teachers program, which will focus on supporting the early learning and development of Aboriginal children.

The aim of the Aboriginal Families as Teachers program is to strengthen the ability of Aboriginal families to build a rich home learning environment and to empower families as the primary teachers of their children. The program also focuses on encouraging participation in a quality early childhood education program in the years before school. Research shows the quality of children's early home learning environment has a significant impact on cognitive development and educational achievement at school. For example, the Longitudinal Study of Australian Children found children whose parents read to them frequently when they were two to three years old had year 3 NAPLAN results greater than those children who were read to less frequently.

The program has five core objectives: first, support Aboriginal families to provide developmentally rich home learning environments for young children from birth to five years; secondly, promote literacy- and numeracy-rich home learning environments; thirdly, build families' confidence in their ability to support the healthy development and learning of their children; fourthly, support Aboriginal children and their families for successful transitions to school; and, finally, promote the importance of early childhood education within families and communities, including participation in a quality early childhood education program for 600 hours in the year before school, at a minimum.

Data from the Australian Early Development Census shows that Aboriginal children are more likely than non-Aboriginal children to be developmentally vulnerable in one or more of the five domains, which can adversely impact their transition to school and academic achievement. The Aboriginal Families as Teachers program provides funding for organisations to work directly with families and early childhood education services to support Aboriginal children's early learning and development.

Eligible organisations were invited to apply to deliver programs in communities across New South Wales. It was important for the applicants to show evidence of collaboration with early childhood education services, including how the program will increase participation in early childhood education. In particular, how the program will encourage and support early childhood educators and families to work together to support children's learning and development. The application also required evidence of consultation with the local Aboriginal community, acknowledging the importance of ensuring a community-driven and collaborative approach to designing and implementing programs. This helps to ensure the programs are culturally appropriate and relevant to the needs of the community.

I am pleased to say that the Government will fund eight programs in several communities across the State, including in regional locations with children with comparatively high levels of developmental vulnerability. Some of the areas that will benefit from the program will include Wilcannia, Karuah, Lightening Ridge, Forbes and Narromine. The Aboriginal Families as Teachers program is an example of the Government's commitment to supporting the early learning and development of Aboriginal children in New South Wales and contributing to better outcomes and learning experiences for all children.

DRAFT COASTAL INTEGRATED FORESTRY OPERATIONS APPROVALS

Ms DAWN WALKER (15:09): My question is directed to the Hon. Don Harwin, representing the Minister for the Environment. Submissions for the draft coastal Integrated Forestry Operations Approvals [IFOA] closed more than two months ago on 13 July 2018. When will the submissions be made public? When can the community expect this coastal IFOA to be published and delivered?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:10): I thank Ms Dawn Walker for her question. I am happy to ask the Minister for the Environment the question and obtain an answer for her.

SYDNEY FRINGE FESTIVAL REGIONAL ARTISTS FUNDING

The Hon. MICK VEITCH (15:10): I direct my question without notice to the Minister for the Arts. In light of documents obtained under freedom of information laws which disclose that the Minister personally rejected a request by the Sydney Fringe Festival to provide $35,000 to enable regional artists to participate in the Fringe, what is his response to the concerns of regional artists who are now unable to access other international Fringe Festival funds?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:11): The Hon. Mick Veitch's characterisation of that decision is incorrect. The Sydney Fringe Festival was one of 11 groups that were recommended as groups that could be funded under the arts and cultural projects funding by the peer assessment panel. As I said earlier, I took a decision to approve the highest ranked six of the recommended applications under round two.

The Hon. Scott Farlow: Point of order: The Minister is trying to answer the question and the Hon. Penny Sharpe is continually heckling. I ask that she be called to order.

The PRESIDENT: I uphold the point of order. I call the Hon. Penny Sharpe to order for the first time.

The Hon. DON HARWIN: When funding decisions are made, it is important to take into consideration all of the emerging issues within the sector as they arise and to reflect strategic priorities. It is important that flexibility remain within the funding programs to ensure that funding is allocated so that emerging issues can be managed and that the projects with the greatest merit of funding are funded within the funding envelope that has been provided. Ultimately funding decisions are a matter for Government, which includes prioritising the

distribution of funding. As the Minister responsible, it is my duty to make sure that all taxpayer funds are spent wisely and accountably.

The PRESIDENT: Order! The Minister will resume his seat. The Clerk will stop the clock. I call the Hon. Shayne Mallard to order for the first time. It is bad enough when we have one interjection. As I indicated yesterday, when there is a tag team and one member interjects, then another member interjects immediately, then another member interjects immediately, and then we go back to the first member, then to the second member, then to the third member, it goes well beyond the line. I call the Hon. Penny Sharpe to order for the second time. I call the Hon. Mick Veitch to order for the first time. I call the Hon. John Graham to order for the first time. The Minister has the call.

The Hon. DON HARWIN: I say the following to the particular organisation that the Hon. Mick Veitch—

[*Interruption*]

The Hon. DON HARWIN: Are you quite finished?

The PRESIDENT: The Minister should not acknowledge interjections. The Minister has the call.

The Hon. DON HARWIN: I say the following to the organisation and to the artists concerned: In the 2017-18 budget, the New South Wales budget provided increased support to individual artists and art practitioners with the introduction of new avenues of funding. I want to make sure the Hon. Penny Sharpe is able to listen given she is being interrupted. With 127 individuals benefiting from small grants in 2017-18 compared to 81 in 2016-17—that is 81 in 2016-17 and 127 in 2017-18, which is a 57 per cent increase—this Government is doing plenty for individual artists and doing more than any former Government.

I also say this in respect of this year's budget: The Arts and Cultural Development Program budget this year has been increased by approximately $2 million, so that is $2 million higher in 2018-19 to what it was in 2017-18. I will not take lectures from the Opposition about our support of regional artists. This Government has done more for regional arts than any Government in the history of the State. The Regional Cultural Fund is completely changing the face of regional arts in New South Wales. New facilities are everywhere, but it is more than just new facilities. Regional Arts NSW is benefiting from extra support that we are giving them. For example, the Arts Program is an opportunity for regional arts practitioners to come to together— [*Time expired*.]

PUBLIC TRANSPORT NETWORK

The Hon. DAVID CLARKE (15:16): My question is addressed to the Leader of the Government. Will the Minister update the House on how the Government is improving access to public transport 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) (15:16): I thank the Hon. David Clarke for his question. I am always delighted to talk about how this Government is investing in our public transport. The Government is providing record investment in public transport across our State. One of the most significant of those investments is the Sydney Metro project. This project will transform Sydney, confirming our position as a truly global city. We are delivering 31 metro stations and 66 kilometres of new metro rail. When the project is complete, it will have the capacity for a train every two minutes into the central business district in each direction. This is a sensational achievement that could not have been done without the strong economic management of this Government. This Government is committed to building the city of the future.

Mr Scot MacDonald: Point of order—

The Hon. Robert Brown: Point of order—

The Hon. Niall Blair: Point of order—

The PRESIDENT: It is only fair that with three interjections three members are taking points of order. I will hear the Deputy Leader of the Government on his point of order.

The Hon. Niall Blair: I probably do not need to complete my point of order.

The PRESIDENT: The Hon. Niall Blair can be assured that I was about to call Opposition members to order. I know what the member is going to say. Please go ahead.

The Hon. Niall Blair: It is also my right to be heard when I take a point of order. To have interjections—which initiated the point of order—while I am speaking to the point of order is disorderly times two.

Mr Jeremy Buckingham: Better than my math.

The Hon. Niall Blair: Mr Jeremy Buckingham would not work it out; he is not smart enough. He cannot work out his own numbers let alone my math.

The Hon. Lynda Voltz: Point of order—

The PRESIDENT: Is the Hon. Lynda Voltz taking a new point of order?

The Hon. Lynda Voltz: It is a new point of order.

The PRESIDENT: I will deal with the Hon. Niall Blair's point of order first. I uphold the point of order. I call Mr Jeremy Buckingham to order for the first time. I call the Hon. Mick Veitch to order for the second time. I call the Hon. Daniel Mookhey to order for the second time. I indicate that prior to three members jumping up to take a point of order, I was about to call all three Opposition members to order. The interjections are getting out of hand. It has to cease. The interjections are well beyond what is permitted in this Chamber.

The Hon. Lynda Voltz: Point of order: It does the Minister no favour to interrupt your ruling on his point of order.

The PRESIDENT: I had not started to speak while the Minister was still speaking. He had not finished his point of order. He was not interjecting on me. If anything, I almost interjected on him. There is no point of order. The Minister has the call.

The Hon. DON HARWIN: The Government is committed to building the Sydney of the future but it also appreciates that access to our public transport network is critical. That is why the Government announced Australia's biggest ever purchase of lifts and escalators as part of an $87 million investment in Sydney Metro. This is essential to providing a world-class, fully accessible metro rail network. We are delivering this unprecedented project because the focus of this Government is to improve the lives of the people of New South Wales. The Government is not building for the sake of building. It will deliver major infrastructure projects that will let people get home sooner, spend less time travelling and have more time with their families.

Under Bob Carr, the Labor Party said that Sydney was full, which goes a long way to understanding the thinking of those opposite. Labor did not want any more people in Sydney so it never built the infrastructure that was needed. Have those opposite learned from the failures of the former Labor Government? No, because they still oppose this Government's transformative infrastructure projects. They want to tear up contracts, cancel projects and set back our State by decades. And it has form. It promised 12 rail lines with one half a line delivered.

The Hon. John Graham: How many have you delivered?

The Hon. DON HARWIN: Get used to it, is all I can say. The Labor Party is addicted to announcements and wholly incapable when it comes to delivery. Here is the spin master of articulate inactivity which is the whole credo of the former Government: all spin and no substance, announcement after announcement, but what did the people of New South Wales receive? Some $412 million was wasted on the Rozelle Metro, $100 million was wasted on the Tcard with no Tcard, $81 million was handed back to the Commonwealth for the West Metro and, of course, a $1.3 billion Chatswood to Epping link which ended up costing $2.3 billion—half the line at double the cost. Just more Labor waste and 16 years of failure. Since we came to government the record is completely different: Opal card, new buses, 47 train station upgrades, 6,000 commuter car spots, a new intercity fleet, a new XPT train fleet and light rail in Parramatta, Sydney and Newcastle. This Government is getting on with the job. [*Time expired.*]

MURRUMBIDGEE HEALTH SERVICES

The Hon. ROBERT BORSAK (15:23): I direct my question to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry, representing the Minister for Health. My question relates to the unfortunate and unnecessary death of a new born baby. In November 2017 did members of the Minister's party contact him regarding the loss of women's and children's services in the Murrumbidgee Local Health District? Was the Minister contacted again in December 2017 by a Murrumbidgee Local Health District midwife who, in her resignation letter, pointed out serious breaches of safety in the same unit? Having been notified of the problem, what actions did the Minister take at the time? What actions has the Minister or his department taken since to prevent this happening again?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:24): I thank the honourable member for his question directed to me, representing the Minister for Health in this Chamber. The question is about a serious and sensitive matter. I do not have any relevant information to provide the Hon. Robert Borsak at hand. I will take the question on notice, refer it to the Minister for Health and provide the member with a response in due course.

ARTS AND CULTURAL DEVELOPMENT PROGRAM

The Hon. JOHN GRAHAM (15:24): I direct my question to the Minister for the Arts. Given that documents obtained under freedom of information laws show that delays in the allocation of round two funding for the Arts and Cultural Development Program were triggered by the Minister's rejection of the Create NSW panel project's recommendations, what is his message to small arts organisations devastated by his decision?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:25): I acknowledge that there were delays in announcing funding outcomes for round two funding of the Arts and Cultural Projects category. I appreciate the impact of the delays on artists, and arts and cultural organisations. I understand the uncertainty that a delayed announcement can have for both artists and organisations. I apologise for any inconvenience that was caused. I am advised that Create NSW responded to all inquiries from applicants throughout the application process, and all applicants were formally notified of the outcome of their application on 4 June 2018.

Details of opening and closing dates for funding through the 2018-19 Arts and Cultural Development Program are now available on the Create NSW website. To help improve the funding application process, a survey has been undertaken of previous applicants. The survey responses are being reviewed by Create NSW with a view to improving the funding application process. I also confirm that the Arts 2025 strategic framework that is being developed for the arts, screen and cultural sector will help guide the Government's investment across the sector over the next eight years. The development of this strategic framework is being informed by sector consultation that followed the summit that we held in March 2018 with a series of targeted workshops and conversations being held with a number of sector groups.

The Hon. JOHN GRAHAM (15:26): I ask a supplementary question. Given the Minister only funded 3 per cent of the applications, would arts organisations have been better off buying a lottery ticket?

The PRESIDENT: The supplementary question is out of order.

COMMERCIAL FISHING INDUSTRY

The Hon. TREVOR KHAN (15:27): I address my question to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Will the Minister update the House on the achievements of commercial fishing industry?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:27): I thank the Hon. Trevor Khan for his question. When this Government committed to seeing through a much-needed and long overdue reform of the State's commercial fishing industry, it knew it would not be easy. In 2011 the Government was handed a fishing industry that had been impacted by poor decisions by the previous Government. Our detailed election policy Securing Sustainable, Viable and Healthy Fisheries committed us to a methodical pathway to a commercially viable industry. There was a fair amount of scepticism that we would be able to achieve effective and sustainable change, but after seven years we are finally there. We have successfully introduced linkages between access shares and quota to give fishers the ongoing ability to harvest fish.

In 2017 we held a subsidised share trading market and gave active fishers access to government subsidised shares. Some said that this would not work, but it did. Some said that there would not be enough shares, but in most cases shares were abundant and people were able to buy and sell as they needed. On average, the fishers paid $1 for every $4 of subsidy. More recently, we delivered the last major stage of this reform by accepting all of the recommendations of the Independent Allocation Panel [IAP], with quota commencing in 2019 for the remaining 17 species. It was a thorough and robust process at arm's length from government. The panel recommended that the allocation of new quota shares be weighted towards fishing activity.

In addition, the quotas for 2019 have been set at levels that ensure that the industry can continue production at or around recent levels while conserving fish stocks. Today the industry is more robust, viable and economically sustainable. The estimated total value of the new quota shares issued in 2017 and those soon to be issued is more than $80 million. In addition, since the announcement in May 2016 some 325,799 shares have been transferred between fishers and 173,922 of them were after the subsidised share trading market without any government subsidies.

We have also established the Commercial Fishing NSW Advisory Council, known as CommFish NSW, which is made up of industry, government and independent representatives and chaired by Stuart Richey. The first CommFish report card tabled in August shows that our reform program has progressed substantially during the period, with all key reform milestones met. The report notes that co-ops have been affected by the reforms, mainly due to a reduction in members; however, more than $2.3 million in rent relief provided to co-operatives on Crown

land has been greatly appreciated. I acknowledge the role of all members of Portfolio Committee No. 5 in the progress of the reforms. Last year I was pleased to participate in a follow-up session with the committee following its 2017 report to check how the reforms were tracking. I understand the progress report is likely to be tabled shortly.

We have provided assistance, including reopening business buyouts, and we have had probity advisor and audit reports. The Small Business Commissioner has come on board, CommFish has handed down its report, we are working towards a penalty demerit scheme for fishers and the list goes on. I acknowledge that it has been tough on some sectors of the industry, particularly those who were poorly led, but I am confident that the fundamentals are now in place for a resilient industry that will continue to provide fresh local seafood for the people of New South Wales.

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

ARTS AND CULTURAL DEVELOPMENT PROGRAM

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:31): A few minutes ago in question time I was asked a question by the Hon. John Graham. I have some further relevant information to give the House. The number of applications received for arts and cultural projects funding in 2017-18 went up by 141 per cent. In 2016-17 there were 153 applications. In 2017-18 there were 378 applications. Amongst those, the number of applications for the second round was nearly double the number received in the first round. Unfortunately, not all worthy applications can be funded. Even before the adjustment that was made to the total amount of money that was offered for round two by me—as I outlined in question time today—the peer assessment panel only was able to recommend 17 of them.

I know the honourable member was being flippant about lottery tickets, but there is only a certain amount ever that can be made available. There is a lot of demand. Seventeen were recommended and six were funded, as I mentioned, but the total number all year was 378. I understand there is a lot of demand for this, but there is and always will be a need to maintain some flexibility in the program to deal with strategic needs that arise.

Rulings

PERSONAL EXPLANATIONS

The PRESIDENT (15:33): Following question time yesterday the Hon. Walt Secord was granted leave to make a personal explanation under Standing Order 88. Leave was subsequently withdrawn and the Hon. Walt Secord immediately sought leave to continue his personal explanation. I reserved my ruling but indicated:

> My understanding at this stage is that members cannot seek leave to resume a personal explanation once leave has been withdrawn. My understanding is that members can seek leave on another occasion.

Standing Order 88 provides:

> When there is no question before the House a member may, by leave of the House, make a personal explanation. The subject of a personal explanation may not be debated.

According to longstanding practice, leave may be withdrawn at any time while a member is giving a personal explanation. For a member to then immediately seek leave to continue their personal explanation would be to trifle with the House. A member may seek leave again on another occasion—for instance, after consulting with other members or advising other members of their intention to do so. I take this opportunity to remind members of the rulings of previous presidents in relation to the appropriate scope of personal explanations. In 1986 President Johnson ruled:

> The matter which is the subject of a personal explanation should not be amplified or debated. Provocative or disputative language should not be used.

In 2008 President Primrose ruled:

> A member may, with the leave of the House, explain how his or her honour, character or integrity has been reflected upon but must not debate the subject matter of the explanation. Leave may be withdrawn at any time if the member contravenes the standing order.

Personal Explanation

ARTS AND CULTURAL DEVELOPMENT PROGRAM

The Hon. WALT SECORD (15:35): By leave: I wish to make a personal explanation. Today during the second Opposition question without notice in relation to the Arts and Cultural Development Program funding, which was asked by me, the Hon. Shayne Mallard took a point of order. To suit members and to save valuable

time reviewing the tape, upon reflection I may have referred to the Leader of the Government as corrupt. I withdraw that.

Bills

IMPOUNDING AMENDMENT (SHARED BICYCLES AND OTHER DEVICES) BILL 2018

WESTERN CITY AND AEROTROPOLIS AUTHORITY BILL 2018

First Reading

Bills received from the Legislative Assembly.

Leave granted for procedural matters to be dealt with on one motion without formality.

The Hon. DON HARWIN: I move:

That the bills be read a first time and printed, standing orders be suspended on contingent notice for remaining stages and the second readings of the bills be set down as orders of the day for a later hour.

Motion agreed to.

PARLIAMENTARY BUDGET OFFICER AMENDMENT BILL 2018

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, being The Greens amendments on sheet C2018-118 and Opposition amendments on sheet C2018-107B. The appropriate course is to deal with The Greens amendments first.

Mr JUSTIN FIELD (15:38): By leave: I move The Greens amendments Nos 1 and 2 on sheet C2018-018 in globo:

No. 1 **Costing of minor party policies**

Page 3, Schedule 1 [1]. Insert before line 4:

minor party means a registered party (other than a party forming part of the Government or the Opposition) having not less than a total of 3 members in one or both of the Legislative Assembly and the Legislative Council.

leader of a minor party means a member of parliament nominated as the leader by a majority of the parliamentary members of the party.

No. 2 **Costing of minor party policies**

Page 4, Schedule 1. Insert after line 4:

[7] Sections 18 (1), (3), (6), 19 (1), 20, 21 and 22 (1)

Insert "or the leader of a minor party" after "parliamentary leader" wherever occurring.

I mentioned briefly in my second reading contribution—I will not belabour the point—that The Greens wholeheartedly supported the Parliamentary Budget Officer proposal when it was first initiated. It enabled access to minor parties and also members, throughout the entire cycle and not just at election time. That changed in 2013. We think it is appropriate that other members of Parliament be given the opportunity to have proposals costed by the Parliamentary Budget Officer. This amendment would seek to make that available for minor parties. I appreciate some others may like to have that opportunity extended as well. But in this instance, the amendment I seek to move would be to change part 4 to allow minor parties, should they choose, to submit policy proposals for costing.

To make it clear to the House, that would not require them to as it does with the major parties. Minor parties present their policies in a different way and often they do not have quite the same breadth of policies. I am not meaning to confuse anyone or prevent the entire platform of The Greens being addressed or reviewed through this process but I appreciate that there would be a substantial amount of work—it is a different platform style presented by the different minor parties.

In those areas where there is a critical public debate and there is a clear alternative being put by another party, having the ability for those policies to be costed would mean that not only could the parties stand with some assurance in making that policy public but also we would be able to challenge major parties who often contest minor party policies because they have not been costed. I think that is useful; it protects the public debate and protects the parliamentary debate for the future and the integrity of the process. It would enable the minor parties to put the proposals forward should they choose.

They are consequential amendments that would enable that to happen including appointing a leader for the purpose of submitting those policies. I say "appointing", not "electing" or "choosing", just for the purposes of this particular part of the legislation. Someone would need to be identified to make that submission to the Parliamentary Budget Officer and their powers would extend no further. Of course it would be up to minor parties to choose how that would occur. I commend the amendments to the House.

The Hon. BRONNIE TAYLOR (15:41): With regard to The Greens proposed amendments, the parliamentary budget officer should be limited to costing the policies of major parties. This restriction to minor parties was made in response to a joint parliamentary select committee review as the costs outweighed the benefits. The Parliamentary Budget Officer has limited resources and we need them to undertake a process with accuracy and integrity. The Government will not support the amendment.

The Hon. ADAM SEARLE (15:42): I indicate that the Opposition supports The Greens amendments because it is entirely consistent with what we have said in our second reading contributions, both in this place and in the other place—that is, the Parliamentary Budget Officer should be available to all parties and to all members of the Parliament. It would raise the standard of public debate and discourse more generally.

The CHAIR (The Hon. Trevor Khan): Mr Justin Field has moved The Greens amendments Nos 1 and 2 on sheet C2018-118. The question is that the amendments be agreed to.

Amendments negatived.

The Hon. ADAM SEARLE (15:43): By leave: I move Opposition amendments Nos 1 to 3 on sheet C2018-107B in globo:

No. 1 **Response times for information requests**

Page 3, Schedule 1 [4], line 19. Omit "10". Insert "5".

No. 2 **Response times for information requests**

Page 3, Schedule 1 [4], line 21. Omit "6". Insert "5".

No. 3 **Response times for information requests**

Page 3, Schedule 1 [4]. Insert after line 22:

(c) 2 business days, if none of the information requested is held by the Government agency, or

In the other place all four amendments were moved in globo but these three relate to the same issue, which is timing. The fourth amendment is a distinct issue. I will not labour the point because I set out the rationale extensively in my second reading contribution. The first two amendments reduce the response times in the first instance from 10 days to five days in cases before the caretaker convention starts. The second amendment reduces the response time from six days to five days after the caretaker convention. The third amendment reduces it down to two business days if the information is not held by the relevant government agency. These amendments do no damage to the bill and do not put any unreasonable burden upon the public sector or any of its agencies. It makes the responses and the response time frame a little fairer for the Opposition. We ask the House to support these amendments.

The Hon. BRONNIE TAYLOR (15:44): In response to the first proposed amendment, 10 days is a maximum and if the head of an agency can respond more quickly then they will. We could be dealing with complex costings matters. There is a need for the head of an agency to get it right and we do not want to compromise the integrity of the costings process by rushing them to provide the information. In response to the second amendment, there is no compelling case to make this change of only one day. The Government has already indicated support for this proposed change and it will be implemented as an operational matter in agreement with agency heads. There is no need to codify something that the Government has already supported. The Government will not support these amendments.

Mr JUSTIN FIELD (15:45): The Greens support the Opposition's amendments for the reasons outlined by the Opposition. On the point made by the Government, I understand that it is a maximum period of time but the agencies are not asked to do the costings themselves. They are being asked to provide information—I assume the request would be for specific and explicit information and I do not think it is unreasonable to reduce that time to five days. The real work being done is the costing within the Parliamentary Budget Office and it needs more time to do that. By supporting the Opposition's amendment it gives more time to the Parliamentary Budget Officer to do that important work.

The Hon. ADAM SEARLE (15:46): I thank Mr Justin Field for his contribution. These amendments would support the good work being done by the Parliamentary Budget Officer. On the point raised by the

Parliamentary Secretary, although these are maximum periods of time, it has been our experience that the maximum time allowable is taken by the agencies. If it were otherwise, we would hardly bother with these amendments. We are asking for a little bit of consideration because remember, the wheel turns and one day—one day soon—those members opposite will be on this side of the House and asking for the same consideration. I place on record that they will get the same consideration that they are giving us today.

The CHAIR (The Hon. Trevor Khan): The question is that Opposition amendments Nos 1 to 3 on sheet C2018-107B be agreed to.

The Committee divided.

Ayes 18
Noes 21
Majority.....3

AYES

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

NOES

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

Amendments negatived.

The Hon. ADAM SEARLE (15:53): I move Opposition amendment No. 4 on sheet C2018-107B:

No. 4 **Provision of copies of information to Department of Premier and Cabinet**

Page 3, Schedule 1 [5] (proposed section 16 (3A)), lines 25–29. Omit all words on those lines.

This amendment relates to whether or not the Secretary of the Department of Premier and Cabinet should get hold of sensitive Parliamentary Budget Office documents. It is a very simple proposition: The Secretary of the Department of Premier and Cabinet ought not. On the last occasion the security and integrity of the process was absolutely safeguarded by the integrity of the Parliamentary Budget Office, its staff and the various agencies with whom they consulted.

There is always a concern on the part of the Opposition in this sort of process that word will leak about what sort of policy processes or ideas are being pursued and the relevant costings. That did not happen, and that was to the credit of all involved. The danger in involving the central agency of the Executive Government, in the form of the Department of Premier and Cabinet, is that it does risk compromising the integrity of that process. If there were to be a security breach, obviously suspicion would fairly or unfairly fall upon the secretary of that agency. That is not a risk that should be taken by this Parliament. I earnestly ask the Government to accept this amendment to safeguard the integrity and impartiality of the Parliamentary Budget Office process.

The Hon. BRONNIE TAYLOR (15:55): We have respect for the Department of Premier and Cabinet and its ability to keep matters confidential. This proposed amendment is intended to assist with preparing incoming government materials. The Government does not support Opposition amendment No. 4.

Mr JUSTIN FIELD (15:56): The Greens support Opposition amendment No. 4. I do not think the Government's argument stands up that for the small period of time the Department of Premier and Cabinet would have the information it would be better positioned to prepare for a future government than if the department

received the information once it was publicly released. The Opposition's argument about the risk to the integrity of the system is real but we should not go there. We should not allow that to be seen in any election. It would potentially undermine the entire principle of the Parliamentary Budget Office.

The CHAIR (The Hon. Trevor Khan): The Hon. Adam Searle has moved Opposition amendment No. 4 on sheet C2018-107B. The question is that the amendment be agreed to.

The Committee divided.

Ayes 18
Noes 21
Majority.....3

AYES

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

NOES

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

Amendment negatived.

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

Motion agreed to.

The Hon. BRONNIE TAYLOR: I move:

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

Motion agreed to.

Adoption of Report

The Hon. BRONNIE TAYLOR: On behalf of the Hon. Don Harwin: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. BRONNIE TAYLOR: On behalf of the Hon. Don Harwin: I move:

That this bill be now read a third time.

Motion agreed to.

WATER NSW AMENDMENT (WARRAGAMBA DAM) BILL 2018

Second Reading Debate

Debate resumed from 19 September 2018.

The Hon. MICK VEITCH (16:06): I lead for the Opposition in debate on the Water NSW Amendment (Warragamba Dam) Bill 2018. The object of the bill is to amend the Water NSW Act 2014 to provide:

(a) that a lease, licence, easement or right of way under the National Parks and Wildlife Act 1974 (the NPW Act) is not required for or in respect of the temporary inundation of national park land resulting from the Warragamba Dam project, and

(b) that the temporary inundation of national park land resulting from the Warragamba Dam project is not subject to any plan of management under the NPW Act.

The relevant provisions will apply in relation to the temporary inundation of national park land resulting from the Warragamba Dam project only if an environmental management plan, prepared by Water NSW and approved by the Minister administering the NPW Act with the concurrence of the Minister administering the principal Act, is in force. The Warragamba Dam project is defined as development that is approved under the Environmental Planning and Assessment Act 1979 to raise the wall of Warragamba Dam and to operate the dam for the purposes of facilitating flood mitigation downstream of the dam.

The bill is an attempt to overcome a barrier that exists under the National Parks and Wildlife Act that precludes raising the Warragamba Dam wall. Under current legislation, the Minister for the Environment is prevented from granting any lease or easement on national park land that would enable the impoundment of water. Therefore, the Government requires legislation to set aside the Act in order to flood sections of the park. Increasing the height of the Warragamba Dam wall by 14 metres will see a major corresponding increase in the size and scale of development in the Hawkesbury-Nepean Valley. The cost of the proposal is estimated to be from $700 million to $1 billion—the equivalent of $270 per Sydney household.

A January 2017 Infrastructure NSW report commissioned by the Government into flood risk identifies that over the coming 30 years the Government plans to double the population on the site by more than 100,000. This would significantly increase the potential cost and damage associated with catastrophic flood risk. The January 2017 "Resilient Valley, Resilient Communities—Hawkesbury-Nepean Valley Flood Risk Management Strategy" states: There is also a high level of flood exposure as the floodplain is located in an area with a large and growing population, and one of Australia's most significant and diverse economies. Expanding urban development across the Valley means that flood exposure will increase in the future. Up to 134,000 people live and work on the floodplain and could require evacuation. This number is forecast to double over the next 30 years. The Government's proposed planning controls for the area would allow for large-scale development on land that is near the one-in-100-year flood level. In the United States a one-in-500-year threshold is now widely used and in the Netherlands the limit is one in 1,250 years. To be clear, a one-in-100-year flood does not mean it will flood at that level once every 100 years. There could be a one-in-100-year flood level five times in 10 years. People get a bit confused about what the one-in-100-year flood really means.

Several development proposals at or near the one-in-100-year flooding benchmark have suffered planning delays as a result of the threat of flooding and fears concerning evacuation routes. An example is the Penrith Lakes Development Corporation proposal, which will see an extra 4,900 residential properties on high-risk one-in-100-year flood-zone land. The Government has recently changed the State environmental planning policy [SEPP] to allow development on the site. The Hawkesbury-Nepean Flood Risk Management Taskforce had previously termed the site unsuitable for intensive infrastructure.

WaterNSW and the Minister for Regional Water acknowledge that raising the dam wall will not eliminate the risk of flooding in the region. That is because more than 45 per cent of flooding in the valley occurs on river systems that do not feed into Warragamba Dam's reservoir. That is important to note because the Opposition does not want people to think raising the dam wall will prevent flooding in the valley. The Opposition, along with the community, believes development of this scale on flood-prone land is dangerous whether the wall is built or not. It is yet another example of the Government's "develop at any cost in any location" approach to planning for Sydney.

This is another example of the Government's do-nothing approach. The Government has had 7½ years for flood preparation, despite the dam being full. More troubling than the decision of the Government to pursue large-scale development on this land has been its refusal to support any flood mitigation and evacuation preparedness measures for the entire 7½ years of its tenure. The fact that Warragamba Dam has been at or near capacity for 7½ years has not prompted any action or urgency from the Government. Following recent drought conditions, Warragamba Dam's current water level sits close to 60 per cent.

In 2015 the State Emergency Service [SES] commissioned a report into the importance of funding evacuation routes in the event of a 100-year flooding event as a necessary investment in saving lives. Very few of this document's recommendations have been implemented by the Government—a do-nothing government. The primary reason that flood-prone land is considered dangerous, according to the Government's own report, is that the area is being subjected to large-scale, rapid development while at the same time there is a chronic lack of infrastructure—primarily roads. I quote again from the Infrastructure NSW "Resilient Valley, Resilient Communities—Hawkesbury-Nepean Valley Flood Risk Management Strategy", which states:

Currently, there is not enough road capacity to safely evacuate the whole population on time, with multiple communities relying on common, constrained and congested road links as their means of evacuation.

> The undulating topography of the Valley results in many key evacuation routes becoming flooded at low points long before population centres are inundated, creating flood islands. Many of the significant urban centres such as McGraths Hill, Windsor, Richmond and Bligh Park are located on flood islands which can become fully submerged in large flood events.

Other actions can be taken to assist when this valley is in flood. A Molino Stewart report for the NSW Department of Planning, entitled "North West Sector Flood Evacuation Analysis", states on page 4:

> Following the current SES plan on the current road network, about 10,500 vehicles of about 48,000 would not have enough time to evacuate. There is insufficient road capacity for much of Windsor to evacuate and Richmond and Bligh Park evacuation traffic may block traffic evacuating from Penrith onto The Northern Road. Emu Plains does not have enough time for all of its development to evacuate.

We know that this Government does not care about the environment, but the impact of this bill on some of the most pristine environments in the nation is staggering. Under this bill, the equivalent of two Sydney Harbours would submerge 65 kilometres of the World Heritage-protected Blue Mountains National Park. The impact on the protected Blue Mountains National Park would be severe—and I am sure that my colleague the Hon. Penny Sharpe will speak more about the environmental implications of this bill in her contribution.

As far as I can tell, there has been no environmental impact statement into the impact of flooding in the national park or peer-reviewed study of alternative options for flood mitigation in the valley. The Government's claims that the inundation zone will be utilised infrequently—the Minister for Western Sydney, Minister Ayres, suggested once in 100 years—are false. Yet the Government's own figures suggest that inundation would occur as a one-in-every-five-years event. It is the Opposition's contention that this bill is more about overdevelopment in the Hawkesbury-Nepean Valley than it is about flood mitigation. A Molino Stewart report for Infrastructure NSW, entitled "Hawkesbury-Nepean Flood Damages Assessment—Addendum Report: Answers to Recent Questions", in answer to the question "Has flooding constrained development in recent years?" states:

> Answer: Yes
>
> In the past 20 years, flooding has been a significant planning issue in the Hawkesbury Nepean Valley. In some cases it has acted as a constraint to development and resulted in developers downsizing their proposals and other developments being unable to proceed as flooding issues have not been resolved.

This bill is dangerous. It is a dud, it lacks scientific rigour, it neglects long-accepted planning principles and it should be thrown out. The Opposition strongly opposes the bill.

Mr JUSTIN FIELD (16:15): I speak on behalf of The Greens to oppose the Water NSW Amendment (Warragamba Dam) Bill 2018. This legislation is brought to the Parliament because what the New South Wales Government proposes to do in raising the Warragamba Dam wall is currently illegal. It is illegal to flood, even temporarily, a national park in this State—and so it should be. It is not just illegal; it is unconscionable. The World Heritage listed Blue Mountains National Park is a global icon; it is probably third only to the Great Barrier Reef and Uluru in global recognition of Australia's remarkable natural environment. To put that area at risk—even if only a small part of it—is nothing short of environmental vandalism.

Raising the Warragamba Dam wall by 14 metres could result in the flooding of more than 3,000 hectares of Blue Mountains World Heritage listed area, including pristine wild rivers such as the Kowmung. Endangered species live in these areas and many recognised Aboriginal cultural sites would be lost should this area flood. My colleague Ms Cate Faehrmann will address more fully the ecological risks presented by the proposal and the undermining of national parks law by this bill. The public should feel secure in the knowledge that our precious wild places are protected in perpetuity and are not subject to the whims of changing governments. What does World Heritage protection mean if it can be wiped away by a half-day debate in this Parliament?

There are alternatives to protecting lives and homes from flood events, but there are no alternatives to the wild rivers and wilderness of the Blue Mountains World Heritage area. The Government acknowledges that right now this is the only time the issue of raising the dam wall will be debated in the Parliament. While this legislation will remove a legal barrier to the construction of the wall, it does not give the project approval—that approval will rest on the preparation, public exhibition and assessment of a State significant development proposal and an accompanying environmental impact statement [EIS]. That work is currently being done by Infrastructure NSW. The Government has made it clear that this EIS will not be completed before the middle of 2019. In recent budget estimates hearings I raised concerns about what I hear is inadequate time being given for the assessment of ecological impacts and Aboriginal cultural heritage as part of that assessment.

At this point I will flag that I will move amendments on behalf of The Greens, should this bill make it to the Committee stage, to empower the environment Minister to have total control in determining the matters to be addressed and that an environmental management plan—should this bill pass the Parliament—be produced to manage impacts on the national park area that would be inundated. While significant work has already been done to assess flood risk, very little work has been done to meaningfully assess other options to raising the dam wall or the upstream impacts on the World Heritage areas.

There also seems to be little regard for the ecological value of minor and moderate flooding, which are natural events in any catchment downstream of the dam. The issue of environmental flows gets significant airtime as it relates to the Darling River but environmental flows are critical along entire catchments, including this one. The World Heritage implications and the intersection with Federal environment law is not clearly understood at this stage. Members of this House are being asked to make contributions to this debate when the information we need to make an informed decision is simply not before us. I am glad that this bill will be scrutinised in an inquiry by the Standing Committee on State Development, but that will be a very short inquiry and will be conducted long before the EIS is completed and all these impacts are better understood.

Very few members will have been to see firsthand the areas that will be impacted by this plan—some have, but not many. While they might have seen the extensive urban development plans in flood-risk areas around Penrith or the Windsor flood plain, how many have been to the Kowmung River and tasted its waters or listened to the endangered regent honeyeater? With only 200 to 500 of these birds left in the wild, any loss of habitat could be devastating. I have visited this area and seen firsthand the majestic waters of the Kowmung, one of the State's few remaining wild rivers. I have camped on its banks and drunk from its waters. You take into these places only what you can carry and you leave only footprints. They touch you very personally; you feel the ancient wisdom of these places. You realise how rare these experiences are in this life, because they are rare places indeed. These areas are protected by law for a reason. They are irreplaceable and increasingly rare. Removing their protection without fully understanding the impacts can only be seen as irresponsible. But that is what this Parliament is being asked to do.

This process is back to front. The EIS should inform this debate as well as the project assessment process. We should not undermine critical legal protections for our most iconic national park, a park with World Heritage listing, without clear evidence of the potential impacts. The 2010-11 Brisbane floods have been cited by the Government as a catalyst for the development of this proposal. However, it is public knowledge that proposals for a dam wall raising have been considered before, and rejected, by State governments. Much the same information was assessed then as has been in the Hawkesbury-Nepean Valley Flood Management Review, but a different outcome was determined. Following the 2010-11 Brisbane floods a commission of inquiry was established. Those floods impacted 78 per cent of Queensland and killed 33 people. That commission of inquiry ran for a year and looked at every detail of the response, planning and infrastructure management.

Proposals like the Warragamba Dam wall increase interact with urban planning, infrastructure management, climate modelling, environmental protection, community preparedness and disaster response. There are complex interests and impacts. The people of New South Wales and the locally impacted community would have been better served by a public, open and transparent major inquiry to better inform the public debate and the debate in this place. We should have those inquiries in advance of a potential future disaster, not after. For that reason, I move:

> That the question be amended by omitting "now read a second time" and inserting instead "referred to Portfolio Committee No. 6 – Environment and Planning for inquiry and report".

As outlined by the Opposition, raising the Warragamba Dam wall will not stop flooding in the Hawkesbury-Nepean Valley. The Government's own reports acknowledge that, as does the Minister's second reading speech. The Government's case is that a temporary inundation of the national park is justified because it will reduce the flood risk and the cost of floods on the Penrith and Richmond-Windsor flood plains. The Government is running a scare campaign about flood risk, linking the proposal to a response to the catastrophic 2010-11 Brisbane floods. But the Minister's own speech readily recognises that no dam wall increase will stop the worst floods. It may give a little more time for evacuation, but that ultimately depends on where in the catchment the water falls. Approximately half the waters reaching the Hawkesbury-Nepean during a flood event come from sources outside the Warragamba Dam catchment, and that will not be changed by raising the dam wall.

The Government also tries to make the case that flood risk will worsen as a result of climate change. I do not contest this point at all. The science shows that floods and drought are likely to become more extreme as a result of global warming. But the community will find it an exercise of gross hypocrisy for this Government to cite climate change as a justification. This is a Government that allows coalmining and coal exports to be expanded, worsening the risk of climate change. It has no credibility whatsoever when it comes to climate change action. Its own Climate Change Fund is underspent by around $400 million and its climate action plan is now 18 months late. Those opposite have shown themselves to be incapable of putting in place a credible climate response. Allowing critical carbon stores in our wilderness areas to be undermined just shows they do not get climate change, how to mitigate the risk or how to prepare communities for its impacts.

Climate change is also directly linked to the current drought and record low inflows into Sydney's catchments, but the Coalition has presided over falling water efficiency since it came to government in 2011. Water efficiency, recycling and stormwater re-use could make a big difference to water use across the city and

would support alternative flood management options, especially the option to operate the dam at a lower full supply level. But all those options have been largely swept aside in this process. Doing the easy, cheaper and more sustainable is pushed aside while the Government focuses on the bigger and more—bigger and more that supports property development interests at the expense of a more sustainable and resilient Sydney Basin.

The Government cannot have it both ways. It cannot talk in the media about the lives and billions of dollars of property at risk from a major flood when the proposal clearly will have little effect in preventing the impact of a major or catastrophic flood. My understanding is that in the event of a worst-case flood, the dam wall raising will reduce likely flood levels by a very small margin—possibly as little as 20 centimetres. The difference is not much more than the height of a standard gutter. The Government's own evidence and words in this place show that the critical infrastructure needed to reduce flood risk is to improve evacuation routes for local residents. Delaying floodwaters with extra airspace in the dam does not remove this need and the prolonged flooding that would likely occur as a result of the slow release of the massive additional capacity held back in a dam with an increased wall makes improving this road infrastructure all the more important. But that has not been prioritised.

None of this addresses the fact that these areas are flood-risk areas and that will not change. Urban expansion in these areas, with more planned, only serves to increase the number of people and the value of property exposed to future flood risk. Much of the Penrith, Richmond and Windsor communities are built on a flood plain and the Government is encouraging further urban development in those areas. We need to work out how to better protect property and people already living on the flood plain, while avoiding putting more homes in harm's way and also protecting thousands of hectares of Blue Mountains World Heritage listed area. Only a more detailed public inquiry will build the social licence needed to inform future urban planning, flood management and water supply.

We should be fully investigating a range of alternatives that can genuinely reduce the flood risk, including more urgent investment in emergency evacuation routes, flood mapping, monitoring and warning systems, better planning rules and community flood protection plans similar to those in place across the State in bushfire-prone areas. Allowing more homes to be built on the flood plain is not a responsible course of action, but that is what this Government plans. Raising the dam wall will provide a false sense of security. If you are serious about reducing the flood risk to lives and property, you have to oppose building additional homes on the flood plain.

One issue that has had little public discussion as part of the Government's plans for the flood plain is the risk of the loss of important urban food-growing land for more urban development. The Hawkesbury flood plain is the food bowl for Sydney. We should protect these important food-growing lands and ensure the Hawkesbury is a healthy river system that can support the city's growing food needs. Farmers on the flood plain and prawn fishers in the Hawkesbury estuary rely on water quality to support those critical businesses. There are already between only 2 per cent and 3 per cent of natural water flows in the Hawkesbury River, which has significant impacts on water quality in the river and the estuary. Raising the dam wall will only further reduce natural flows that are essential for river and estuary health and for ensuring good water quality to support irrigation and fisheries.

There are alternatives to raising the dam wall but there is no replacing the magnificent wild rivers and World Heritage listed Blue Mountains National Park, which would be damaged by inundation—even if only temporarily. The New South Wales Government needs a comprehensive plan for diversifying Sydney's water supply and decreasing its reliance on the Warragamba Dam. A full range of alternatives should be fully examined. The New South Wales Government can safely separate the current dam at a lower level to ensure there is sufficient airspace to manage floods. A combination of water efficiency programs, harvesting stormwater across the city and improving recycling can dramatically decrease water storage needs. The desalination plant—now that it has been built—offers supplementary backup, if needed.

I accept that many of the issues I have raised in my contribution to debate on the second reading are contestable. People have different views about the risks and the options, but something as serious as water supply should not be a political decision. It requires the careful weighing of those issues and the options. That has not been done sufficiently for members of this Parliament to meaningfully debate the issues in full or to vote on condemning areas such as the Blue Mountains, which is on the World Heritage List. A more substantial public inquiry would assist in informing this debate and building a social licence for action.

Over the next two weeks I implore members, particularly members of the Standing Committee on State Development, to consider carefully and fully these issues. We can protect our more precious ecological areas while mitigating flood risk and helping communities to respond to floods. We can protect the food-growing areas of the Hawkesbury flood plain and ensure the health of aquatic environments upstream and downstream. The Greens will not support legislation that condemns our wild rivers such as the Kowmung River in the Blue Mountains, which is on the World Heritage List.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I indicate to Mr Justin Field that I have two concerns about the amendment he has moved. The first is the form in which it has been moved may not achieve what is desired. The other concern is that the House has already resolved that bill be referred to the Standing Committee on State Development for inquiry and report. I am not asking for comment at this stage. I am saying this publicly so all members understand that I have concerns. Speak to the Clerks at the table. When the motion on the second reading is put, I have no doubt that whoever is in the chair will have received advice on what has been sought.

Mr JUSTIN FIELD: My understanding is that because it was not going to go to a vote before it was referred to an inquiry that that question would not be put until that inquiry reported back.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): That may be one of the problems. Speak to the Clerks at the table.

The Hon. PAUL GREEN (16:32): I speak in debate on the Water NSW Amendment (Warragamba Dam) Bill 2018. Warragamba Dam is one of the largest domestic water supply dams in the world. It supplies water to more than five million people living in Sydney and the lower Blue Mountains. The location of the dam was first suggested in 1845. The deep narrow gorge of the Warragamba River at the exit to Burragorang Valley was identified as an ideal place for a dam by Polish explorer Count Paul Strzelecki. Work finally started in 1948 to build a reliable new water supply for Sydney's growing population. Warragamba Dam was a major engineering feat of the mid-twentieth century. It took 12 years and 1,800 workers to build the dam, which opened in 1960. In the late 1980s the dam wall was strengthened and raised by five metres to meet modern dam safety standards. In the early 2000s an auxiliary spillway was built to divert floodwaters around the dam in a rare and extreme flood so as to protect the dam and ensure it remained safe in an extreme flood. A deep water pumping station was established in 2006 to allow water to be accessed lower down in the lake during times of drought.

The bill before the House proposes to raise the dam wall to create "airspace" above the current water level. The airspace can be utilised in times of flood risk by collecting and controlling water flows to ensure that flood risk downstream is slowed, allowing residents additional time to evacuate. The Hawkesbury-Nepean Valley has a significant flood risk. It is considered by the Insurance Council of Australia to be the most flood-exposed area in New South Wales. The risk is due to the natural geography of the area. Five main water sources contribute to the Hawkesbury-Nepean River and those waters have only the narrow Sackville Gorge in which they can flow through. The gorge effectively acts as a plughole and forces water to collect upstream, causing widespread flooding to occur through Western Sydney, including in the townships of Windsor and Richmond. Floodwaters rise quickly and become quite deep.

Since 1961 residents in the Hawkesbury-Nepean Valley have experienced only a one-in-10- or one-in-20-year flood. A one-in-100-year flood has not been experienced by these communities and many fear that such an event is long overdue. Should such an event occur, tens of thousands of residents would have to be evacuated. Realistically, the Bureau of Meteorology is able to give only 15 hours notice of such an event. Many localities need more than 15 hours to evacuate. There could be potential widespread devastation to lives, livestock, businesses and property, with bills for the clean-up and rebuild costing billions of dollars. Those costs include the likely damage to the New South Wales economy. As it was noted in 2013-14, Western Sydney produced an annual gross regional product of $104 billion.

The flood risk has long been an issue of great concern for residents of the Hawkesbury-Nepean district and its neighbours. The process of deciding how to best mitigate the risk has taken many years. Various options have been considered, including a large-scale road package with significant development restrictions costing billions, as well as the option to lower the water level stored in the Warragamba Dam to create the free airspace for a flood. I note Labor's position on the matter. I must articulate my concerns about the growing population. Lessening Sydney's water supply is not a wise approach to take. Many Sydney residents would recall the water restrictions of October 2003, given our experience of drought and what is currently happening throughout our State. If we were to face similar circumstances again I would be interested to know the cost of replacing the water.

The bill removes the requirement for a lease, licence, easement or right of way under the National Parks and Wildlife Act 1974 in respect to the temporary inundation of the national parklands resulting from the Warragamba Dam project. It also establishes that should inundation take place, it is not subject to any plan of management under the National Parks and Wildlife Act 1974. The amendment is not an approval for raising the wall. It simply allows for consultation on the environmental impact statement so that the project can be assessed as required under State and Australian government planning approvals. The amendment will not end the flood risk to the Hawkesbury-Nepean Valley. Rather, it is a key element of the Government's flood management strategy in conjunction with current State and local government planning policies.

The Western Sydney District Plan ensures there is less intense development in areas that are prone to a high risk of flooding, balanced with increased development in areas of lower risk. The Government has indicated its intention to provide a package of smaller scale road upgrades, particularly roads that are often closed during periods of local rainfall. It is intended that those upgrades will improve access to major flood evacuation routes during large-scale flooding as well as providing additional support to local emergency services. I hold concerns for the potential impacts on the environment and heritage areas that would be prone to flood during times that the airspace is utilised. Careful and engaged community consultation must take place, especially with regard to the environmental impact statement, which is to be released for public comment later this year.

Any damage that occurs to the environment due to rising waters within Lake Burragorang is not ideal. However, this must be balanced against the fact that temporary flooding in the lake will provide some additional time for residents to evacuate flood zones, with the ultimate goal of saving lives. Should the airspace be utilised in times of floods I acknowledge that the Minister for the Environment and the Minister with responsibility for the Water NSW Act will be required to review and amend the environmental management plan to ensure that monitoring and rehabilitation works are completed following such floods.

Protection of life is paramount when dealing with any natural disasters. This strategy, once implemented, will save hundreds, if not thousands, of lives. Hindsight is a wonderful thing. We do not want to go through a natural disaster and then think we should have done something different. Countries will always be subjected to catastrophic events. People in the lower Hawkesbury-Nepean region know that flooding occurs in that catchment area and they live with that threat. However, it does not mean we should not do anything. If flooding occurred and thousands of lives were lost the Coroner would not show those who neglected their duties any mercy. That would weigh heavily on those people's minds.

In the past, coroners have shown no mercy when fires have ravaged the State. Pre-emptive action must be taken to ensure that safety measures are implemented. On those occasions the environment comes second as coroners are more concerned about the loss of lives than they are about the loss of trees from fire or water. We must be mindful of this and consult our communities. An inquiry has been established to examine these issues, obtain community feedback and implement safety measures in the event of catastrophic events or one-in-100-year floods. We are making decisions for the good of the people of New South Wales not just the people in the Hawkesbury-Nepean Valley. I commend the bill to the House.

The Hon. PENNY SHARPE (16:42): I do not support the Water NSW Amendment (Warragamba Dam) Bill 2018. The Hon. Paul Green said that hindsight is a wonderful thing, but if we are to be subjected to the threat of flooding in this area of Sydney it would be best to heed the warnings of emergency services and the planning department not to build on the flood plain. The Government's proposal is to enable an additional 134,000 people to live on this flood plain. This bill should be named the "Water NSW Amendment (Warragamba Dam Development in Western Sydney) Bill" as that is what it is about. It is about development at all costs. It is about ill thought-out development on the flood plain. It is about opening up more land for overdevelopment.

Recently the Premier spoke about wanting to put a brake on overdevelopment but she could do that right here and now by saying, "We are not going to open up this flood plain for further development. We are not going to put the lives of 134,000 people in harm's way as a result of flooding." That is the point I want to make before I refer to significant environmental issues. With the Warragamba Dam proposal there is no need for this bill. The Government is preparing an environmental impact statement [EIS]. It could go through the EIS process and if at the conclusion of that process the project stacked up and it was necessary to change the law, as is proposed in this bill, that is something that we could look at. There is no need for the matter to proceed in this way. We must look more closely at the complex issues involving water, population growth and land management in Sydney. That is where all these issues come together.

This is the second of the Government's bills that directly attacks the National Parks and Wildlife Act and undermines land protection that has been put in place at the highest level. The Government states that this land needs to be conserved for the future for a range of reasons—threatened species, water and, increasingly, carbon sequestration. The first bill, the Kosciuszko Wild Horses Heritage Bill 2018, which was introduced by the Deputy Premier and member for Monaro, essentially suspended the National Parks and Wildlife Act to put feral horses at the top of its list of considerations when managing that fragile and important park.

This bill seeks to allow inundation of the World Heritage listed Blue Mountains National Park. If enacted, the bill will amend the Water NSW Act 2014 to allow for the temporary inundation of national park land resulting from the raising of the wall of the Warragamba Dam and the operation of the dam for downstream flood mitigation purposes. This bill gives WaterNSW the power to write a plan of management on how to flood the Blue Mountains World Heritage site. It establishes a dangerous precedent by allowing the State Government to take unilateral action that could damage national parks, World Heritage areas, wilderness areas and other high conservation areas.

A World Heritage listing is not to be taken lightly. An area does not easily achieve World Heritage status. In New South Wales nine places have been given World Heritage listing. A World Heritage listing means it is recognised around the world that an area has such outstanding universal values that its conservation is important for current and future generations. People want governments to be forward thinking and looking to the future. A World Heritage listing tries to achieve that by saying that the highest level of protection must be given to these lands to protect wildlife, flora, water and wilderness, and to provide some worthy places on the planet.

In New South Wales only nine areas have World Heritage status. A number of areas recognise our convict heritage—Cockatoo Island, Hyde Park Barracks, Old Government House, the Old Great Northern Road, Lord Howe Island and the Sydney Opera House. Three natural areas have been given World Heritage status—the Gondwana Rainforests, a stretch of rainforest in the north of the State; the Willandra Lakes region; and the Greater Blue Mountains National Park. It took a long time to obtain World Heritage listing for the Blue Mountains National Park, which has important environmental values that are worthy not only to the people of New South Wales but also to the entire planet.

With the stroke of a pen the Government said, "It is okay. We will flood that park," which should make members in this Chamber pause, in particular, Government members, who in the past cared deeply about the National Parks and Wildlife Service, about land protection and about the environment. Unfortunately only a few Government members care about these issues. If this bill is passed the Blue Mountains National Park World Heritage status could be lost. What we are doing is contrary to the World Heritage Convention, which I will put on the record. Section 96 of the World Heritage Convention states: Protection and management of World Heritage properties should ensure that their Outstanding Universal Value, including the conditions of integrity and/or authenticity at the time of inscription, are sustained or enhanced over time ...

Drowning the national park does not do that. Section 97 provides:

> All properties inscribed on the World Heritage List must have adequate long-term legislative, regulatory, institutional and/or traditional protection and management to ensure their safeguarding.

This bill does not safeguard them at all. Section 98 of the guidelines provides:

> Legislative and regulatory measures at national and local levels should assure the protection of the property from social, economic and other pressures or changes that might negatively impact the Outstanding Universal Value, including the integrity and/or authenticity of the property.

If we allow the inundation of the area we will negatively impact its outstanding universal value. Some very important threatened species live in the national park. Members who spent time at the recent budget estimates hearing will know that I questioned the Minister for the Environment about the regent honeyeater. She was unable to recognise it. I do not expect the Minister to be able to name every endangered bird, but there are only around 400 regent honeyeaters left on the planet and a significant population has been found within the Warragamba Special Area. In recent times, under the current Minister, the Office of Environment and Heritage basically told WaterNSW that it knows that the birds are there but it does not want any further studies done because it is about to drown all of their habitat. That is what are talking about here.

Importantly, other threatened species that we could lose if this bill is passed include gang-gang cockatoos, little lorikeets and glossy black cockatoos. We could also lose populations of Camden white gum, Kowmung hakea, Kanangra wattle and few-seeded bossiaea. The reality is that we have choices. If we are not prepared to respect World Heritage listing and do everything in our power to protect our national parks we should just pick up and go home. If this bill is passed it will mean that national parks and World Heritage listings count for nothing in this State. That is not a State we want to live in.

I have met with traditional owners from the Gundungurra Tribal Council Aboriginal Corporation and been to the special catchment area. I was fortunate to be taken there by WaterNSW and to see what the impact of ongoing flooding could be. I have stood with traditional owners as they have pointed out areas that are still not mapped properly and are sacred to them and a part of their stories. Areas for women's business and for men's business will simply be flooded and destroyed forever. We must not forget that those traditional owners lost much of their cultural heritage when the original dam was put in place. There are still outstanding issues relating to compensation for them.

The Hon. Rick Colless: You drink the water from the dam.

The Hon. PENNY SHARPE: I know I drink the water from Warragamba Dam. I have no problem with that. But if we are as serious about Aboriginal heritage as we claim to be—and I note again that this Government is yet to bring forward its much-promised Aboriginal cultural heritage bill—we cannot ignore the voices of first nations people, particularly the Gundungurra. I recognise Aunty Sharon Brown and thank her for taking the time

to show me around the area and discuss the impacts. We have to be serious about this and understand that flooding will destroy those areas forever.

We also need to address two key issues beyond the environment. I have already talked about development. If the Government is serious about avoiding overdevelopment, an easy way for it to slow things down is to say that we will not build on flood plains where people's homes and lives are put at risk. But that is not what the Government is proposing. I recommend the work of Associate Professor Jamie Pittock from the Fenner School of Environment and Society at the Australian National University. He has written a fantastic paper that I am sure the committee will examine during its inquiry. He says the following about flood risk in the Hawkesbury-Nepean flood plain:

> Flood risk has been exacerbated by local councils and the NSW Government approving housing developments on low lying lands over several decades.

This is not about this Government or the last Government. We have all allowed the development to happen. We should press pause on it before we double the amount of housing on the flood plain. It is time to say no. Associate Professor Pittock continues:

> Unfortunately, flood risk is likely to worsen given NSW Government plans to dramatically expand the number of people living on the floodplain in north-west Sydney, combined with increased frequency of severe storm events due to climate change.

The professor is very critical of the way in which the Government has responded. Again, we have talked about the complexity of this; I do not think anyone is underestimating its seriousness. This is about life, housing and the way in which we provide water to our growing city. The problem is that in its response the Government has put forward only one solution, and that is the raising of the Warragamba Dam wall. Associate Professor Pittock says:

> The strategy discards a number of response options before focusing on a proposal to spend $690 million to raise Warragamba Dam wall by 14 metres ... This proposal would result in flooding of up to 4,700 hectares of the Blue Mountains National Parks and World Heritage Area, including 65 km of wilderness watercourses, populations of 48 threatened species, as well as numerous sites of cultural significance ...

The Government has not looked at the cost of road damage and flood damage. It has not looked at other evacuation routes or the upgrading of other roads that could make a difference and allow the national park not to be ruined. And for all of the justification by the Government, Jamie Pittock makes the following killer point:

> Importantly, no configuration of Warragamba Dam will prevent flooding in the Hawkesbury-Nepean Valley ... An average of 45% of floodwaters originate from catchment areas that are not upstream of Warragamba Dam ... This means that even if a raised Warragamba Dam was to hold back some flood waters, other catchments could still cause significant flooding in the valley. In fact, flood waters from the Grose River alone can cause moderate to major flooding of Richmond in the lower Hawkesbury.

After all the discussion, the Government is not prepared to look at the alternatives and its proposal will not fix the problem it says it will fix. This bill should not be supported. It is unnecessary because a process is currently underway and the environmental impact assessment can proceed without a need to change the law. The Government should have to show that the project stacks up before we move to abandon our protection of a World Heritage area. The bill should not proceed because it will not deal with the flooding it attempts to address. Instead, the Government is hiding behind its agenda for massive development on a flood plain that all experts continue to say we should not develop and that agencies and several governments have resisted for many years.

For reasons that we can only speculate on, this Government—which is addicted to development wherever it can put it—is looking to put more people in harm's way on flood-prone land that people would not be allowed to build on in most places in the world. We need to remember the member for Penrith standing up at the Penrith Lakes development and saying, "Here you go: housing as far as the eye can see." There is a video of it. He was standing next to a flood gauge at the time because he was in the middle of a flood plain. This is not about flood protection; it is about putting more people in harm's way.

My final point is an environmental one. What is the use of having World Heritage listed areas or of saying that we have places of universal value to people not only in Sydney but also across the planet? There are 48 species living in the area that are not found anywhere else. People before us from both sides of politics supported the listing of the national park as a World Heritage area. One of our most visited tourist sites is right on our doorstep. We are lucky to have a wilderness area within a day's reach of Sydney.

The idea that we simply say, "We need to build a few more houses. We need to cram a few more people in. It's okay. We're going to flood it and we're going to ruin it", should give great pause for thought for anyone who is looking at the highest levels of land protection and understanding the pressures of population. That is not going to go away or get better. We have to draw some lines in the sand somewhere and surely that is a World Heritage protected national park. I make a plea for the First Nation Gundungurra people. They are not asking for much; they are asking for us to recognise their special cultural history—a history that has been taken away in more ways than we care to talk about or even acknowledge. This flooding should not be allowed to happen without

a full understanding of the heritage and the importance of the stories of the area and what will be lost. I cannot emphasise enough that Labor opposes this bill. I urge other members who have pause for thought to do the same.

The Hon. Dr PETER PHELPS (17:00): Listening to The Greens and the Labor Party one would think that the Water NSW Amendment (Warragamba Dam) Bill 2018 is about the Liberal Party and The Nationals wrecking the environment, when what we are doing, in reality, is protecting people's lives. It may well be the case that the inner city bourgeois left do not care for the people who live west of Strathfield but, unfortunately for them, the Liberal Party and The Nationals do. These are the people who complain about protecting the safety and security of people's homes from floodwaters on rare, large-scale flood events. But that does not seem to concern them; all they are concerned about is being able to walk through national parks and pop in to Katoomba to have their soy latte macchiato—fair trade or whatever it is—with complete disrespect for the people of Western Sydney.

Mr Justin Field: Point of order: The member is misleading the House. Many Greens drink chai lattes.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): That is trivialising the debate. I ask the member not to make—

Mr Justin Field: I agree.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): Order! The member will not argue with the Chair. This is a serious issue. The bill is going to a committee. The Hon. Dr Peter Phelps has the call. If members take more trivial points of order, I will call them to order. I think the member might be on a call.

The Hon. Dr PETER PHELPS: The Hon. Penny Sharpe spoke about not building homes in Western Sydney. My question to her is: Where shall we put these homes? Presumably she is one of the inner city bourgeois left elitists who refuse to see their pretty Victorian terraces knocked down to allow for higher and medium density housing.

The Hon. Shaoquett Moselmane: Point of order: The former Government Whip knows full well that he ought to make reference to members by their full title.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): I uphold the point of order. The Hon. Dr Peter Phelps will refer to members by their correct name and not cast aspersions.

The Hon. Dr PETER PHELPS: Thank you very much, Mr Deputy President. The previous speaker indicated that she opposed additional housing in Western Sydney and presumably she will be strongly supporting calls for the knocking down of redundant Victorian terrace buildings in Newtown, Marrickville and Erskineville and their replacement with medium- and high-density housing. She would not want to be accused of hypocrisy by saying, "No, we can't build homes in Western Sydney. Come to where I live and build homes for people there." She would not want be to accused of hypocrisy, so presumably that is what she supports. I look forward to the Labor left moving in that direction.

Opposition members seem to have forgotten that this is about a temporary inundation taking place on a highly unusual and irregular schedule within the Blue Mountains. This is not about a permanent inundation but a temporary inundation caused by a particularly large-scale event. It is not about the destruction of large tracts of wilderness, it is not about the inundation of large amounts of land—it is a measure designed to have temporary inundations. I say to the honourable member: If she is so concerned about the heritage values of the Blue Mountains and the national park in that area, why did the previous Labor Government increase the capacity of the dam?

If the Labor Party was so concerned about the heritage values and the Indigenous inhabitants who had prior ownership there, and if it was so concerned about the pristine values of this area, why did it increase the dam capacity in 2006? It was not for temporary inundations but for the permanent inundation of that catchment area. Where was the Labor Party then? As a matter of fact, it was in government. It allowed for the permanent inundation, the increase of capacity by 200,000 megalitres. There were no concerns about the heritage values then. There were no concerns about the original inhabitants then. There were no concerns about the loss of species and the diversity of species in the area. Why? Because Labor Party members are nothing but rank hypocrites.

I am not an expert on water matters, but Dr Stuart Khan of the University of New South Wales is. I refer members to what he said in his submission to the Standing Committee on State Development, which was looking into water catchment areas in 2012 and 2013. This is what he said about Lake Burragorang, Warragamba Dam:

> Not all water supply reservoirs are operated with a flood mitigation capacity.

Clearly, Dr Khan is interested in having reservoirs that have flood mitigation capacities. He continued:

> Despite being one of the largest water storages in the world, Lake Burrogorang (Warragamba Dam) is one such example.

That is a water supply reservoir that is not operating with a flood mitigation capacity. He continued:

> The full operating storage of Lake Burrogorang is 2027 gigalitres. Lake Burrogorang has been subject to some very large and sudden inflows, such as that which caused the very sharp increase in storage in July 1998 (see Figure 2). In the lead-up to that event, storage levels were relatively low and sufficient additional capacity was available to prevent a very large flood from occurring in Western Sydney (though major flooding occurred in Wollongong, which was much less protected). Water that is released from (or breaches) Warragamba Dam flows a short distance down the Warragamba River before joining the Hawkesbury-Nepean River. The largest Hawkesbury-Nepean flood on record occurred in June 1867, in which flood waters reached approximately 12 metres higher than the deck of the present-day Windsor Bridge.

I will repeat that: 12 metres higher than the deck of the present-day Windsor Bridge. That is the sort of flood that has nothing to do with any potential future developments in the flood plains of Western Sydney. That is a flood that would take out square kilometres of Western Sydney. Dr Khan continued:

> The NSW State Emergency Service maintains maps of areas that were inundated by the 1867 flood. The impact of the 1867 flood and of a "probable maximum flood" have been described by Gillespie *et al* (2002).

Dr Khan then quoted Gillespie:

> [In 1867], floodwaters reached 19.2m Australian Height Datum (AHD) in Windsor—three metres higher than the majority of development there today and two metres higher than the current flood planning level of 17.3m AHD . The probable maximum flood (PMF) will reach to 28.9m AHD or 11 metres above the planning level in Windsor (Figure provided). Even with the new Warragamba Dam spillway, a PMF will reach 26.4m AHD. Detailed estimates provided by Sydney Water shows that the PMF could cover an area of 300 km^2—completely inundating Richmond, Windsor, McGraths Hill and partially flooding Penrith, Emu Plains and Riverstone. Such a flood or smaller ones would cause untold devastation and potentially significant loss of life.

Dr Khan continued: If the inflow event of July 1998 was repeated today there would be no capacity to hold back any additional water. The approximately 1,000 gigalitres of water that were captured in 1998 would instead overflow down the Warragamba spillway in 2012. This is almost twice the volume of water contained in Sydney Harbour.

A 1998 event would result in a flow of water twice that of Sydney Harbour. These people opposite tell us that we do not need an emergency capacity, a temporary inundation capacity, that will allow us to mitigate that.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): Order! Mr Justin Field was basically heard in silence. The Hon. Dr Peter Phelps did interject but by and large restrained himself during the member's contribution. Members will be heard in silence. Members who continue to interject will be placed on calls to order.

The Hon. Dr PETER PHELPS: These people opposite—

Mr Jeremy Buckingham: Point of order: The Hon. Dr Peter Phelps keeps referring to members on this side of the Chamber as "these people" in a pejorative way. The members on this side of the Chamber should be addressed in an appropriate form, rather than as "these people".

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): There is no point of order.

The Hon. Dr PETER PHELPS: These people opposite claim to be friends of the workers. They claim to be friends of Western Sydney.

Mr Jeremy Buckingham: Hear, hear! That is right.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): I remind Mr Jeremy Buckingham that he is on one call to order. If he continues to interject he will be placed on two calls to order.

The Hon. Dr PETER PHELPS: They are not. The Hon. Penny Sharpe said that if the dam wall was to be raised and an inundation event was to take place then 4,700 hectares could potentially be inundated. Compare that to 300 square kilometres—yet these people opposite say that they care about Western Sydney.

The Hon. Penny Sharpe: That is great, except your solution is not going to work.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): I remind the Hon. Penny Sharpe that she is on two calls to order.

The Hon. Dr PETER PHELPS: They do not care about Western Sydney. They do not care about anything except trying to win extreme Green votes in the seat of the Blue Mountains and trying to suck up to their own constituencies in the inner suburbs of Sydney—areas that will never see floods or the sort of devastation that they are happy to foist upon the ordinary, hardworking community of Western Sydney. They are a disgrace and they should never be anywhere near government again. I commend the bill to the House.

Ms CATE FAEHRMANN (17:11): I speak against the Water NSW Amendment (Warragamba Dam) Bill 2018. The Greens oppose this bill. My colleague Mr Justin Field eloquently outlined many of the reasons for that opposition. In this contribution I will address particular concerns relating to the impact on the World Heritage

values in the Blue Mountains World Heritage area, the many threatened species found in the areas that will be subject to inundation and Aboriginal heritage. Before doing so, I ask why the issue of raising the Warragamba Dam wall has reared its ugly head again. I note that previous speakers referred to this.

We are here today because of a plan to allow developers to accommodate 130,000 more people on a flood plain, despite there still being a risk to those people who live on that flood plain. This Government is continuing to allow more development on a flood plain that has been billed as "the most flood exposed area in New South Wales, if not Australia". That quote was taken from the Government's briefing paper on this bill. In the September 2018 Community Update of WaterNSW on the Warragamba Dam raising proposal, under the heading "What we have heard so far" the question was asked, "If the Dam is raised, won't this encourage increased development in flood prone areas of Western Sydney?" Part of the response to that question, which is disingenuous at best, states:

> A new Regional Land Use Planning Framework is being developed to ensure flood risk is not increased by limiting new growth to those areas where people can be safely evacuated in a severe flood.

This bill provides the legislative framework for the Warragamba Dam wall. The Government wants to raise the wall so that we can pack more people into flood-prone areas of Western Sydney—which is exactly why we are here today—but it will not make those areas flood proof. The only way to stop people's houses from being flooded is to not build on the flood plain.

I note the Hawkesbury-Nepean Valley Flood Risk Management Strategy states that flood hazard may increase in the future as a result of climate change. There is no "may" about it. We are seeing flood risk already increase as a result of climate change. As I have mentioned, the Government could play its part in helping mitigate against increased severity and frequency of floods by not building in flood-prone areas, as well as by recognising the huge contribution it makes in the way of carbon emissions. A rapid transition away from coal and gas must be part of any long-term natural disaster risk management strategy, yet this Government is living with the dinosaurs and beholden to the mining industry.

The bill allows for WaterNSW to override the National Parks and Wildlife Act in relation to the temporary inundation of national park land. It also requires the environment Minister to approve an environmental management plan prepared by WaterNSW, with the concurrence of the water Minister. The wording of the second reading speech suggests that the purpose of this bill is to "overcome a technical barrier that exists at present under the National Parks and Wildlife Act 1974 to the proposal to raise the Warragamba Dam wall". The wording "technical barrier" is interesting. It is more than a technical barrier. In fact, it was a very deliberate insertion into the National Parks and Wildlife Act by people in this very place to ensure the integrity of the special areas that protect Sydney's drinking water was maintained. The "technical barrier" referred to by Minister Blair is that the National Parks and Wildlife Act prevents the Minister for the Environment granting any lease or easement on national park land that would enable the impoundment of water, even if that impoundment is temporary.

In 2001 the National Parks and Wildlife Act was successfully amended with the National Parks and Wildlife Amendment (Transfer of Special Areas) Bill 2001. Large tracts of land surrounding the water storages were given over to the National Parks and Wildlife Service from the Sydney Catchment Authority. That was a result of recommendations stemming from the inquiry into the contamination of Sydney's drinking water, which was held in 1998 and overseen by Peter McClellan, QC, after cryptosporidium and giardia were found in the system. One of the recommendations was for special areas surrounding water storages to be declared national parks or nature reserves under the management of the National Parks and Wildlife Service, both for water quality and to protect the ecological integrity of these areas.

During the debate on the National Parks and Wildlife Amendment (Transfer of Special Areas) Bill 2001, the Hon. Richard Jones—a wonderful guy who now lives on the North Coast making delightful pottery—expressed the concern of environment groups at the time that the bill could allow for "leases, licences, easements or rights of way to be granted for purposes that could have significant detrimental impact on the values of national parks and other reserves in special areas—for example, new or raised dams, major infrastructure or groundwater extraction". The Hon. Richard Jones moved an amendment to guard against this. That amendment was supported by the Labor Government—at the time Bob Debus was the environment Minister—and by the Opposition. That is what the Government is attempting to overturn today.

There has been an obsession with raising the wall of the Warragamba Dam for some time. In 1993 the Greiner-Fahey Government wanted to do so—namely, to raise the wall by 23 metres and to flood areas for up to 30 days—but it was defeated in 1995 after a huge community backlash. The Carr Government then approved construction of a large spillway beside the dam, which was completed in 2002, to protect it from major floods. In 2012, Infrastructure NSW again recommended raising the dam wall. That report was overseen by chief executive officer and former Sydney Water head Paul Broad and none other than former Premier and chairperson of

Infrastructure NSW Nick Greiner. It really is worth asking whether this is unfinished business for Nick Greiner. I think Keith Muir from the Colong Foundation for Wilderness has also asked the question.

The Hon. Rick Colless: It is a conspiracy.

Ms CATE FAEHRMANN: It probably is a conspiracy. It was a contamination scare that led this place 17 years ago to recognise the importance of protecting the natural areas surrounding our drinking water catchments. Flooding, even if it is temporary, will wreck the areas that directly feed into the Burragorang Lake and muddy sediment will give way to exotic species. That is not the way to protect a water catchment for Sydney. The Government has stressed that this amendment is not an approval and that environmental impact statements and planning approvals from the State and Federal government are still required. The community campaign on this issue will be massive, so it will be interesting to see how far those planning approvals go. We are hearing that the Hawkesbury-Nepean Valley is changing from a semirural landscape to an urbanised flood plain. Up to 134,000 people live and work on the flood plain and could require evacuation.

As we have heard, this number is set to double in the next 30 years. Why is it set to double and why is the Government approving development in the flood plain? When it comes to the environment, to World Heritage listings, to Aboriginal heritage, the Government places no value on these whatsoever. The Government only compares the savings of a few hundred million or one billion dollars with nothing lost. But the values we lose are enormous. The project has been declared a controlled action under the Australian Government's Environment Protection and Biodiversity Conservation Act 1999 due to the likely impact on matters of national environmental significance including World Heritage properties, the Greater Blue Mountains World Heritage Area and national heritage place; national heritage places; and listed threatened species and communities. The project has been declared to likely impact the World Heritage areas of the Blue Mountains. That is an understatement. The UNESCO World Heritage Centre describes "World Heritage" as:

> The designation for places on Earth that are of outstanding universal value to humanity and as such, have been inscribed on the World Heritage List to be protected for future generations to appreciate and enjoy. Places as diverse and unique as the Pyramids of Egypt, the Great Barrier Reef in Australia, Galapagos Islands in Ecuador, the Taj Mahal in India, the Grand Canyon in the USA, or the Acropolis in Greece are examples of the 1007 natural and cultural places inscribed on the World Heritage List to date.

The Greater Blue Mountains was announced as Australia's fourteenth World Heritage area on 29 November 2000. The National Parks Association of NSW and the Colong Foundation for Wilderness have warned of the risks to the Blue Mountains World Heritage Area listing if this dam goes ahead. The Greater Blue Mountains area covers the largest intact forest landscape on the Australian mainland, with one million hectares of vast, ancient and spectacular national park and wilderness. More than 400 animal species inhabit the region, including rare species such as the spotted-tailed quoll and the long-nosed potoroo.

The Greater Blue Mountains Area provides an exceptional illustration of the taxonomic, physiognomic and ecological diversity that eucalypts have developed. Ongoing research continues to reveal the rich scientific value of the area as more species are discovered. More than 400 animal species are found in the Blue Mountains World Heritage Area. They include wonderful animal species such as the spotted-tailed quoll, the koala, yellow-bellied glider, long-nosed potoroo, the green and golden bell frog, Blue Mountains water skink and the regent honeyeater.

The Hon. Matthew Mason-Cox: The honeyeater.

Ms CATE FAEHRMANN: I will speak more about the regent honeyeater in a minute. Raising Warragamba Dam will inundate 65 kilometres of Blue Mountains' wilderness rivers and streams that supply Sydney with clean drinking water and will drown 4,700 hectares of World Heritage listed national parks. The lower Kowmung, Coxs, Natti, Keduma, Wollondilly and Little rivers would all be drowned underneath sediment-rich dam waters, killing hundreds of native plants and animals living in the World Heritage valleys. The regent honeyeater, as I have mentioned, is estimated to have a population of as few as 200 individuals left in the wild, possibly up to 400 or 500.

The Hon. Rick Colless: In that area or all around?

Ms CATE FAEHRMANN: No, across the entire country. It is listed as critically endangered under the Federal Government's Environment Protection and Biodiversity Conservation Act and critically endangered under the New South Wales Threatened Species Conservation Act. The proposed flooding would destroy critical habitat for the regent honeyeater. Research lead by Dr Ross Crates from the Australian National University found 21 birds and seven nests in the area late last year. The research also shows that only one in three regent honeyeater nests are currently successful in producing fledglings. Already one in six regent honeyeater males are unable to find a mate, meaning these birds call nonstop for a partner with no hope of getting a response or being able to breed young of their own.

On 3 September this year ABC Radio's *AM* program ran a story on the plight of the regent honeyeater and the potential impact of the raising of the dam wall on its survival. It reported that the ecological consultants tasked with undertaking surveys in the project area found 36 regent honeyeaters and four nests, and that more studies were needed to understand the impacts of the dam raising on this critically endangered bird. This topic was also raised by the Hon. Penny Sharpe.

Despite this clear warning from ecologists for more surveys, leaked emails show that the Office of Environment and Heritage [OEH] told WaterNSW that an adequate survey has been undertaken for regent honeyeater and that there is no need to conduct a further survey. Why would the OEH refuse to undertake further surveys of a critically endangered species as recommended by an expert ecologist in order to find out how at risk it may be from a potential project? As the department with responsibility for ensuring the survival of threatened species, it is little wonder the community's faith in the OEH and its Minister is at rock bottom. I think Minister Gabrielle Upton was given either an F minus or an F for her performance on the environment to date.

According to wildlife consultant Dr Martin Schultz, in order to properly track the population of regent honeyeaters in the proposed flood zone, surveys need to be undertaken over a number of years. Typically the regent honeyeater nests between one to 20 metres off the ground in horizontal forks of eucalypt trees, as well as in thickets of mistletoe. The effects of flooding an additional 14 vertical metres of the valley will have unknown consequences for birds that are nesting there.

There are only a handful of breeding locations for this bird and we need to be extremely cautious about doing anything that could further diminish its ability to survive in the wild. When an animal is critically endangered, every single animal and every single breeding site is significant to the ongoing survival of the species. A breeding program at Taronga Zoo has shown great potential for release programs, with several generations of captivity not having any significant impact on natural behaviours after release back into the wild for regent honeyeaters.

The Hon. Dr Peter Phelps: I thought The Greens hated zoos.

Ms CATE FAEHRMANN: These programs are entirely dependent on having safe and appropriate environments into which to release the birds. I advise the Hon. Dr Peter Phelps that zoos do very good work in respect of protecting some species that are at the brink of extinction. This makes the preservation of one of the few known breeding places even more vital as a way of guarding against total extinction of these birds in the wild. The raising of the Warragamba Dam by 14 metres could also have a disastrous effect on the largest remaining population of Camden white gum forests, which are listed as vulnerable under the Environment Protection and Biodiversity Conservation Act 1999, and which grow almost exclusively in the Kedumba Valley.

With roughly 10,000 of these trees contained within this relatively flat valley, regular inundation by floodwaters could potentially be the end of the largest wild population of this species. Flooding will change the alluvial content of the proposed flood plain in the Kedumba Valley and fundamentally change the ecology of the entire valley. It will open up room for invasive species making the re-introduction of Camden white gum or other native species practically impossible.

Changing soil conditions and flooding of lands used for burrowing would also impact the common wombat. A protected species in New South Wales, the common wombat is sadly no longer as common as the name would suggest. Populations around Lake Burragorang are particularly vulnerable as the soft sandy soil needed for their natural activities has already been reduced drastically by the current flooding of Burragorang Valley.

The proposed raising of the Warragamba Dam wall also puts hundreds of sacred and historical sites of the Gundungurra people at risk of inundation for up to two weeks. Burragorang is an Aboriginal word meaning "home or place of the giant kangaroo". When Aboriginal people were forcefully moved off their land in the 1950s for the initial flooding of Burragorang Valley, they lost about 80 per cent of their culturally significant sacred sites. The Gundungurra Aboriginal Heritage Association is so concerned at the risk posed by the raising of the Warragamba Dam wall it has lodged an application with the OEH to have the Burragorang Valley declared a New South Wales Aboriginal Place.

The Gundungurra people have lived in the Burragorang Valley for 40,000 years, and have been mapping it for the past 12 years to record its cultural heritage. Association secretary and Gundungurra Elder Aunty Sharyn Halls told the Sydney Morning Herald earlier this year:

> Our creation story will be impacted completely by the [Warragamba Dam] proposal so we had to take steps to get extra protection of our story.

The Greens have concerns about reports of quick and dirty surveys of the areas proposed to be flooded. Reports are that the archaeological and cultural heritage surveys took place over just 25 days, yet Lake Burragorang has a

foreshore of 354 kilometres. For instance, the Burragorang Valley is home to the only waratah cave art anywhere in the country. Surely we should be finding other options for flood mitigation to protect the only rock art of its kind, which is such an integral part of the Gundungurra Dreamtime story.

Kazan Brown is a Gundungurra person from the Burragorang Valley and believes there are likely more sites throughout the valley which remain unknown to her people because much of their traditional land remains closed to the public, including the traditional custodians. The environmental management plan will need to address all matters specified by the Minister for the Environment, such as any rehabilitation or remediation work. I question how rock art on sandstone would survive flood inundation and how it would be remediated.

If the Government had any interest in recognising and preserving these sacred sites and objects it would not be proposing to raise the Warragamba Dam wall by 14 metres. But, as I said previously, the Government is choosing the cheapest option and it is clear that it could not care less about the impacts. What price does the Government place on obliterating the only rock art of its kind in the country? The stories of land and identity told by the current custodians of Burragorang Valley to their children are already filled with loss and dispossession. We should not be adding to this loss by depriving future generations of the precious few sites that still remain. It is too high a price to pay.

What price does the Government place on wiping out a species of bird that has lived on this Earth for probably tens of millions of years longer than we have, or an entire ecological community? It seems none. It is truly shameful and I hope members opposite will one day be questioned by their grandchildren as to what they did to prevent the extinction of some of Australia's most iconic plants and animals. And what price does the Government place on wiping out World Heritage values and risking the ecological integrity of areas designed to protect our water catchments? Absolutely none.

We stand with the Colong Foundation for Wilderness, the National Parks Association of NSW, the Nature Conservation Council of NSW, the Blue Mountains Conservation Society, STEP and many other environment groups and members of the community in opposing this bill and opposing this project. We are with them in the campaign to once again protect the Blue Mountains World Heritage area and to prevent the raising of the Warragamba Dam wall.

The Hon. WALT SECORD (17:30): As Deputy Leader of the Opposition and shadow Minister for the North Coast, I make a brief contribution to the debate on the Water NSW Amendment (Warragamba Dam) Bill 2018. I will speak to the general principles of the bill and to the general approach of the Government, which have the community concerned. The long title of the bill is "An Act to amend the *Water NSW Act 2014* to make provision with respect to the temporary inundation of national park land resulting from the raising of the wall of Warragamba Dam and the operation of the dam for downstream flood mitigation purposes". The object of the bill is to amend the Water NSW Act 2014 to provide:

> (a) That a lease, licence, easement or right of way under the *National Parks and Wildlife Act 1974* (the ***NPW Act***) is not required for or in respect of the temporary inundation of national park land resulting from the Warragamba Dam project, and
>
> (b) That the temporary inundation of national park land resulting from the Warragamba Dam project is not subject to any plan of management under the NPW Act.

The bill states:

> The relevant provisions will apply in relation to the temporary inundation of national park land resulting from the Warragamba Dam project only if an environmental management plan, prepared by Water NSW and approved by the Minister administering the NPW Act with the concurrence of the Minister administering the principal Act, is in force.
>
> The ***Warragamba Dam project*** is defined as development that is approved under the Environmental Planning and Assessment Act 1979 to raise the wall of Warragamba Dam …

Labor's water spokesperson, Chris Minns, and Labor's environment spokesperson, Penny Sharpe, have publicly indicated that we will oppose the bill. The Government claims that the purpose of the bill appears to be straightforward, but, like so many things involving this Government, it is not what it seems.

The Hon. Dr Peter Phelps: Conspiracy, is it?

The Hon. WALT SECORD: Yes. We are together in conspiracies, Peter. You see them, I see them. We are on a unity ticket, the Hon. Dr Peter Phelps, on conspiracies, and there is a conspiracy behind this bill.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): The member will direct his comments through the chair.

The Hon. WALT SECORD: The bill is about raising the wall of Warragamba Dam by 14 metres, but there is another side to this bill, another agenda. It is an example of the wrong priorities on infrastructure. The Berejiklian Government claims that it is part of a flood mitigation strategy. However, there are significant

environmental impacts as well as economic impacts. I have been advised that the cost of the proposal is estimated to be between $700 million and $1 billion. That is the equivalent of about $270 per household. The sinister underside of this bill is that increasing the height of the wall by 14 metres will see a corresponding increase in the size and scale of development—raise the dam wall then raise development in the Hawkesbury-Nepean Valley.

I understand that the scope and size of the dam will be equivalent to two Sydney Harbours and will submerge 65 kilometres of World Heritage-protected national park. It will affect wilderness areas and thousands of hectares of pristine national park. But back to the sinister underside or the real agenda behind this—

The Hon. Dr Peter Phelps: The underbelly.

The Hon. WALT SECORD: The underbelly. Last week the Minister for Western Sydney, Stuart Ayres, conceded that the wall of Warragamba Dam would not eliminate the risk of flooding, as was originally claimed. But the Minister went on to say that it will help the Government place an extra 100,000 people in the area. The Government is claiming that an infrastructure project is needed but that development comes along with it. The Government is saying first infrastructure and then there will be an increase in development. That reminds me of what is happening on the North Coast. The local member of Parliament is claiming that the new hospital should be built on pristine, sensitive, agricultural, sweet potato-growing land. He wants it there so that he can increase the height limits in Kingscliff. The situation is build the hospital here, make the community have it here and then he will increase—

The Hon. Sarah Mitchell: How is this relevant to Warragamba Dam?

The Hon. WALT SECORD: It goes to the general approach of the Government. The Government has overdevelopment in Western Sydney at Warragamba Dam, it tells the community on the North Coast they can only have a hospital if it is in that spot, and then when it is in that spot the Government increases the height limits so that it wrecks the boutique, unique quality of life in Kingscliff. Labor's position is very clear. We want the Tweed Hospital in Kings Forest where it is shovel-ready and ready to go. It has been brought to my attention just now that the member for Tweed in the other Chamber has launched an extraordinary attack on me. He is a coward, an absolute coward.

The Hon. Rick Colless: Point of order: The bill before the House is titled the Water NSW Amendment (Warragamba Dam) Bill 2018. It has absolutely nothing to do with the North Coast or the member for Tweed or the Ballina—whatever it is called—hospital, and it does not relate to this bill whatsoever. I ask you to draw the member back to the bill before the House.

The Hon. WALT SECORD: To the point of order: This bill relates directly to the same principles that were applied in the North Coast and in Western Sydney. We have a political party that is pushing through certain infrastructure to force the community—

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): The member is making a debating point. I uphold the point of order. The member is well and truly outside the scope of the long title of the bill, which is specifically about raising the wall of Warragamba Dam. The member will return to the long title of the bill. When taking a point of order Government members should not scream at me.

The Hon. WALT SECORD: I will bring my comments to a close. I think this is a very, very important example of the Government having the wrong priorities in infrastructure. The Government is imposing a 14-metre increase of the dam wall on a community that does not want it, as a backdoor way of increasing development. As I said before, and I am not canvassing your ruling, Mr Deputy President, but I think there are very, very strong analogies to the North Coast, particularly the activity of the member for Tweed, who took the opportunity earlier today to attack me under privilege.

The Hon. Rick Colless: You would never do that, would you?

The Hon. WALT SECORD: I would never do that. I have too much respect for this Chamber. I thank the House for its consideration.

Mr JEREMY BUCKINGHAM (17:38): I make a brief contribution on the Water NSW Amendment (Warragamba Dam) Bill 2018. There is a rule in politics: Never get between the National Party and a bag of money, a dumb idea or a hole in the ground—and this is a case in point. The National Party has a long history of stupid ideas and crazy infrastructure projects that do not deliver on water security, flood mitigation or environmental outcomes in New South Wales. The augmentation of Warragamba Dam is another one of those. Members will be well aware of the history of Wyangala Dam and the works that have been conducted on Wyangala Dam for nearly 100 years.

The three largest dams on the Lachlan River are Wyangala Dam, Wyangala Dam and Wyangala Dam. The National Party for 100 years has been advocating building the dams bigger and bigger—1928, 1961, 2009—and we will not have floods anymore. What a joke. The floods are too big. The mitigation is impossible. We see massive inundation of the Lachlan River. It is a false promise brought by the National Party invariably on the back of the white shoe brigade and a nod and a wink to various developers.

The Hon. Dr Peter Phelps: How much development is downstream from Wyangala Dam?

Mr JEREMY BUCKINGHAM: It has not mitigated the major floods and people have had to plan and build their properties outside the flood zone. Another example brought to the people of New South Wales and Australia by the National Party is the Cranky Rock dam, a crazy idea by the former member for Calare the Hon. John Cobb, or as I like to call him "Con Job". He said, "Let us build a hole in the ground". When he was asked who that dam would service—

The Hon. Wes Fang: Point of order: I believe that Mr Buckingham referred to a former member of another place in a derogatory manner and I ask he be directed to withdraw the comment.

The Hon. Penny Sharpe: To the point of order: I know the Hon. Wes Fang is sensitive about this but the member is entirely in order. He is allowed latitude in second reading debates and there is no special protection for the Hon. John Cobb.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): The latter part of that contribution is correct. There is no point of order. Mr Jeremy Buckingham has the call.

Mr JEREMY BUCKINGHAM: As the former member said, "We will build the dam." When put under pressure he could not articulate a single use—

The Hon. Rick Colless: Point of order: I ask you to draw the member back to the long title of the bill, which does not include the former member for Calare or Cranky Rock dam. This is about Warragamba Dam. The member is taking considerable latitude in making aspersions against individuals and members in general. I ask he be directed to return to the long title of the bill.

The Hon. Penny Sharpe: To the point of order: This is a bill about a dam. Second reading debate speeches are allowed to talk about the bigger picture, about how dams work and the impact they have on communities. The member is entirely in order. This is a second reading debate; it is not about amendments. Reflecting on other dam proposals is within the leave of the bill.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): There is no point of order. I am sure Mr Jeremy Buckingham will show its relevance to the Warragamba Dam legislation.

Mr JEREMY BUCKINGHAM: For the information of the members, the bill amends the Water NSW Act and I am talking about management of water in New South Wales, the construction of previous dams and previous dams put on the agenda in this State that have not been built because they were stupid, stupid ideas. The Cranky Rock dam is a case in point. When under pressure from the community the former member for Calare could not list a single use for the proposed dam because the upper Lachlan already had six major water storages. He said, "The main purpose of the dam is to get yellow things moving around." He meant trucks. "If you see yellow things moving around they are generating employment, they are generating economic development by building a hole in the ground." In the meantime it was flooding ecologically sensitive areas such as the internationally important Cliefden Caves. It is a salutary lesson for members in this place to look at the history of the National Party. In 2013 who can forget the National Party saying, "We will build 100 dams. We do not know where, we do not know what for, but we will build them?"

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): Order!

The Hon. Penny Sharpe: Point of order: The member needs to be heard in silence. The interjections from all the National Party members are out of order.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): Government members will observe the speaker in silence and the speaker will address his comments through the chair and not address those opposite.

Mr JEREMY BUCKINGHAM: Mr Deputy President, they could not list the dams; it was just "100 sounds good." The member for New England, the Hon. Barnaby Joyce, said, "We'll flood the Oxley Wild Rivers National Park". It is an area that does not have any agriculture. It is one of the most important national parks in Australia.

The Hon. Dr Peter Phelps: Why is it important?

Mr JEREMY BUCKINGHAM: It is important because of its ecological value and Aboriginal heritage value and it is one of the few remaining true wilderness areas in the State. He took a leaf out of the book of the former Premier of Tasmania Robin Gray when he considered the Gordon below Franklin hydro scheme and his decision to flood it and build a dam: "It is just a muddy ditch." It is one of the most important ecological assets in the world, but they were happy to flood it. As it turns out, for no reason—they have more dams than they can possibly use. It is another jingoistic kneejerk reaction by the Government because it will not deal with the real issue of consumption.

We have to look at the other end of it and ask people to do more with less. The people of Australia have done that. We saw that through the millennium drought. If you ask them to do more and provide the incentives with water tanks and water-saving shower heads, people will do more with less. This is about overdevelopment in Western Sydney. If you were a friend of Western Sydney you would not tell people it is okay to build in a flood zone where every 20, 30 or 40 years you will have water through their windows.

The Hon. Dr Peter Phelps: You are not going to; that is the whole point.

Mr JEREMY BUCKINGHAM: The whole point is that the dam does not deal with those events. If you read Professor Stuart Khan's paper that is what it says. It is a false promise. The cost of doing it is to flood one of the most important ecological assets in the country, the Blue Mountains World Heritage area. It is a mistake. I congratulate the Labor Party for joining with the majority of reasonable people in this State who see this as an action by a Government on its knees trying to divert attention from the fact that it has buggered up every other piece of infrastructure it has touched in the State. Only 200 metres from here is an example of how it has stuffed up infrastructure. The Government will be thrown out in a matter of months. The only dams that the National Party has built in this State are illegal dams that have been retrospectively validated for irrigator mates on the Warrego, Paroo, Darling and Gwydir rivers and are the subject of investigation by the Independent Commission Against Corruption. You are rotten.

Mr Scot MacDonald: Point of order—

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): Order! The member will resume his seat.

Mr Scot MacDonald: My point of order is relevance. I ask the member be directed to return to the long title of the bill. The member is meandering down the Darling River, which is out of order.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): It is outside the long title of the bill.

Mr Justin Field: To the point of order: The Minister in his second reading speech mentioned the Brisbane floods and other examples. I do not think it is unreasonable to talk about other river systems that flood or other communities that have been affected by flood where suggestions have been made for dams to try to improve flood outcomes. The examples have been made in the Government's own contributions to debate.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): Broad latitude is allowed in a second reading debate. I ask Mr Buckingham to return to the Warragamba Dam wall raising legislation and not traverse the entire nation. I ask the member to return to the long title of the bill.

Mr JEREMY BUCKINGHAM: The bill amends the Water NSW Act which administers water in New South Wales and wide latitude is allowed. In this House of review it is important to investigate the history of the National Party. The National Party Minister in this place oversees water. We only have to look at the recent scandal over the Murray-Darling Basin and the complete failure of administration in that area to see we should not trust the National Party when it comes to water.

The Hon. Rick Colless: Point of order: Once again, Mr Jeremy Buckingham has strayed dramatically from the long title of the bill. I ask that he be brought back to the long title of the bill. If he wants to talk about the bill before the House, I am happy to listen to him, but he is bringing up a range of irrelevant issues that are not related to the long title of the bill.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): I uphold the point of order. Mr Jeremy Buckingham is ignoring my ruling that he should return to the long title of the bill. I will ask him one more time to return to the long title of the bill.

Mr JEREMY BUCKINGHAM: The augmentation of the Warragamba Dam is another mistake by The Nationals. We have seen it many times in this State. It will not deal with large floods. It will invariably mean that we see more overdevelopment on the flood plain in Western Sydney. It will one day lead to a disaster for those people who develop in an area under the false hope that they will not experience a flood and that the flood mitigation will protect them from flood events. It will not. The result will be inundation of critically important ecological areas. Our water catchments are the most precious part of our city. The decision to protect our water

catchments in those national parks is one of the greatest decisions that New South Wales governments ever made, but they are constantly being undermined—quite literally. We have coalmining at Nattai. If members want to look at the coalmining at Nattai—

The Hon. Wes Fang: Point of order—

Mr JEREMY BUCKINGHAM: I note the Hon. Wes Fang is standing up and he should sit down.

The Hon. Wes Fang: Once again, I ask you to direct the member to return to the long title of the bill.

Mr Justin Field: To the point of order: I raised coalmining in my contribution because it relates to climate change. Climate change is identified by the Government as being one of the risk factors that is necessitating this proposal. It is reasonable to raise those issues in the context of this debate.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): The point of order was premature. It is a wideranging debate and I was allowing Mr Jeremy Buckingham some latitude. I am sure the member will thread his speech back to Warragamba Dam.

Mr JEREMY BUCKINGHAM: I do not have to thread it very far because the Nattai coalmine is in and under Lake Burragorang. If the Hon. Wes Fang knew anything about that dam he would know that one of the largest landslips in the State's history happened on the banks of that dam. Successive governments have allowed coalmining in and around our water catchments, which is a stupid thing to do in an age of climate change. Water will become more precious as our climate heats up and dries out and millions of people will be dependent on that water every day. It is a mistake to allow coalmining around Nattai. Allowing more longwall coalmining under the Avon and Cordeaux reservoirs in the special catchment areas is systematic of a government that is making stupid decisions.

Coal seam gas mining has been allowed in areas where people are not even allowed to walk. Yet this Government wants to develop an extractive fossil fuel industry, which is indicative that it has failed in its principal responsibility to provide clean drinking water to the people of New South Wales. Changing the neutral or beneficial test when it comes to developments in the catchment areas is another indication of failure and this issue is the latest case in point. I join my colleagues Mr Justin Field, Ms Cate Faehrmann and The Greens and all those organisations that have said many times: It is the wrong way. Go back. We can deal with flooding and mitigate its impacts in other ways. This solution will not do anything other than undermine one of the most precious ecological assets in this country State, which is the Blue Mountains World Heritage area. I completely and utterly oppose the bill.

Mr SCOT MacDONALD (17:53): I make a short contribution to the Water NSW Amendment (Warragamba Dam) Bill 2018. If I understand The Greens argument, the way to protect the communities of Penrith and lower Hawkesbury is to change the showerhead. As always, that sounds like productive advice from The Greens. I support the Government's amendment—

[*Interruption*]

I acknowledge that point of order. The Greens are not intending to shower I think was the point of order.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): Order! There was no point of order.

Mr SCOT MacDONALD: We are talking about flood mitigation downstream. It is in the content of the bill. It seems to be ignored by The Greens and Labor. This Government is protecting the Hawkesbury and Penrith communities. It is extremely important that we are proactive about this. It is very clear from everything that has been advanced in this debate that we are talking about temporary inundation. I speak in this debate from the perspective of seeing the 2015 floods. I never saw The Greens and I do not recall seeing a Labor Party member in the aftermath of those floods. Four people died in the Hunter floods. Every flood is different. The floods occurred in areas where they were not expected and they were different to past patterns. But people were playing catch-up after the flood, saying, "We should have done this flood mitigation," or, "We should have done that flood mitigation." In hindsight everybody is an expert.

This Government is saying to the community and this Parliament that it has a plan to protect the communities of the lower Hawkesbury. We have a strong obligation to do that. I have seen a flood disaster. I have seen the experts in the Hunter tell us, in hindsight, what we should have done. They were not there when the emergency occurred. They were not there for the clean-up. They come to Parliament and want to dictate on flood mitigation years after the event. This is an important piece of infrastructure. The lower Hunter and lower Hawkesbury are important parts of our State. We have an obligation to protect those areas. I say to the people who object to the bill: When a flood occurs—and as I said, they occur in expected places and some unexpected

places—be prepared to deal with families whose homes are washed away, whose friends and family may have died and the fear, uncertainty and cost that goes with it. This is a sound bill. I commend the bill to the House.

The Hon. RICK COLLESS (17:55): On behalf of the Hon. Niall Blair: In reply: I thank all members who have spoken in debate on the Water NSW Amendment (Warragamba Dam) Bill 2018—the Hon. Mick Veitch, Mr Justin Field, the Hon. Paul Green, the Hon. Penny Sharpe, the Hon. Dr Peter Phelps, Ms Cate Faehrmann, the Hon. Walt Secord, Mr Jeremy Buckingham and Mr Scot MacDonald. I will first read a quote from the *Daily Telegraph*:

> The rains started on Monday, June 17. They came pelting down on Tuesday, and by Wednesday the Eather family were nervously watching the water level of the Hawkesbury River running by their farm at Cornwallis near Windsor. When the water began to rise rapidly on Thursday, they took action.
>
> Most of their escape routes were already cut off, and they had refused an offer to take refuge at a neighbouring property, so farmers Thomas and William Eather moved their wives Emma and Catherine and their 11 children up on the roof of the house. They clung to the building for 20 hours for fear of their lives.
>
> On Friday, with the waters raging, the house was dragged into the river by the floodwaters. Both Thomas and William were swept off along with Thomas's son Charles.
>
> In a terrible twist, the three who lost their grip were the only ones saved, plucked from the floodwaters by rescuers downstream. Their wives and the remaining 10 children clinging to the sinking house, perished.
>
> This was perhaps the most tragic tale to emerge from the deadly Hawkesbury flood of 1867—

which happened 151 years ago— Eight other lives were also lost as the river reached its highest level in recorded history. It's never been that high since, but scientists now warn we are overdue for what they say is a once-in-a-century flood. That is what we are talking about. The bill is an amendment designed to address a prohibition on the operation of Warragamba Dam for flood mitigation. The bill does not affect or pre-empt the planning approvals required for the proposal. The proposal to raise the Warragamba Dam is about addressing the significant risk to the Hawkesbury-Nepean Valley community. The exhibition of the environmental impact statement for the proposal next year will be an opportunity to understand and address the social, cultural and environmental concerns of this proposal he amendment also includes environmental and heritage protections, and an environmental plan of management must be in place for the dam to be operated to mitigate floods.

In developing the flood strategy, an extensive range of options were investigated to use or modify Warragamba Dam to provide flood mitigation. Investigations began in 2012 and were used to inform the flood strategy. Lowering full water supply and operating the desalination plant would not achieve the same level of risk reduction at a reasonable cost. It was found that raising the dam wall by approximately 14 metres is the infrastructure option with the highest benefit, significantly reducing the risk to life downstream and reducing flood damage by approximately 75 per cent on average while balancing the impacts on the upstream environment. It would significantly reduce the risk to life and property, including during the worst floods on record, and increase the certainty of time for people to evacuate.

The primary objective of the Warragamba Dam raising is to delay and lower floods as a first priority to reduce risk to life by providing greater certainty of time for evacuation; and, secondly, to significantly reduce damage to homes and businesses. We found that significantly mitigating floods in the range between the one-in-50 to one-in-1,000 chance per year floods was the most effective strategy. That is because the one-in-50, which is similar to the 1961 flood, and the one-in-500, which is similar to the 1867 flood to which I just referred, chance per year flood range contributes to about two-thirds of the average annual flood damage.

We found that raising Warragamba Dam by 14 metres provides significant and cost-effective risk reduction in this critical flood range, which is up to a five-metre reduction in flood levels, depending on the location and size of the event. The dam captures some 80 per cent of the catchment at Penrith. The raising also provides some benefits for the worst possible and extremely rare event. It reduces the levels by up to two metres depending on the location and the size of the event. Prioritising the worst possible event would require a much higher dam wall raising, which would result in larger and longer temporary upstream impacts.

I stress to those opposite, who do not understand, that the Warragamba Dam raising proposal is not about increasing development on the flood plain. A very substantial flood risk is now facing the current population, homes and businesses on the flood plain. Some 134,000 people currently live on the flood plain and there is no proposal to increase that number. For example, if a flood similar to the valley's worst since European settlement—the 1867 flood—occurred now, hundreds of lives would be in danger, approximately 90,000 people would need to be evacuated and about 12,000 homes would be affected. This existing risk needs to be addressed, and raising Warragamba Dam to provide that flood mitigation is the most effective infrastructure option to achieve that.

As the proposed dam raising would not eliminate the flood risk entirely, land use will need to be managed carefully. Areas within the Hawkesbury-Nepean Valley that are currently subject to flood-related development

controls will remain subject to those controls in the future. In other words, the flood planning level will not be lowered. This will ensure that the benefits of the dam raising are maintained over time. During big flood events the areas upstream of the dam flood naturally, including the World Heritage areas, but with flood mitigation they may be flooded for a slightly longer period—from a number of days to one or two weeks. The extent of this incremental increase in temporary inundation will depend on the size of the flood.

The environmental impact assessment process is not being accelerated, and will be robustly executed and consider all known possible impacts. The Warragamba Dam raising proposal is infrastructure of State significance, and is undergoing a thorough environmental assessment process under both State and Federal legislation. These assessments are being done properly, with detailed investigations and public consultation—and that takes time. There will be many opportunities for stakeholder groups and the community to find out more and to provide feedback. These are the early steps in the process in the lead-up to the public release of a formal environmental impact statement for comment in 2019.

Members of my family lived at Pitt Town Bottoms in the lower Hawkesbury for 27 years and 54 floods inundated their house in the 1960s and the 1970s. Farmers live in the lower areas. In comparison, there have been hardly any floods in that area since then. My family had flood management down pat. All people who live on flood plains operate the same way: They get word of when the water will arrive and move their belongings into their loft. Pitt Town is located on a ridge but, together with Windsor and Richmond, it went underwater in the big flood of 1867. This proposal will increase the flow time and therefore reduce the level of the flow by between two metres and five metres, which will prevent the flooding of many homes and businesses in the valley. I commend the bill to the House.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): According to resolution of the House of 25 September 2018, the Water NSW Amendment (Warragamba Dam) Bill 2018 now stands referred to the Standing Committee on State Development for inquiry and report. I note that earlier in the debate Mr Justin Field moved that the question on the second reading of the bill be amended so as to refer the bill to Portfolio Committee No. 6. Given the resolution of the House of 25 September that the bill be referred to the Standing Committee on State Development at the end of the second reading debate but before the question is put, Mr Justin Field's amendment will be considered after the Standing Committee on State Development completes its report and the order of the day for the resumption of the second reading of the bill is restored to the *Notice Paper*.

WESTERN CITY AND AEROTROPOLIS AUTHORITY BILL 2018

Second Reading Speech

The Hon. DAVID CLARKE (18:07): On behalf of the Hon. Don. Harwin: I move:

That this bill be now read a second time.

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

Leave granted.

The Western City and Aerotropolis Authority Bill 2018 will establish a new government agency to fulfil a comprehensive master planning role for the development of the Western Sydney Aerotropolis and to support the growth of the Western City.

Establishing the authority is a core commitment made under the Western Sydney City Deal, where the New South Wales and Australian governments committed to establish an authority to become master planner and master developer of the aerotropolis.

The City Deal is an agreement between the New South Wales and Commonwealth governments, and the eight local councils in Western Sydney, to implement a set of city-building commitments to improve the productivity, sustainability and livability of Western Sydney. It was signed in March 2018 by the Premier, the then Prime Minister and the eight mayors of councils within the Western City District of the Greater Sydney Region.

Partnering with the Commonwealth and local councils is ensuring the three levels of government deliver an integrated approach to government infrastructure and service delivery in the Western City.

The deal also supports the once-in-a-lifetime opportunity that the government has—to design and deliver a new metropolitan centre in the aerotropolis that will drive economic growth, jobs and opportunities for the Western City for generations to come.

The Western Sydney Aerotropolis—supported by the new Western Sydney Airport—will be a global employment centre attracting international investment and delivering jobs, education opportunities, and enhanced livability for all Western City residents. It will be a catalyst for employment growth in the metropolitan centres of Liverpool, Penrith and Campbelltown, and the broader Western City.

Residents of the Western City need access to high-quality jobs closer to home. Over the next 20 years, the eight council areas will grow by 500,000 residents to create a city with a population of 1.5 million. This is bigger than the current size of Adelaide (1.32 million people).

But existing residents of the Western City do not have access to the jobs they need. The Greater Sydney Region Plan shows that just 49 per cent of Western City residents live and work locally, compared to 91 per cent in the East of the City.

Through the Western Sydney City Deal, the three levels of government have committed to the creation of 200,000 new jobs across a wide range of industries over the next 20 years. The authority and the creation of the aerotropolis are the catalysts for this level of jobs growth.

The initial focus of the authority will be on developing 114 hectares of Commonwealth land at North Bringelly as the central hub of the aerotropolis. This is an unprecedented opportunity—a greenfield site in close proximity to a new international airport and with the three levels of government committed to infrastructure investment connecting the area to existing metropolitan centres.

The authority will be tasked with prioritising the master planning of the Commonwealth land and supporting the attraction of industry investors into the aerotropolis by promoting opportunities to potential investors. We are giving investors an opportunity to partner with a government agency who can tailor the master plan designs and site plans to support industries and promote job growth.

Investors are already committing to the aerotropolis. Northrop Grumman, a major United States defence contractor, has committed $50 million to invest within an aerospace and defence industries precinct. On 13 September, the Government announced a partnership of four leading New South Wales universities (University of Newcastle, University of Wollongong, University of NSW and Western Sydney University) has committed to building a new university campus focused on STEM teaching and research.

The Government is creating a new metropolitan centre. A world-class aerotropolis underpinned by job creation, smart technology, environmental sustainability, and most importantly—designed to support residents of the Western City. The authority will ensure development of the aerotropolis is coordinated and includes iconic design allowing it to compete with international cities for investment and jobs creation.

But the authority will also support growth across the Western City. Any of the eight City Deal councils will be able to submit proposals to the Minister for the authority to master plan and oversee development on individual sites and precincts in each council area. This is a huge win for councils in the Western City District. They will have a dedicated authority to coordinate partnership with investors and educational institutions, and support the livability and local character of each council area.

This is an authority for residents of the Western City. In 20 years, Australians should be looking to the west of Sydney for the best jobs and the best lifestyle. Establishing the Western City and Aerotropolis Authority will help make this goal a reality.

I will now outline the provisions of the bill.

Part 1 contains preliminary matters, including the object of the bill and relevant definitions. The object of the bill is to encourage economic growth and development of the Western Sydney Aerotropolis and the rest of the Western City, through a range of means. In particular, growth and development is to be encouraged:

- by creating active, vibrant and sustainable communities and locations that support national and global business, and that support, and benefit from, the development of the Western Sydney Airport;
- by supporting the creation of precincts that are focused on job-intensive land uses and which include knowledge, industrial, educational, commercial, retail and mixed use precincts;
- by promoting investment;
- by promoting development that accords with best practice environmental and planning standards, is environmentally sustainable and applies innovative environmental building and public domain design;
- by facilitating the sharing of financial value arising from, or associated with, the development of the operational area so as to offset the provision of public infrastructure, facilities, places and services;
- by promoting value for money and efficiency in the delivery of infrastructure; and
- by achieving optimal outcomes from the authority working collaboratively with the Commonwealth and State governments and with local councils in the Western City.

The Western City is defined in part 1 by reference to the local government areas of the eight councils participating in the Western Sydney City Deal, namely the local government areas of the Blue Mountains, Camden, Campbelltown, Fairfield, Hawkesbury, Liverpool, Penrith and Wollondilly.

Importantly, part 1 also defines the operational area in which the authority may exercise its functions. Initially, the operational area will comprise the mapped area in schedule 1 to the bill referred to as the "Western Sydney Aerotropolis". The Western Sydney Aerotropolis is the same land covered by the Stage 1 Land Use and Infrastructure Implementation Plan for the Western Sydney Aerotropolis, released by the Department of Planning and Environment in August this year. The map covers the initial precincts identified in that plan of the Aerotropolis Core, Northern Gateway and South Creek. These are the precincts where the Government plans to prioritise land use and infrastructure planning under a sequenced rezoning of nine precincts that will form the aerotropolis.

The initial precincts of the Aerotropolis Core and Northern Gateway offer the greatest growth potential due to their proximity to planned major public investment in Western Sydney. The third precinct of South Creek will be a central element of the urban design and water management of the Western Parkland City.

Members will see from the map in schedule 1 that the Western Sydney Aerotropolis land encompasses the suburbs of Badgerys Creek and Kemps Creek, and parts of the suburbs of Bringelly (including the Commonwealth-owned land at North Bringelly), Greendale, Luddenham and Rossmore.

Clause 5 of part 1 allows the operational area to be expanded by a regulation that amends one or more of three schedules where maps or description of the operational area are to be included.

As I mentioned, schedule 1 contains the map of the Western Sydney Aerotropolis.

Schedule 2 is where it is intended that the proposed Greater Penrith to Eastern Creek growth area would be described once a land use and infrastructure implementation plan for that growth area has been settled by the Department of Planning and Environment.

Schedule 3 is where land can be added at the request of a council within the Western City.

Clause 5 provides that the regulations may amend these schedules to amend or omit areas from the operational area.

Before any amendment to a schedule is made, clause 5 requires the Minister to consult with the Commonwealth Minister on the proposed amendment to the operational area.

Part 2 of the bill establishes the authority as a New South Wales government agency that is subject to the control and direction of the Minister in the exercise of its functions. In recognition of the Commonwealth's interest in the work of the authority, particularly in relation to the Commonwealth-owned land at North Bringelly, the Minister is to consult with the Commonwealth Minister before giving directions to the board that would have a material effect on the exercise of the authority's functions.

The bill provides for the authority to be managed by a governing board, consisting of seven members appointed by the Minister.

Of the seven members, three will be nominated by the Minister, three will be nominated by a Commonwealth Minister, and the chairperson will be appointed by the Minister with the concurrence of the Commonwealth Minister.

The Minister is to determine whether a nominated person has the relevant skills, knowledge and experience to assist the authority. This will of course require collaboration with the Commonwealth Minister to ensure that the nominees, when considered together, possess the necessary mix of skills, knowledge and experience.

The bill provides for circumstances where the Commonwealth Minister may decline to nominate a member on a particular occasion, in which case the Minister can nominate a person to fill the vacancy. The person so nominated remains a Commonwealth nominee for the purposes of the bill, and this ensures the Commonwealth's ongoing right to nominate three board members if they choose.

The board, with the approval of the Minister, may establish committees to give advice or assistance to the board in connection with the exercise of the authority's functions.

This facilitates the board's ability to bring in expertise and perspectives from amongst stakeholders such as Western City councils or the Commonwealth Government, or subject matter experts.

Schedule 4 of the bill, which sets out standard provisions regarding the membership and procedures of the board, also provides that the Minister cannot remove a Commonwealth-nominated board member, or the chairperson, without the approval of the Commonwealth Minister.

The bill provides for a chief executive officer to have responsibility for the day-to-day management of the affairs of the authority, in accordance with the specific policies and general directions of the board. The chief executive officer will be employed in the public service, having regard to any advice of the chairperson of the board. This ensures the board, through the chairperson, can have input into the selection of their chief executive officer.

As a New South Wales government agency, the authority will be subject to the usual accountability and transparency mechanisms under New South Wales law, including those under the Independent Commission Against Corruption Act 1988, the Ombudsman Act 1974, the Public Interest Disclosures Act 1994, and the Government Information (Public Access) Act 2009.

Equally, the authority will be governed by the usual laws relating to public finance, auditing and annual reporting and will be a government sector finance agency when the Government Sector Finance Bill 2018 commences.

Part 3 of the bill provides for the functions of the authority in relation to land within the operational area. These are the functions that reflect the Western Sydney City Deal vision of the authority as a "master planner and master developer" of the aerotropolis, although they are not limited to the aerotropolis.

The functions include preparing master plans for precincts, such as the precincts identified in the land use and infrastructure and implementation plan for the Western Sydney Aerotropolis—namely, the Aerotropolis Core and the Northern Gateway. In time, when further precinct stages are released under this plan or the proposed Greater Penrith to Eastern Creek Land Use and Infrastructure and Implementation Plan, or when council requests the inclusion of an area in the authority's operational area, the authority can shift its focus to these precincts or areas.

In exercising this master planning function, the authority will work closely with a range of entities. The authority will work with the planning partnership established under the City Deal between councils, the Greater Sydney Commission and the Department of Planning and Environment who are charged with preparing precinct plans for eventual inclusion in a new State environmental planning policy. The authority will of course also need to work closely with landholders to ensure that the master planning process meets their aspirations for the land, and with infrastructure planners and builders such as Sydney Metro and the Commonwealth government-owned company, WSA Co, responsible for the development of the airport.

In conjunction with master planning, the bill gives the authority a role in planning, prioritising, funding and coordinating public infrastructure necessary for the development of these precincts. This role does not detract from the role of existing infrastructure providers, but gives the authority a role in implementing the vision of the master plan by facilitating the delivery of enabling infrastructure.

The authority will have the ability to carry out development. It might do this where it considers this will accelerate preparation of the land for investors—for example, by lodging, with landowners consent, subdivision applications.

It is also charged with functions relating to place making, not only through use of best-practice public domain design, but by promoting and conducting cultural, education, commercial, recreational activities and facilities that bring these new precincts to life.

To undertake this work, the authority will have the usual power to enter joint ventures and project delivery agreements, as well as other arrangements with landowners, developers and other arms of government.

The authority will also have a role in attracting and coordinating investment. In this endeavour it will work closely with the Department of Industry, with a specific focus of attracting investment to precincts off the back of the master planning work.

The authority will have all necessary ancillary and consequential powers to ensure the delivery of its core functions. In particular, as a statutory corporation, the authority will have powers to acquire, dispose and otherwise deal with property. The authority will not have compulsory acquisition powers in relation to land. As a New South Wales government agency, the authority will be able to enter planning agreements under the Environmental Planning and Assessment Act 1979.

The bill also contains standard provisions that allow a function of the authority to be exercised by a private subsidiary corporation, joint ventures or by association with public or local authorities or other persons or bodies.

The authority will have a function of preparing funding schemes for funding public infrastructure, facilities, places and services. For example, the Western Sydney Aerotropolis Land Use and Infrastructure Implementation Plan, released in August this year by Department of Planning and Environment, flags that potential value sharing mechanisms will be explored to supplement the existing development contribution system under the Environmental Planning and Assessment Act. Where a proposed funding scheme is prepared and appropriately tested and, where necessary legislated, the Minister may direct this authority to implement the scheme.

In the exercise of all of its functions, the authority will be required to work closely with Western City councils and Commonwealth government agencies, and play a coordinating role amongst other New South Wales government agencies. Although the authority will work closely with the Western Sydney Airport Corporation to ensure that the development planned for the aerotropolis and Northern Gateway precincts supports and benefits from the new Western Sydney Airport, the authority cannot exercise functions in relation to the airport site, given its comprehensive regulation under Federal airports legislation.

To focus its attention, the authority will be required to prepare a board charter which will, amongst other things, identify the projects or other matters that are to be given priority by the authority in exercising its functions. For example, the board charter may be used in this way to set out the authority's priorities in relation to the development of the Commonwealth-owned land at North Bringelly.

The board charter will also identify those decisions of the authority that are to be referred to the Minister before being made. This allows the board and Minister to have clear understanding of areas of interest to the Minister and, in particular, matters where the Minister may wish to consult with the Commonwealth Minister on matters relevant to the Commonwealth's interests.

The bill requires the Minister to consult with the Commonwealth Minister before approving the board charter, or any amendments to it that have a material effect on the exercise of the authority's functions.

Clause 15 of the bill relates to the provision of information, advice and reports. The authority is to provide the Minister with advice and reports as requested, and is also required to keep the Minister informed of general conduct of its activities and of significant developments. These general updates on conduct and significant developments are also to be provided to the Commonwealth Minister.

In addition, the Minister can authorise the authority to provide a nominated person with information requested by that person. For example, the Minister could nominate the Commonwealth Minister or their delegate as a person who could request information directly from the authority. The Minister retains the ability to limit the information so provided to certain classes, and is to be provided with a copy of any such information provided to the nominated person. This ensures that the authority has a clear mandate with respect to provision of information to nominated people.

Part 4 of the bill contains miscellaneous provisions. In particular, part 4 includes a provision to establish a Western City Fund in the Special Deposits Account into which appropriations, investment earnings and other receipts are to be paid. This fund can be used to meet the authority's expenses and to receive and disperse amounts received under any funding scheme for the provision of public infrastructure.

Part 4 also contains an offence provision, similar to that for the Barangaroo Delivery Authority, in relation to the misuse, for private gain, of information relating to proposals in respect of the acquisition, development or disposal of land by persons associated with the authority.

Finally, the bill also acknowledges that the Commonwealth's interest in the governance and operations of the authority may diminish over time as the aerotropolis is successfully delivered. To that end, the bill provides a withdrawal mechanism. Clause 20 of the bill provides that the Commonwealth Minister may give the Minister a withdrawal notice in relation to any or all of the Commonwealth Minister's roles under the bill. There is a minimum three-month period before the withdrawal notice can take effect.

This bill, and the establishment of the Western City and Aerotropolis Authority, will harness a once in a lifetime opportunity to design and deliver a new metropolitan centre that will drive economic growth and opportunities for the Western City for generations to come. A focused and skilled authority, with access to key delivery agencies, will play an important role and provide a signal to industry, from local to global, that the Western City is open for business.

I commend the bill to the House.

Second Reading Debate

The Hon. PETER PRIMROSE (18:07): The Opposition does not oppose the Western City and Aerotropolis Authority Bill 2018 but I foreshadow that we will move a sensible amendment—

The Hon. Dr Peter Phelps: Hear, hear!

The Hon. PETER PRIMROSE: I acknowledge the interjection by the Hon. Dr Peter Phelps. I refer honourable members to the detailed speech made by the Deputy Leader of the Opposition in the other place. Rather than take up too much time, I will refer to some particular aspects of the bill. The bill establishes the Western City and Aerotropolis Authority—to which I will refer as "the authority"—a statutory corporation subject to the control and direction of the Minister for Western Sydney. The bill also establishes a governing board of seven members appointed by the Minister and confers functions on the authority in relation to development of land in its operational area.

The bill is broken into four parts and four schedules. Part 1 deals with preliminary matters. It defines "Western City" as the area comprising "the local government areas of Blue Mountains, Camden, Campbelltown, Fairfield, Hawkesbury, Liverpool, Penrith and Wollondilly". The part also provides the ability to amend the schedules by regulation, requires that the Commonwealth Minister be consulted, and makes a number of other proposals under schedules 1, 2 and 3. Part 2 constitutes the authority and the board. It states that the board: … will consist of 7 members appointed by the Minister. Three of the members are to be nominated for appointment by the relevant Commonwealth Minister and the appointment of the Chairperson of the Board will require the concurrence of the Commonwealth Minister.

The part also allows for the board, with the approval of the Minister, to establish committees to assist the board and so on. Part 3 sets out the functions of the authority, including to prepare master plans for development within the precincts, to carry out development on its own behalf or on behalf of other bodies, and to participate in the planning, funding, prioritisation and coordination of public infrastructure that is provided in association with the carrying out of development within those precincts.

Clause 13 (4) states that the authority cannot exercise any of its functions in relation to the Western Sydney Airport. That is due to comprehensive regulation under the Federal airports legislation, as the Minister noted in his second reading speech. The concern of the Opposition relates to clause 18, which allows for the creation of private subsidiary corporations. In our view, the one thing that will destroy public confidence and faith in a project of any magnitude is a lack of transparency. We do not want a private subsidiary corporation holding information that belongs to the public but not being accountable to the public. Therefore, I foreshadow that the Opposition will move an amendment to insert a line that simply says:

> However, a private subsidiary corporation is taken to be a public authority for the purposes of the Government Information (Public Access) Act 2009.

In other words, a private subsidiary corporation will be subject to the Government Information (Public Access) Act. Part 4 contains a number of miscellaneous provisions that I will not run through. However, it also provides for the establishment of a Western City Fund within the Special Deposits Account that the authority will administer. Schedule 1 identifies the Western Sydney Aerotropolis that will be part of the operational area of the authority. Schedules 2 and 3 are currently blank but may be amended to contain additional areas to be included in the operational area that have been specified by the Government or requested by local councils in the Western City. In his second reading speech the Minister foreshadowed that schedule 2 [2] will be amended by "the proposed Greater Penrith to Eastern Creek Growth Area ... once the Land Use and Infrastructure Implementation Plan for that growth area has been settled by the Department of Planning and Environment."

In relation to the proposed seven remunerated board positions and a remunerated position of chief executive of the authority, the bill provides for the hiring of an unspecified number of staff for the authority. No financial figure has been indicated in the bill or, more appropriately, in the second reading speech. The bill also provides for the establishment of the Western City Fund, as I have indicated, within the Special Deposits Account and makes provisions for funds to be advanced by the Treasurer or appropriated by Parliament. However, again, no forecast figures have been given. As I have indicated, the Opposition does not oppose the bill. We recognise that it is an important initiative for what will be the largest piece of infrastructure in Australia. It is hoped that it will lead to employment and the generation of many jobs in Western Sydney. Accordingly, our view is that it should be supported with the proviso that we do not want any concerns raised about lack of transparency. Hence, we will move an amendment to make the Government Information (Public Access) Act cover that section.

The Hon. PAUL GREEN (18:13): On behalf of the Christian Democratic Party, I speak in debate on the Western City and Aerotropolis Authority Bill 2018. The Christian Democratic Party believes in building New South Wales. We believe efficient infrastructure is an essential element for any modern society to flourish both economically and socially. As per usual, we will work with the State Government, local government, businesses and communities to ensure that funds are adequately and affordably directed to essential infrastructure. Australia's population recently tipped over 25 million. That number is growing at 1.6 per cent per year, which is well above the rate in most other developed economies. The creation of the Western Sydney Aerotropolis gives us a golden opportunity to plan an area to cater for the growing needs of New South Wales. We support the Government's vision of creating a global employment centre attracting international investment and delivering educational opportunities and enhanced livability. In mapping out those plans it is vital not only to make way for housing, roads, transport and energy but also to ensure the affordability of that infrastructure and those services.

The eight councils of the Western City District—Blue Mountains, Camden, Campbelltown, Fairfield, Hawkesbury, Liverpool, Penrith and Wollondilly—are expected to grow by more than 500,000 residents over the next 20 years. With the population of the Western City projected at more than 1.5 million, it is imperative to factor in social housing for the 60,000 people who are already on the waiting list. Affordable housing also needs to be factored in for essential workers such as teachers, nurses, police and other emergency workers, not to mention the

plethora of additional workers such as cleaners and cafe staff. If we include measures now for such housing we will reduce the need for costly corrections down the track.

On the map I can see plans for major transport corridors such as the M9 and M12. But we need to ensure that commuters are not clocking up thousands of dollars in tolls every month. The other transportation mode that needs to be included is a metro system. Trains move large numbers of people, which is important if we are to have efficient, effective and affordable transport. With passenger demand in Sydney set to more than double in the next 20 years, the new airport will be a critical link for tourists and visitors. However, we face other infrastructure challenges. We have an ageing population. Approximately three million people are over the age of 65 and that figure is expected to grow to 7.2 million by 2050. Where will all those people go? Will they be driving, using the metro or travelling on our trains?

One of the best investments that a government can make is in high-speed trains linking to all major cities in New South Wales and other States. Australia has become home to the first development to be built outside Europe that shares solar power between all homes on a single estate. The estate in Kurnell, which was completed in September 2018, will be connected via home power storage batteries. Each unit will have nothing to pay for electricity supply; they just pay a $30 monthly management fee for the system. Such power-saving initiatives should be promoted in the rollout of new housing estates within the aerotropolis. Clean, green, safe and cheap energy is what people want—especially those on low incomes.

The objects of the bill are threefold. First, the bill constitutes the Western City and Aerotropolis Authority—known as "the authority"—as a statutory corporation subject to the control and direction of the Minister. Secondly, it provides for the authority to have a governing board comprising seven members appointed by the Minister. The board will establish committees to give advice or assistance in connection with any particular matter or function of the authority. The bill provides that the chief executive officer of the authority will be responsible for the day-to-day management of the activities of the authority. It also limits personal liability and prohibits the disclosure of information obtained in connection with the administration or execution of the proposed Act.

Thirdly, the bill confers functions on the authority in relation to the development of land in its operational area, which will include the area identified in the proposed Act as the Western Sydney Aerotropolis. The bill provides the authority with a charter that identifies the projects or other matters that are to be given priority. It also authorises the authority to delegate its functions and the ability to form private subsidiary corporations with the approval of the Minister. This bill also establishes the Western City Fund for the purposes of the proposed Act.

I turn now to the detail of the bill. The bill identifies the Western Sydney Aerotropolis, which will be part of the operational area of the authority mapped area in schedule 1. The land encompasses the suburbs of Badgerys Creek and Kemps Creek and parts of the suburbs of Bringelly, including Commonwealth-owned land at North Bringelly, Greendale, Luddenham and Rossmore. The bill also allows for additional areas in the Western City that may become the operation area. It is envisaged that the proposed Greater Penrith to Eastern Creek Growth Area will be included after the enactment of the proposed Act. It also provides additional areas to be nominated by local councils in the Western City for inclusion

We acknowledge the contribution by the Labor Party in not opposing the bill. We support the Government's vision of creating an aerotropolis with a global employment centre that will attract international investment and deliver education opportunities and enhanced livability for all Western City residents. It is the largest planning and investment partnership in Australia's history. The aerotropolis will generate economic growth and create new channels between Sydney and Australia's global trading markets and, as long as the infrastructure can keep abreast of populous demands, we commend the bill to the House.

Ms CATE FAEHRMANN (18:20): I speak on the Western City and Aerotropolis Authority Bill 2018, which is a bill for an Act to constitute and confer functions on the Western City and Aerotropolis Authority. This bill establishes a new government agency that will perform a master planning role for the development of not only the precinct around the Western Sydney Airport but also a potentially vast area of Western Sydney. The Minister for Western Sydney has described the Western Sydney Aerotropolis, which includes the new Western Sydney Airport, as being a global employment centre attracting international investment and delivering jobs, education opportunities and enhanced livability for all Western City residents.

The bill before us stems from a deal struck between the then Turnbull Government and the Berejiklian Government and eight Western Sydney councils on 4 March 2018. The eight councils were: Blue Mountains, Camden, Campbelltown, Fairfield, Hawkesbury, Liverpool, Penrith and Wollondilly. The agreement reached was the Western Sydney City Deal, which included: a North South Rail Link from St Marys to Badgerys Creek Aerotropolis via Western Sydney Airport; an Investment Attraction Office to attract investment to the Western

Parkland City; a new planning regime for Western Sydney to cut development costs and boost housing supply; a $150 million Western Parkland City Liveability Program to deliver community facilities; new science, technology, engineering and mathematics focused education facilities to train skilled workers needed for the aerotropolis; a plan to embed smart digital technology in the Western City; and a world-class aerotropolis including Commonwealth-owned land at North Bringelly. This was according to the Minister's media release of 4 March 2018. During his second reading speech the Minister noted:

> Over the next 20 years, the eight council areas will grow by more than 500,000 residents to create a city with a population of more than 1.5 million people. This is bigger than the current size of Adelaide. But existing residents of the Western City do not have access to the jobs that they need. The Greater Sydney Region Plan shows that just 49 per cent of Western City residents live and work locally, compared to 91 per cent of the east of the city.

A research report released in June this year by Ian Watson, a visiting fellow at the Social Policy Research Centre and University of New South Wales, for the Jobs for Western Sydney Working Group found:

> Contrary to the claims of a 'jobs bonanza', only 120 construction jobs and 800 airport jobs would be targeted to Western Sydney workers in the first stages of the Western Sydney airport construction. The overall jobs claims—such as 8,700 aviation jobs by 2031—are also vastly exaggerated and comparable airports, such as Adelaide, support only 1.600 aviation jobs. Proposals for an adjacent business park and also for an aerotropolis appear unrealistic. Close examination of these proposals and a real world comparison with a number of other business parks in Sydney, shows that the job estimates are inflated.

The Jobs for Western Sydney Working Group report also states that between 2006 and 2016 15,000 manufacturing jobs were lost in the west and large numbers of jobs were lost as a result of the savage cutbacks by the New South Wales Government in the public rail system. If this Government were serious about jobs it would not continue to cut public sector jobs—for example, ripping the guts out of our public TAFE system. Many other airports around the world that are surrounded by economically productive areas—in other words, the associated jobs that the Government keeps spruiking—are as a result of another competing airport closing. In Sydney we have governments obsessed with privatisation and selling off our public assets, including Sydney Airport years ago. Even if relocating Sydney Airport was a good idea, it is simply not feasible because of the 99-year lease enjoyed by Sydney Airport Corporation.

While there is no doubt that new infrastructure projects, including the Badgerys Creek airport, will provide more jobs in the area, it is right to continue to question the modelling for the Government's jobs figures considering so much is resting on them. The Greens have been warning for many years that building the Western Sydney Airport will be a massive boon to developers at the expense of the livability of surrounding areas and general amenity for many Western Sydney residents. This airport will have no noise curfew—apparently what is good for the people of the inner west of Sydney and the eastern suburbs is not good for the people of Western Sydney. Residents of Western Sydney will be forced to cope with high levels of noise and increasing air pollution as well as increased traffic congestion. To top it off, the Government continues to spruik overinflated jobs figures to help sell this proposal to the community and, in particular, to pressure the people of Western Sydney and the local councils to support the airport.

This bill is another bonanza for the Government's mates in development and infrastructure companies, but the Government's record on managing contracts with these companies and getting value for money for the people of New South Wales is there for all to see. Anyone walking down George Street or Devonshire Street, or driving along the M4 or Anzac Parade or indeed all over Sydney—anywhere—can see construction sites that have outstayed their welcome and infrastructure projects that have blown out by hundreds of millions, sometimes billions, of dollars.

The Hon. Dr Peter Phelps: What about the South West Rail Link—ahead of time and under budget?

Ms CATE FAEHRMANN: Exactly, the south-east rail link is what we are talking about. Anzac Parade—

The Hon. Dr Peter Phelps: The South West.

Ms CATE FAEHRMANN: Of course, we are talking about WestConnex when we talk about billions of dollars.

The Hon. Dr Peter Phelps: The South West Rail Link—ahead of time and under budget.

Ms CATE FAEHRMANN: Here we have the same Minister responsible asking us to put our faith in a massive new planning authority that will be all about deals with the big end of town at the expense of genuine community involvement in planning decisions that affect them. The Greens will not be supporting this bill. We should remember that the Sydney Airport Corporation ultimately decided to exercise its right of refusal to take on the project of building Badgerys Creek airport because it was too risky. So the Government has taken it on and has made the decision to sell it soon after completion, in 2026. Given this Government's record on completion dates for major infrastructure projects, this will probably blow out to beyond 2030.

The Hon. Shaoquett Moselmane: More like 2050.

The Hon. Dr Peter Phelps: Ahead of time and under budget.

Ms CATE FAEHRMANN: The Hon. Shaoquett Moselmane says 2050—possibly. It is not just the airport that will be privatised. The Government's media release from 4 March 2018 for the Western Sydney City Deal states:

> The Turnbull and Berejiklian Governments have jointly committed to the first stage of the North South Rail Link from St Marys to Badgerys Creek Aerotropolis via Western Sydney Airport. The Turnbull and Berejiklian Governments have a joint objective of having rail connected to the Western Sydney Airport in time for the opening of the airport. A market sounding process will test private sector interest in station developments and explore innovative financing solutions.

We have seen the outcome of Sydney Airport Corporation controlling public transport options to the airport so it can reap the financial benefits. That is probably an innovative financing solution as well—

The Hon. Dr Peter Phelps: Which Government did that?

Ms CATE FAEHRMANN: —never mind the congestion, never mind the cost. I acknowledge the interjection by the Hon. Dr Peter Phelps, because, yes, it was a Labor Government. But the Liberal Government is intent on following the former Labor Government down that path.

The Hon. Dr Peter Phelps: I don't think so.

Ms CATE FAEHRMANN: We have the media release here talking about private sector interests in our station development. It is clear that the rail link will be privatised.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): Order! Members will cease conversing across the Chamber. Ms Cate Faehrmann will direct her comments through the Chair.

Ms CATE FAEHRMANN: I apologise, Mr Deputy President. We have seen contracts that exclude buses from providing direct airport links from the central business district to the airport. We have also seen exorbitant train fares that drive people to catch taxis or Ubers together to save money. We have probably all experienced the frustration of being stuck in traffic jams and about to miss our flight. The object of the Act is to encourage the economic growth and development of the Western Sydney Aerotropolis and the rest of the Western City, in particular:

> (d) by promoting development that accords with best practice environmental and planning standards, is environmentally sustainable and applies innovative environmental building and public domain design ...

Western Sydney is set to absorb 60 per cent of the overall population growth in the Greater Sydney area over the next 18 years. That will account for more than one million people and most—70 per cent of them—will be added to existing suburbs. With the planned expansion of existing suburbs in Western Sydney, an additional 400, 000 homes will need to be constructed in the Western Sydney Regional Organisation of Councils area to accommodate this population boom.

One of the biggest environmental challenges to face Western Sydney residents is the severe lack of green space and the loss of the Cumberland Plain Woodland. Unfortunately, the Government's growth obsession in Western Sydney is seeing the loss of this bushland at an alarming rate. The Cumberland Plains are home to vital natural ecosystems and agricultural industry, which is at serious threat from poorly planned expansions to existing suburbs. The peri-urban agricultural industry of the Cumberland Plains contributes $1.5 billion to the economy per annum, and is further threatened by decreasing air quality from private vehicles and additional land clearing. Commitments from earlier governments to preserve the Western Sydney green belt have been seriously compromised by the current New South Wales Government's obsession with selling off more land to developers than is being acquired for reservation and conservation. I ask the Minister to respond in his reply whether there are any requirements in this bill or associated instruments that will require the authority to protect Cumberland Plain Woodland and other ecological communities as part of the growth and development of the Western Sydney Aerotropolis and the rest of the Western City.

The safety of residents and workers living and working near the airport is another area of concern that has been raised with me. Members will recall the plane crash just outside Essendon Airport last year where four American tourists and pilot Max Quartermain died. The plane crashed into a Direct Factory Outlet warehouse building in close proximity to the airport. It was incredibly lucky that no-one on the ground also died in this tragic accident. State and local authorities originally expressed concern at the proposal to build that shopping centre so close to the airport; however, their concerns were ignored. Now it seems that airports are being considered as business destinations in their own right, and commercial precincts with thousands of workers right next door to

the airport and the runways are the goal. I hope the interests of developers and other commercial interests have not been given higher priority than the safety considerations of local workers and residents.

The bill states that the aerotropolis is intended to create active, vibrant and sustainable communities and locations that support and benefit from the development of the Western Sydney Airport. It should be remembered that not all Western Sydney residents support the building of the airport. Some people, for example, have welcomed the vision for a Western Sydney fresh food precinct, which was referred to in a KPMG report released in November last year in conjunction with the NSW Farmers Association. That report talked about the potential of a fresh food precinct in Western Sydney, potentially as part of the aerotropolis precinct, creating 12,000 jobs and a world-leading food hub—that would be well and truly worth supporting. However, I have spoken with members of the community who are extremely sceptical that they will ever experience any benefits from the Western Sydney Airport.

A few weeks ago I had a tour of the parameters of the Badgerys Creek airport site. Whilst there I heard from a representative of the Luddenham Progress Association that the small Luddenham community, which is the closest village to the proposed airport site, is still on a septic system. The village of Luddenham has been asking for connection to town water and sewerage for many years. Villagers are certainly hoping that all the excitement and promises linked to the Western Sydney Aerotropolis will mean the basics of sewerage and town water for them. I also heard that many in the Luddenham community feel they are being ignored. Some people feel they have not received a fair valuation for their land and there has been a lack of consultation with the community. I heard the story of family members who were told they needed to vacate by the end of October, yet they still do not have an agreed payout figure. What has been offered is a pittance compared to what they believe their land is worth. No doubt that is not an isolated story.

Considering Luddenham is the closest town to the aerotropolis I hope that the object of the legislation—namely, to encourage economic growth and development of the aerotropolis and the rest of the Western City—extends to the community on its doorstop. Finally, clause 8 of the bill establishes a board of the authority, which will consist of seven members appointed by the Minister. Three of the members are to be nominated for appointment by the relevant Commonwealth Minister and the appointment of the chairperson of the board will require the concurrence of the Commonwealth Minister. I foreshadow that I will be moving an amendment to ensure that the majority of people on the board reside in the Western City, but I will speak more to that amendment during the Committee stage.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): I will now leave the chair. The House will resume at 8.00 p.m.

The Hon. DAVID CLARKE (20:00): On behalf of the Hon. Don Harwin: In reply: I thank the Hon. Peter Primrose, the Hon. Paul Green and Ms Cate Faehrmann for their contributions in debate on the Western City and Aerotropolis Authority Bill 2018. The bill, which will establish the Western City and Aerotropolis Authority as a New South Wales government agency, will deliver on the New South Wales Government's commitment under the Western Sydney City Deal to establish an entity to become a master planner and master developer of the aerotropolis. The authority, under the direction of a skilled board with members nominated equally by the Minister for Western Sydney and the Commonwealth Minister, will have a sole focus on delivering benefits. The authority is more than the master planner for the aerotropolis. Its scope is expandable to other areas within the Western City where coordinated efforts between the Government and private sectors will bring detailed land use and infrastructure plans to life.

In relation to the Opposition's proposed amendment, I note that the bill includes a clause allowing the authority to form private subsidiary corporations with the approval of the Minister. This gives the authority a similar power to existing entities established under the New South Wales legislation such as the Barangaroo Delivery Authority Act 2009 and the Western Sydney Parklands Act 2006. To deliver the aerotropolis, the authority will broker agreements between landowners and investors seeking to cooperate in the aerotropolis and enter into agreements to master plan and coordinate key strategic sites. Those agreements can be made on a commercial basis. By providing the authority with flexibility to form a private subsidiary corporation, the authority can create a private legal entity—either wholly owned or in a partnership—that could compete on a level playing field with the private sector in negotiating with landowners. Even if a corporation is not contemplated to be used at this point, this flexibility is important, particularly within a highly commercial context such as land use development.

At this stage, without knowing what functions might be exercised by any future private subsidiary corporation the authority may seek to form or participate in, it is difficult to say what public sector governance arrangements would be appropriate to impose on the corporation. As the authority can form or participate in or dispose of interests in a private subsidiary corporation only with the Minister's consent that will be the appropriate time to determine those arrangements. When that time comes, it may be concluded that it is not appropriate for a

private subsidiary corporation operating commercially on the market with other corporations to be subject to the Government Information (Public Access) Act. Not only would that give it a competitive disadvantage but it also would create an administrative burden for a corporation to comply with the Act when there would be strong public interest considerations against disclosing most of its information on the basis of commercial in confidence, competitive neutrality, prejudice to business, and commercial or financial interests. Just think of the result when the corporation's competitors make a Government Information (Public Access) Act application for commercially sensitive information.

It is notable that no other hypothetical subsidiary corporations are automatically brought within the regime of the Government Information (Public Access) Act. Any subsidiaries of State owned corporations such as the Barangaroo Delivery Authority, the various transport authorities under the Transport Administration Act, the NSW Food Authority, Property NSW and Western Sydney Parklands Trust are not automatically subject to the Government Information (Public Access) Act. Members should consider whether automatically subjecting a hypothetical private subsidiary corporation to the Government Information (Public Access) Act sets a precedent for the future with unknown consequences.

Members should also remember that a private subsidiary corporation can be subscribed to be a public authority for the purposes of the Government Information (Public Access) Act at any time. It can be so prescribed for the purposes of the whole Act or for specific provisions. The extent of the authority's ownership in the private subsidiary corporation may also be relevant to any decision about the application of public sector governance laws. A private subsidiary corporation by definition is one in which the authority will have a controlling interest. However, different considerations may apply depending on whether the corporation is wholly owned by the authority or the authority has a simple majority.

In relation to The Greens proposed amendment, I point out that the authority needs to be governed by professionals with diverse backgrounds and the skill set to deliver the aerotropolis and support growth of the Western City. Local knowledge of the Western City is a critical skill that will be reflected in the governance of the authority. When nominating board members, New South Wales and the Commonwealth will have regard to a skill set developed in collaboration between the three levels of government. Appointing board members based on skill will guide nominees and indicate where a skill is lacking and further expertise is needed. The eight local councils in the Western City were consulted on the types of skills that will be required. A skill set was then considered by the Western Sydney City Deal Leadership Group, including mayors of the Western City. The three levels of government have agreed the board will need to hold a specific skill for local knowledge, requiring direct background or experience in Western Sydney. Local government expertise will also be required.

Other skills considered reflect the broad skill set needed to master plan and deliver the aerotropolis. They include master planning and place making, aerospace and aviation, economic development, industry attraction, environment and sustainability, and finance and commercial experience. The Government will undertake a search for suitable board members, including potential nominees residing in the Western City. Through this approach, the Government will ensure that the board has local knowledge and experience of the Western City. In relation to the question raised by Ms Cate Faehrmann about requirements placed on this authority to protect environmental assets, I can advise her that the authority will operate in the existing regulatory setting of strategic land use, planning and development and asset assessment laws including biodiversity laws which incorporate objects and requirements relating to environmental sustainability and consideration of Aboriginal cultural heritage. Neither the bill nor the authority will derogate from this framework in any way. This is a great bill. I commend it to the House.

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

Motion agreed to.

In Committee

The CHAIR (The Hon. Trevor Khan): There being no objection, the Committee will deal with the bill as a whole. I have two sets of amendments: The Greens amendment on sheet C2018-120 and the Opposition amendment on sheet C2018-121. As The Greens amendment occurs earlier in the bill, I call on Ms Cate Faehrmann to move her amendment.

Ms CATE FAEHRMANN (20:10): I move The Greens amendment No. 1 on sheet C2018-120:

No. 1 **Members of Board**

Page 4, clause 8. Insert after line 19:

(3) The Minister is to ensure that the majority of the persons appointed as members of the Board are persons who reside in the Western City.

I hope that this amendment will win the support of the Committee. The amendment is to clause 8 of the bill, which establishes a board of the authority. The current clause provides for seven members appointed by the Minister, three members nominated by the Minister under the Act and three by the Commonwealth Minister. The seventh person is appointed chair of the board. The Greens amendment simply seeks to ensure that a majority of people on the board reside in Western City. Western City means the local government areas of the Blue Mountains, Camden, Campbelltown, Fairfield, Hawkesbury, Liverpool, Penrith and Wollondilly.

Our planning decisions are increasingly being made by government appointees, not by the community. The genuine concern is that the interests of developers will dominate when the Minister appoints people to the board. This Chamber should ensure that the board is making decisions in the best interests of the people of Western Sydney and that will send a good signal that the Government is serious about creating jobs in Western Sydney for the residents of Western Sydney. This amendment will demonstrate that the Government is prepared to walk the talk, by ensuring that at least four people on the Western City and Aerotropolis Authority board reside in the Western City.

I note that the Hon. David Clarke said that the board needs to be run by professionals. Surely a majority of at least four professionals who live in any of the eight local government areas that comprise Western City could be on the board. In fact, there is no guarantee that anyone nominated by the Minister or the Commonwealth Minister will reside in Western City. Given its importance to residents and because the Minister spoke about how much he wanted to attract jobs to Western Sydney for people living in Western Sydney, surely we can start by ensuring that the majority of the board, which is at least four people, reside in the Western City precinct.

The Hon. DAVID CLARKE (20:13): For reasons given in my reply to the second reading debate, the Government opposes The Greens amendment No. 1.

The CHAIR (The Hon. Trevor Khan): Ms Cate Faehrmann has moved The Greens amendment No. 1 on sheet C2018-120. The question is that the amendment be agreed to.

Amendment negatived.

The Hon. PETER PRIMROSE (20:13): I move Opposition amendment No. 1 on sheet C2018-121:

No. 1 **Private subsidiary corporations subject to GIPA Act**

Page 7, clause 18. Insert after line 42:

(4) However, a private subsidiary corporation is taken to be a public authority for the purposes of the Government Information (Public Access) Act 2009.

I outlined in my contribution to the second reading debate why this amendment should be relatively uncontroversial. The Opposition supported the legislation. It has made clear that it supports Badgerys Creek airport and it supports what is happening in relation to jobs et cetera in the community. Given the magnitude of what is being proposed in the bill, the Opposition's concern is that the private subsidiary corporation that is proposed in the legislation needs to be transparent. The decisions should be transparent and we all know where it leads to if they are not. We need to have the disinfectant of light shone on it otherwise people will think the worst. That is why the Opposition proposes that the Government Information (Public Access) Act 2009 should be applicable so people can see what is happening and know that what is happening is not behind closed doors.

The Hon. DAVID CLARKE (20:14): For reasons given in my in reply to the second reading debate, the Government does not support the Opposition's amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. Peter Primrose has moved Opposition amendment No. 1 on sheet C2018-121. The question is that the amendment be agreed to.

The Committee divided.

Ayes 14
Noes 17
Majority.....3

AYES

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

NOES

Ajaka, Mr	Amato, Mr L	Clarke, Mr D
Colless, Mr R	Cusack, Ms C	Fang, Mr W (teller)
Farlow, Mr S	MacDonald, Mr S	Maclaren-Jones, Mrs (teller)
Mallard, Mr S	Martin, Mr T	Mason-Cox, Mr M
Mitchell, Mrs	Nile, Revd Mr	Phelps, Dr P
Taylor, Mrs	Ward, Mrs N	

PAIRS

Houssos, Mrs C	Blair, Mr
Secord, Mr W	Franklin, Mr B
Wong, Mr E	Harwin, Mr D

Amendment negatived.

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

Motion agreed to.

The Hon. DAVID CLARKE: I move:

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

Adoption of Report

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

That the report be adopted.

Motion agreed to.

Third Reading

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

That this bill be now read a third time.

Motion agreed to.

IMPOUNDING AMENDMENT (SHARED BICYCLES AND OTHER DEVICES) BILL 2018

Second Reading Speech

The Hon. SCOTT FARLOW (20:24): On behalf of the Hon. Don Harwin: I move:

That this bill be now read a second time.

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

Leave granted.

I am pleased to introduce the Impounding Amendment (Shared Bicycles and Other Devices) Bill 2018 to the House. I do so because for the last 12 months communities, particularly those in the inner city areas, have been enormously frustrated by a lot of shared bikes being inappropriately left across the landscape—on footpaths, in parks, in people's front yards. These shared bicycles have been consistently dumped in inappropriate locations. As a result of that, local governments have brought forward their concerns about the way in which these bicycles should be regulated.

This bill is designed to regulate a new and innovative mode of transport—that is, shared bikes—provided by private operators. As I said, my concern has been the way in which the industry has operated to date, which has led to pedestrians and others in many ways having to compete for access to footpaths and public spaces. For food vans, trucks, commercial and personal fitness training, community gardens and more it is time that we had a sensible approach to dealing with the problem of inappropriate dumping of shared bicycles. I had hoped that local government, which has responsibility for footpaths, could have resolved this problem. Unfortunately, that has not come to fruition, and the affected spaces to which I refer, particularly footpaths, have in many cases become homes to dockless share bikes. The loss of amenity and increased safety risk to pedestrians are a concern for many.

The bill seeks to help councils, the police and public land managers to deal with the costs and risks associated with managing dockless share bikes in public spaces. Dockless bikes are different from traditional bike hire or bike sharing schemes where bikes are returned to a fixed location, be it a shop or a docking station. This free-floating model involves bikes that are generally GPS

enabled. Users can open a phone app to locate a bike on a map, pay for a trip and open a lock on the rear wheel of the bike. At the end of the trip users simply park the bike and lock the wheel, leaving the bike ready for the next user, wherever that happens to be.

The Greater Sydney Commission has established a vision for Sydney as a 30-minute city. As Sydney transitions to a metropolis of three cities, convenient and reliable access for customers to their nearest centre by public and active transport is increasingly important for productivity, livability and sustainability—I think everybody accepts that argument. In March this year I launched our vision for the next 40 years of transport in New South Wales. Future Transport 2056 is a comprehensive strategy to ensure the way we travel is more personal, integrated, accessible, safe, reliable and sustainable. One of the key elements of this plan is that by 2056, 70 per cent of people will live within 30 minutes of their place of work or study.

In support of these closely linked goals, the Government welcomes any initiative that makes walking, cycling or active transport more appealing and accessible. Every weekday in Greater Sydney customers make about eight million journeys that are shorter than two kilometres. The Government aims to make active transport the preferred choice for these quick trips. Customers also make 15 million trips of less than 10 kilometres every weekday. There is an opportunity to grow share cycling for these trips, which will support access to centres and public transport and encourage active and healthy lifestyles. These benefits will prevent illness and increase the vibrancy of local places while reducing congestion and lowering emissions and air pollutants.

Share bikes provide another option to complete the first or last mile of a customer's journey. The role of share bikes as a first mile-last mile solution to connect people with the public transport network will be easier with designated parking areas at busy transport hubs. Bike share schemes elsewhere have contributed to the uptake of cycling overall. This has been attributed to the normalising effect of more people cycling in everyday, ordinary clothing. The traditional docked models have achieved this with significant financial support from governments. Dockless services are provided by private companies in a competitive market, in part because of the reduced reliance on fixed infrastructure. Transport is a technology business. The Future Transport Technology Roadmap, which was published in April 2017 as a precursor to the next long-term transport plan, foreshadowed the rise of technology-enabled, shared-use, personalised transport. Mere months later, the first dockless share bikes arrived in Sydney.

The new service model is based on innovative technology such as phone apps, GPS trackers and digital locks which maximise convenience for users and minimise start-up and ongoing costs. Preliminary research on the uptake of these services has shown that Sydney residents and visitors have embraced some of this convenience. Councils have important roles in building cycling infrastructure and encouraging cycling in their local government areas. However, the driver for this bill is that the innovative service model has had unintended and negative consequences, such as unused bikes being left in inappropriate or unsafe places or accumulating at certain locations.

Managing these impacts generally falls on public authorities such as councils and other New South Wales government landowners. These agencies bear the cost of dealing with the negative impacts of broken and inappropriately placed bikes, sometimes relocating or impounding them. These matters should be the responsibility of the companies operating the share bike services. Local councils have advised that current legislation does not provide sufficient incentive for operators to responsibly manage share bikes. Having seen these bikes littered around the city, most people would agree with that.

Currently the Impounding Act 1993 confers powers on enforcement officers to impound bikes where the enforcement officer believes on reasonable grounds that the bike has been abandoned or left unattended. However, the powers of councils and public landowners to impound abandoned articles do not allow for owners of those articles or objects to be penalised, only the individuals who left them in the public space. Motor vehicles are an exception, with owners being able to be penalised in certain circumstances. Impoundment is costly for councils and incurs a fee, but without a requirement to collect impounded articles the fee can go unpaid, particularly if the object is worth less than the fee. Many councils have called for permit or licensing regimes for share bike services. However, it is not necessary to intrude on the business model in order to regulate the negative impacts.

The Government is committed to light touch regulation. Regulatory frameworks should deal with the problem that has been identified rather than create red tape and stifle innovation. The bill aims to minimise red tape placed on the new services using new technology while ensuring that any new sharing service businesses abide by basic safety standards and assume the cost of managing their own operation. The bill amends the Impounding Act 1993 to enhance the powers of the impounding authorities identified in that Act to require operators to remove their bikes where notified to do so and to penalise them if they do not comply with such notices. It also ensures impounding authorities have the ability to move a bike that is causing an obstruction or safety risk and to impound bikes in such circumstances.

Impounding authorities will have a range of powers at their disposal. In most circumstances it can be expected that an operator will respond to a notice that a bike is in a dangerous place or has been in one place for too long and will take action to remove that bike. Failure to do so will mean that the operator is deemed to have abandoned the bike. Under the Impounding Act 1993, abandonment of an article in a public place is an offence. The amendments in the bill will ensure that it is the operator, as the owner of the bike, who will be taken to have abandoned it and who will face fines for doing so rather than the council having to identify the individual who left the bike in the unsafe place. Where a bike poses an immediate danger—for instance, where it is parked in front of a fire exit or obstructs a footpath—the bill will authorise the impounding officer to move it to a safer location or to impound it.

The bill provides that anyone can notify the operator that its bike is causing an obstruction or safety risk or has been parked in the one place for over seven days. A local shopkeeper whose shopfront is obstructed, a pedestrian whose walkway is not clear, a person with visual impairment who trips over a bike, anyone notifying the operator of a concern will trigger the time for the operator to take action. If the action to move or remove the bike is not taken, the operator will be taken to have abandoned the bike and may be subject to a fine. Such fines need not be pursued in court. As with other abandoned articles under the existing provisions of the Impounding Act, owners of abandoned share bikes can be the subject of an on-the-spot fine, formerly known as a penalty infringement notice. For instance, where a council ranger observes a bike in the same place for seven or more days, he or she may notify the operator to give them an opportunity to remove the bike. If the bike is still there after another four days, the ranger can slap a penalty infringement notice on the bike. As with a parking fine, the operator has the option of paying the fine or challenging it in court, with the risk of incurring the higher statutory penalty of $2,750 which is 25 penalty units.

Including informal notification by anyone, the bill provides impounding officers with the power to issue formal removal notices for bikes left in contravention of the new provisions of the Act or any provision of the regulations or a code made under the regulations. Consistent with the approach taken in the remainder of the bill, failure to comply with such a notice will be taken to be an abandonment of the bike and the operator will be liable to a penalty. As alluded to, the bill provides that further requirements may be imposed on operators through regulations or through a code of practice made under the regulations. When dockless bike

sharing services first arrived in Sydney in the middle of 2017, six inner city councils responded by developing a set of voluntary guidelines in collaboration with operators. It is intended that the code made under the bill will build on the provisions of those voluntary guidelines.

Extensive consultation with councils, operators and community advocacy groups has confirmed that those guidelines address the relevant land management issues and are feasible for operators to comply with. The guidelines are the basis of the proposed statutory provisions just outlined: the requirement to move bikes that are causing an obstruction or safety risk and the requirement to move bikes that have been left in one place for more than seven days. The code of practice can contain additional requirements, building on those in the guidelines. Dockless bike share is a relatively new service model. We can expect that it will continue to evolve, but we cannot predict what changes might come. If and when the business model changes, it may present new challenges or concerns. Being able to amend the code by regulation provides flexibility and adaptability. The bill strikes the correct balance when it comes to regulating share bikes. We do not need an elaborate licensing or permit regime. Rather, the bill focuses on the behaviours that are most likely to pose a risk to public safety or enjoyment of public spaces.

I turn now to the provisions of the bill. Schedule 1 to the bill contains the proposed amendments to the Impounding Act, most of which will be set out in a new division 5 of part 2 of the Act, Additional powers in relation to shared devices. Clause 19A makes it clear that the provisions of the new division 5 supplement do not limit the general impounding powers of officers under other provisions of the Act. Clause 19B defines key terms used in the amending provisions, including "device", "shared device" and "operator". The focus of the regulatory system in the first instance will be on dockless bike share. But, importantly, the bill includes a provision that permits the Government to prescribe by regulation any additional devices that might be provided through a sharing service—for example, electric bikes and scooter schemes, which have been introduced in North America. Any such device or mode of transport will, of course, have to be legally permitted in the first place. Certain types of electric scooters are currently prohibited from being used on New South Wales public roads or footpaths.

"Sharing service" is defined in clause 19C to mean a formal arrangement whereby a device is provided for hire, the device is self-locking or access is otherwise able to be limited, including remotely, and the device is not provided from the premises of the operator of the service, nor is it required to be returned to any premises or any other particular location other than a preferred parking zone designated for that purpose. The "operator" of a shared service is the person who carries on the business of providing a sharing service and includes both natural persons and bodies corporate. The bill gives new powers to impounding officers, who are already identified in the Impounding Act as officers appointed by impounding authorities. These include all local councils and various public landholders such as Sydney Trains and Place Management NSW, formerly the Sydney Harbour Foreshore Authority, which will be able to enforce the new provisions and any code made under the regulations in their respective areas of operations.

Clauses 19D and 19E are the key provisions that establish new circumstances in which a shared device can be dealt with by an impounding officer. Clause 19D deals with a shared device that causes an obstruction or safety risk. This is defined as a device left in a way that causes obstruction to traffic, whether vehicular or pedestrian, or that is likely to be a danger to road users or the public. It is expressly provided that this includes where it blocks access to a footpath, fire exit, lift, access ramp or stairs. The regulations may prescribe further circumstances in which a device will be treated as causing an obstruction or safety risk. A bike must not be left in a public place in a way that causes such problems. An impounding officer will have a range of options for dealing with a bike in these circumstances. The officer can immediately impound the bike.

Impounding is an administrative and practical process that may be resource intensive. The existing provisions of the Act set out the impounding process and its consequences. It requires the officer to remove the article to a council pound and to notify the owner. The owner may apply to the impounding authority for the release of the article and will usually be required to pay a fee for any charges associated with the impoundment as well as any applicable penalties before the article is released. If the article is not claimed within 28 days it may be sold to recover costs or otherwise disposed of. Alternatively, instead of impounding a share bike, clause 19D explicitly empowers the officer to move the bike to another place where it does not cause an obstruction or any safety risk. This means that any serious issues posed by the bike can be dealt with immediately and the costs associated with impounding need not arise.

In addition, the impounding officer or any other person can notify the operator that its bike is causing an obstruction or safety risk. This notification starts the time running. Where an operator fails to move the bike within three hours, the operator will be taken to have abandoned the bike. I remind members that abandoning an article in a public place is already an offence under section 32 of the Impounding Act. Section 32 will be amended to set a higher penalty for this class of abandoned shared device as compared to other articles. It will be 25 penalty units compared to the usual maximum of five penalty units or $550. This is appropriate as the operators who carry on the sharing service are penalised and not the individuals, as is the case with other abandoned articles. I note that the quantum of this penalty is broadly consistent with those levied by other Australian States and Territories. A higher penalty also will incentivise operators to be more active in taking steps to educate and inform their users about the proper parking of the bikes to ensure that they are not left in ways that cause obstruction or safety risks.

Clause 19E deals with another issue regarding share bikes that annoys many people and affects public amenity. This is where bikes are left unused in one place for too long. They may not be causing an immediate risk but the bike just remains in place outside someone's house, up a tree or in a laneway for days and days. Sometimes a number of bikes will accumulate in one place. Where a bike has been left in the one place for seven days or more anyone, including an impounding officer or a member of the public, can notify the operator and, as is the case for a clause 19D notification, the time limit will begin to run. If the operator does not move a bike about which it has received a notice under this provision within four days, the operator will be taken to have abandoned the bike and will be subject to the same higher penalty for abandonment as set out earlier, that is, 25 penalty units. These are the two specific circumstances that will be dealt with through the Impounding Act.

In addition, the bill provides that further enforceable obligations can be imposed on the operators of sharing services by the making of regulations or a code of practice. A code of practice may be made by regulation to protect the public amenity, manage risks to safety, manage any public liability that is incurred and plan for the operation of an integrated transport network. It will be possible to create offences in the code for breach of its provisions. These would be subject to a penalty not exceeding five penalty units. The code will be able to provide for further circumstances in which a bike will be taken to have been abandoned by the operator. Abandonment under a provision of the code would be an offence subject to a maximum penalty of five penalty units. The regulations will be able to exempt particular shared devices or sharing services from the provisions of the new division 5.

I have already mentioned the ability of any person, including a council ranger, a user, or a member of the public, to notify an operator that one or more of its bikes are parked in an unsafe location or are left in one place for too long. Clause 19G of the bill includes a more formal notification process called a "removal notice" that can only be issued by an impounding officer. A removal notice will be able to be issued in respect of a device that is left in a public place in contravention of any requirement in the Act, the regulations or a code of practice. This notice will be available whether or not such a contravention constitutes an offence. Failure to comply with the requirements set out in the notice to remove the bike within the specified time frame will mean that the operator will be deemed to have abandoned the bike. As I have noted before, abandonment is itself an offence under the Act.

Finally, the bill includes an extremely important provision that will make enforcement much more straightforward. Clause 19H provides that the operator of a sharing service is taken to be the owner of any shared device that is branded with the name of the operator or the operator's business. As the owner, the operator will be the person responsible for ensuring that its bikes are well managed and will be the target of any compliance activity if they are not. The business model for dockless bike share and for shared services more generally is still evolving all over the world and companies are starting to become more selective about the markets they contest. Regardless of which companies stay or go, however, it is a sure sign we are moving to a new era of technology-enabled mobility, and it is not limited to bicycles, as we have seen internationally where the same technology has been applied to other shared and active transport modes such as electric bicycles and foot scooters.

This Government is trying to strike the right balance in the regulation of share bikes by enabling new innovative service models to operate while addressing the behaviours that are most likely to pose a risk to public safety or the community's enjoyment of public spaces. I am very strongly of the view that when it comes to shared bikes the designation of appropriate parking bays is a very important facet. The bikes can be ridden on our streets but they must go to particular points so that the community and public amenity are respected. That is not the case at present and it has been a disappointing element in this enterprise.

Also disappointing is that some council mayors have not seen fit to work constructively with Transport for NSW throughout the process. The code of practice which will be enforceable under the regulations has largely been developed through good local government leadership, but not all councils have engaged in a proactive and sensible way. A mayoral friend from the inner west has seen fit to boost his profile on this issue without looking at the powers that currently exist under local government and State legislation. This bill strikes a balance between avoiding over-regulation and allowing innovation, which is important, while at the same time providing the necessary safeguards for our community and public amenity. These operators are on notice. I do not want to have to introduce further measures. I believe this bill strikes the right balance if everybody, the industry and local councils, work together.

I expect Transport for NSW will look at the infrastructure, particularly in and around transport hubs, so that people can appropriately locate these bicycles to the benefit of everyone. The way in which these bikes have been left strewn on footpaths is unacceptable. I hope that the engagement by Transport for NSW achieves a balanced outcome which will enable innovation whilst at the same time provide light-touch regulation and legislation to safeguard the community and enhance public amenity. I commend the bill to the House.

Second Reading Debate

The Hon. PETER PRIMROSE (20:24): I lead for the Opposition in debate on the Impounding Amendment (Shared Bicycles and Other Devices) Bill 2018. I indicate that the Opposition will not oppose the bill, which amends two instruments: the Impounding Act 1993 and the Impounding Regulation 2013. Rental bike sharing can have an important role to play, particularly in Sydney's transport future, but operators of dockless schemes have to do much more to overcome issues of vandalism and public safety. New South Wales Labor believes that ratepayers should not bear the cost of impounding dangerous and badly parked bikes. The primary intention of the bill aligns with that belief. The Impounding Act 1993 confers powers on enforcement officers to impound bikes when the enforcement officer believes on reasonable grounds that the bike has been abandoned or left unattended. However, the powers of councils and public landowners to impound abandoned articles do not allow for owners of those articles or objects to be penalised, only the individuals who left them in the public space. In the case of shared bikes that is the user, not the operator.

In the absence of action by the Government to date, a group of six Sydney councils convened last December to arrange regulations for bike share companies to follow. Following the end of a three-month trial of guidelines for shared bikes, mayors from the City of Sydney, the inner west, Waverley and Woollahra called for immediate action from the State Government on laws covering dockless shared bikes. Shared bikes were obviously a genuine concern, particularly in the inner city, not only on environmental grounds but also because people with disabilities had to try to get around the bikes that were left everywhere. They were also of concern to parents. In response to community concerns the Minister for Transport and Infrastructure, the Hon. Andrew Constance, indicated consistently and in writing that the Impounding Act as it existed was perfectly fine and provided all of the mechanisms and legislative requirements that councils needed to act. To that extent I am pleased that the Government has recognised that the Minister's interpretation was in fact incorrect and that the firm belief of councils that strong and firm legislative action was required has been affirmed by this bill.

The bill aims to give impounding officers appointed by local councils or by other public authorities additional power to move or impound shared bicycles and other devices that are provided for hire as part of a sharing service and that have been left in a public space. It also aims to authorise regulations to prescribe a code of practice for sharing services that imposes enforceable obligations or restrictions on operators and former operators of sharing services. The bill confers greater powers on impounding officers. In some circumstances, a share bike user or any other person is also able to trigger the provisions. The Impounding Act 1993 currently contains several definitions, including the meaning of a shared service. The bill defines a sharing service to focus

on dockless services. The definition refers to an arrangement, including an arrangement in writing or one established through a smartphone application, under which a number of things occur.

Devices are provided for hire, whether fee payable or not, and the devices are self-locking or access is otherwise able to be limited. The devices are not hired from the premises of the operator or from a fixed docking station. Finally, the devices are not required to be returned to the operator, the premises they were picked up from or a fixed docking station. The bill provides that an impounding officer may immediately impound a shared device if it has been left in a public place and the impounding officer believes, on reasonable grounds, that the shared device has been left such a way that causes an obstruction or safety risk.

A shared device bike causes an obstruction or safety risk if it is left in a way that causes an obstruction to traffic, whether vehicular or pedestrian, or that is likely to be a danger to road users or the public, including because it blocks access to a footpath, fire exit, lift access, ramp or stairs. The bill requires an operator of a sharing service to ensure that when their bikes are left in public places, whether by a user or any other person, in a way that contravenes the Act, it must be removed within three hours of the operator being notified of the contravention by an impounding officer, user or any other person.

An impounding officer may issue a removal notice to an operator of a sharing service requiring the operator to remove a shared device which has been left in a public place if the impounding officer believes on reasonable grounds that the shared device is owned by the operator and the shared device has been left in the place that has been provided by the operator in contravention of this Act, the regulations or a code of practice. The removal notice must give particulars of the shared device and its location and specify the alleged contravention and the time by which the shared device must be removed.

An operator of a sharing service who fails to comply with the removal notice relating to a shared device left in a public place, whether by a user or any other person, is taken to have abandoned the shared device in that public place. Penalties that will apply as a result of contravention of some of the requirements range from five penalty units up to 25 penalty units. If the offence is dealt with by penalty notice the fine is $500. There are provisions relating to regulations to deal with matters relating to the safety, operation or maintenance of sharing services and shared devices and they may prescribe for a code of practice. In his second reading speech the Minister justified the wideranging powers made available under regulation by arguing dockless bikes are a new business model:

> Being able to amend the code by regulation provides flexibility and adaptability.

The Minister also noted that additional devices such as electric bikes and scooter schemes may be captured in the future. While the Opposition normally has some concerns about granting what some would say are Henry VIII clauses in legislation—whereby regulations can be used essentially as a legislative tool without returning it to this place—in this case we argue that that is a justified provision. The Minister left out one other nuisance where this model might be considered in future. It is a concern that occurs in many inner city and suburban areas: shopping trolleys. Shopping trolleys are the scourge of many local communities and they are the scourge of impounding officers. They are left in many areas and cause immense grief—

Reverend the Hon. Fred Nile: In car parks.

The Hon. PETER PRIMROSE: In car parks but also on roads, particularly when people do not have access to shopping bags. People will load a trolley, take it away to where their car may be or where they live and then abandon the shopping trolley. I am not arguing for or against that at the moment; I am simply pointing out it may be a model to be considered in the future. We are talking about services such as dockless bikes—and the Minister spoke about electric bikes and scooter schemes that may also need to be captured in the future—but it may be worthwhile using this model when considering the issue of shopping trolleys. The Opposition does not oppose the bill.

Ms CATE FAEHRMANN (20:33): I speak on the Impounding Amendment (Shared Bicycles and Other Devices) Bill 2018. This bill amends the Impounding Act 1993 to give additional powers to impounding officers appointed by local councils and/or other public authorities to move or impound shared bicycles and other devices that are available for hire or which are part of a sharing service and have been left in a public place. Unfortunately, despite assurances by the Minister to the contrary, this bill does not adequately reflect some of the concerns expressed by affected councils, nor the solutions offered by them to deal with some of the problems experienced with shared bicycles in recent years. The history of consultation on this bill is interesting for members of this place to note. Councils have been making their concerns regarding the dumping of shared bikes known to the transport Minister for some time. In May this year, the Minister announced that the New South Wales Government would introduce an enforceable code of practice for bike-share operators. The Minister stated:

> The code of practice will give councils and other public land managers enhanced powers to deal with inappropriately placed shared bikes and set minimum standards for operators around safety, bike parking, user education, communication, data sharing and

> service levels for reporting and responding to complaints. Legislation is expected to be introduced to Parliament later this year. The code of practice will build on the work of six Sydney councils who introduced voluntary guidelines in December 2017.

I have been informed that at a stakeholder workshop run by Transport for NSW and the Office of Local Government—which was attended by impacted councils—there was overwhelming support from stakeholders for a permit system. Permit systems are used in cities around the world including the Gold Coast and Adelaide, and a permit system could include a bond system, an operating fee, a cap on numbers et cetera. It would provide the ability to deny an operator entry to the market, for example, if they do not have insurance or global positioning system tracked bikes. A permit system would provide clarity to operators, and it could send a strong message that the Government supports bike-share as a transport option in Sydney.

This support for a permit system was acknowledged by Transport for NSW and the Office of Local Government at a feedback briefing on 23 July 2018. However, what was clear to stakeholders who were present was that the Minister had already made up his mind—a permit system was off the table. That is what consultation is all about in New South Wales. It is consultation that ticks a box but where Government Ministers do not actually listen and respond to stakeholders and the community's feedback or concerns. The Minister had clearly already made up his mind about a solution. The Minister did not want a permit system because he says it is "not necessary to intrude on the business model in order to regulate the negative impacts" and that the Government was committed to "light touch regulation".

So what we have is a bill which gives councils the powers to impound bikes, and provides for a code of practice to be made under the regulations. The Minister states that the code of practice will be enforceable under the regulations and has largely been developed through good local government leadership, but he says that not all councils have engaged in a proactive and sensible way. Maybe that is because his Government ruled out a permit system, which many stakeholders wanted early on in the consultation period. Some council stakeholders say that this bill will simply increase the burden on councils. The new amendments shift the blame to operators, making it clear that they are responsible for bikes that are abandoned. This means that they may be responsible for picking them up and returning them to safe and useable locations.

The bill increases possible fines from what could be as low as $79, to a range of $500 and a maximum $2,750. Previously, picking up deserted bikes cost more money than the revenue collected from fines. However, there will be resource implications if the sector grows, which might not be offset by income from the collected fines. This cost-shifting is also of concern to The Greens but, despite these concerns, the Greens will not oppose this bill. It is worth noting that many bike-sharing companies have already withdrawn from the market in New South Wales over the past few months, as they have in Victoria and elsewhere in Australia and other places around the world. Quite frankly, this speaks to a larger problem that we need to look at and address to ensure bike-sharing programs can be successful and accessible.

The presence of high-quality cycling infrastructure is crucial to participation in bike-sharing programs—and indeed, to cycling more generally—which is something I am always prepared to talk about to members in this House. Without high-quality cycling infrastructure, expanding the system size does not necessarily increase participation. The benefits of bike-sharing schemes include transport flexibility, reductions to vehicle emissions, health benefits, reduced congestion and fuel consumption, and financial savings for individuals.

The city of Hangzhou in China has the most successful bike-share program in the world. There are currently up to 78,000 bicycles in the program, and the program is so successful that the local government has invested its own money to allow it to expand. This bill is not consistent with guidelines for share-bike operators agreed to by the City of Sydney, Canada Bay, Inner West, Randwick, Waverly and Woollahra councils in December 2017. The Institute for Transport and Development Policy in New York released a bike-sharing planning guide that outlines five critical elements for success in bike-sharing programs, and I quote:

- Station density: A quality system needs 10-16 stations for every square kilometre, providing an average spacing of approximately 300 meters between stations and a convenient walking distance from each station to any point in between.

  Bikes per residents: 10-30 bikes should be available for every 1,000 residents within the coverage area.

  Larger, denser cities and metropolitan regions with an influx of commuters served by the system should have more bikes available to meet the needs of both commuters and residents.

- Coverage area: The minimum area covered by a system should be 10 square kilometres, large enough to contain a significant number of user origins and destinations.

- Quality bikes: Bikes should be durable, attractive and practical, with a front basket to carry bags, packages or groceries.

To achieve this The Greens believe that a bike-sharing program may need more government support beyond simply regulating and policing the dumping of shared bikes in New South Wales. I note the Minister did make assurances in a briefing on the bill this week that councils could make submissions to the Government's active transport fund if they needed financial assistance to start a bike-sharing scheme.

The City of Sydney provided its view on the proposed amendments to me. It suggested that the amendments in this bill are not the appropriate way to address the safety and obstruction risks of share-bike operations, or to ensure faulty or vandalised bikes are removed from streets speedily. The issues raised by the City of Sydney included that its potential liability may be increased under these arrangements if the council is notified of a bike in a dangerous location and it does not take action. The onus for making a determination on when a share bike or other device is deemed to be causing an obstruction or a safety risk will fall on individual compliance officers. For this reason, it is likely the City of Sydney will need to develop an operational guideline. There are also likely to be significant resource implications if share-bike operations increase or new models such as electric scooters enter the market, but these may be offset to some extent by income from fines. There may also be a consequential impact on other compliance activities such as parking enforcement and potentially a reduction in customer service generally.

The City of Sydney will also need to develop strategies to address the waste stream implications of share bikes if significant numbers are impounded and not recovered by operators. It also suggested that with no indication of when regulations or a code of practice will be introduced the council is unable to plan for implementation of these arrangements. Finally, it is the view of the City of Sydney that the bill should not proceed at this stage and that the Office of Local Government and Transport for NSW should consult further on whether a permit system is preferable as a first step—which is what the stakeholders wanted in the first place. The amendments to the Impounding Act would remain available for future debate and enactment if the permit system did not achieve the appropriate level of community support for share-bike schemes. The City of Sydney also said there had been no public consultation on the bill or with councils. However, despite the concerns I have outlined, it has been clear for some time now that something had to be done about the issue of shared bikes being dumped around the city and other places. In conclusion, The Greens will be supporting this bill even though its solutions are not ideal.

Mr SCOT MacDONALD (20:43): Did I sense some hesitation in my being given the call?

The DEPUTY PRESIDENT (The Hon. Trevor Khan): No. A number of enthusiastic people on the Government benches wish to make a contribution. I was wondering who it was going to be.

Mr David Shoebridge: The other bill is stuck downstairs so that explains the enthusiasm.

Mr SCOT MacDONALD: It is with great enthusiasm that I make a contribution to debate on the Impounding Amendment (Shared Bicycles and Other Devices) Bill 2018. I support this wonderful, overdue bill. This time last year I was in China. When I visited the cities of Beijing and Shanghai I was absolutely awe-struck—

Ms Cate Faehrmann: Junket!

Mr SCOT MacDONALD: Personally paid for. In fact, I was there to watch my son box.

The Hon. Greg Donnelly: Hear, hear! How did he go?

Mr SCOT MacDONALD: He lost. I do not think I had ever seen a dockless bike before then but in Beijing and Shanghai bikes were everywhere—on footpaths and median strips, in hotel gardens and at train stations. From my observations there were dockless bikes, electric bikes, docking bikes, scooters, every known configuration—and knowing China, some others besides—and there were a dozen-odd brands or operators. Although the streets of Beijing and Shanghai were absolutely littered with them, the people made their way around them. I watched people of all ages, young and old, scan and unlock the bikes and off they would go. I do not think I saw a bicycle helmet in the whole time I was there. It was wonderful to see a society get on and do this. In fact, it was very libertarian in many ways. No doubt if one of my honourable colleagues had been there he would have been very impressed.

The Hon. Dr Peter Phelps: Keep using that word. I am not sure the member knows what it means if he is referring to China.

Mr SCOT MacDONALD: In respect of dockless bikes it was open slather. I am sure other members have seen them in their travels around the world. At that time I wondered if they would come to our part of the world. When we got home the bikes started to appear and soon became a concern for local government. Now, a year or so later, the industry has evolved. I concur with the notes I have been given that these devices do bring strong social, economic and environmental benefits. How could one not agree? People do not own an asset; they are sharing an asset. It is great for the economy and for transport. People were using them point to point—they were doing short, long and commuting trips. However, the City of Sydney and some of the local government areas across Sydney have had concerns about the cost to their bottom lines in managing the dockless bikes in particular. A previous speaker spoke about some operators pulling out of the industry but some are there for the longer term.

Late last week or early this week I had the pleasure of meeting the new operator Lime. They had some new ambitions to trial so I pointed them in the direction of the Newcastle and Lake Macquarie city councils. I thought these bikes might work in good contained local government areas. Lime is going to arrange meetings with those councils and I hope something good will come of that. But we have now reached the point where we are weighing up the cost, the inconvenience and the abuse by a small number of people who are letting down the community and imposing costs on councils.

The thrust of this legislation is to support councils. Councils are not anti-dockless bikes in any way, shape or form and, as we have heard, some have even developed voluntary codes of practice. We cannot blame councils for being concerned about costs imposed on their budgets and on ratepayers. It costs money to remove bikes and to deal with vandalism and complaints from the community. To shift that cost over to the ratepayer is troublesome. The Government's response is measured and balanced. This bill provides the power to lift those penalties and bring back the incentive to do the right thing.

The bill will impose a higher penalty on irresponsible operators for the abandonment of share bikes than currently applies to individuals for the abandonment of regular bikes and other articles. This is because operators of bike-sharing services are running businesses that rely on access to public land, rather than being individuals who have abandoned a single item. Also, it can be expected that the risk of higher penalties will incentivise operators to run their businesses in a way that minimises the incidence of bikes being unsafely placed or otherwise abandoned. For instance, they might find ways to better educate or incentivise their users about good bike-parking practice.

The bill will make it easier for councils to penalise and impound the bikes of operators who do the wrong thing, but will not impede proactive and collaborative operators who do the right thing. I now turn to the powers and responsibilities that councils have under legislation and how and why these will be enhanced by the bill. Councils have an important job looking after footpaths and local roads. Building and maintaining infrastructure and managing safety and amenity in those public places falls on their shoulders.

When the bill was introduced, it was explained that current laws tend to penalise the individual causing an obstruction or safety risk, rather than the owner of the object. Further, the current laws are insufficient to make operators of share-bike businesses collect their bikes when broken, abandoned or impounded. In other words, under current legislative settings, the onus to act is on councils and other public land managers, as well as on individual users, rather than on those who are responsible for the bikes in the first place—the sharing service operators. The bill ensures we get the balance of responsibility right. Councils will be able to issue penalties directly to operators where the time frames laid out in the new provisions are not complied with. Failure to comply will make the operator liable to pay the fine for the offence of abandoning a share bike that it owns. Importantly, giving councils and other public land managers the option to issue penalties to operators where reasonable and where they have followed notification processes will help them to recover regulatory costs, where appropriate.

This will also help to minimise the number of bikes that end up vandalised and polluting the environment. In line with the voluntary guidelines, the code of practice is intended to also require operators to share data with the New South Wales Government in a safe and secure way to inform infrastructure planning. This will provide a valuable source of data about where people are riding, which in turn can focus the investment in cycling infrastructure to keep improving the safety of the cycling network across the great city of Sydney.

The Hon. Dr Peter Phelps: Thank you, Duncan.

Mr SCOT MacDONALD: I will accept that. The bill will safeguard councils' ability to manage impacts on their land from future service sharing models, such as the electric bikes and scooters deployed in the United States and China. I remind members present that the requirements and standards to which operators are being held have been developed with the operators' own input and based on the advice that the requirements can be complied with. The bill balances councils' desire to encourage share-bike services in New South Wales, as part of their cycling and active transport strategies, with their need to recover the costs of protecting public safety and amenity from the impacts of share bikes—not from their local communities, but from those most responsible for the impacts and the costs, the share-bike operators. The picture of bike sharing does not have to be one of broken bikes sitting unused on street corners for weeks and weeks. It can and should be one of increased rates of cycling for transport and for enjoyment, operators maintaining and moving bikes in a timely manner, and the general public respecting share bikes as a valuable service. I commend the bill to the House.

Mr DAVID SHOEBRIDGE (20:53): I speak to the Impounding Amendment (Shared Bicycles and Other Devices) Bill 2018. I note and support the contribution of my colleague Ms Cate Faehrmann. The Greens will not be opposing the bill, but there is a series of defects with the bill, the first of which is the Government's habit of cost shifting down to local councils. This is a local government Minister who has failed to get the report from the Independent Pricing and Regulatory Tribunal [IPART] about fixing the ratings mess that local councils

have off her desk, not for seven days as we would see for something impounded on the streets of Sydney, but for well over 18 months. If you want to send an impounding officer anywhere in New South Wales, send them to the Minister for Local Government's office and impound the IPART report that, if implemented, would end up giving some funds back to councils.

The Government continually cost shifts against councils and does nothing to help them. What does the bill do? The bill says we have a problem in the eyes of the Government with share bikes being scattered around. Where does the solution lie? We will solely give local councils the job of fixing this problem. How much additional revenue is the Government proposing to give to local councils? Not one dollar. Not one cent of additional revenue is promised in the bill.

That is the Government all over. There is one thing that local councils want the Government to do—finally publish the IPART report and fix the mess of income on ratings—but that report is still sitting in the local government Minister's in-tray, dying like so many things die in her in-tray. Instead, the Government gives councils another job without any additional funding. Local councils have been grappling with the issue of share bikes. I commend local government for taking the initiative well in advance of the State Government to try to work out what should be done and to set out some good guidelines. Those six councils in the inner and eastern parts of our city—the councils of Canada Bay, City of Sydney, the Inner West, Randwick, Waverley and Woollahra—

The Hon. Dr Peter Phelps: Mary-Lou Jarvis.

Mr DAVID SHOEBRIDGE: She says thank you very much for the help in the pre-selection. Those councils joined together and established an excellent set of guidelines that could have been the subject of negotiation with the State Government for the code of practice. But the State Government has instead introduced a bill, promised the code of practice and not consulted with local government on the bill or on any proposed code of practice. This is shameful behaviour from a State Government that again is giving another job to local councils. We need a State Government that finally starts supporting cycle infrastructure and active transport.

I am glad we have moved on from those dark, extreme anti-bike days of the former Minister, the Hon. Duncan Gay, who never saw a bike he did not want to impound, never saw a cycleway he did not want to close and never saw a road that he did not want to expand or broaden. We have moved slightly on from that because the Hon. Duncan Gay probably would have had the automatic jailing of share-bike operators if he had still been Minister. We are not quite there, but we have a transport Minister whose only solution to the issues with share bikes is to throw penalties at them and make it the job of local government to deliver on those penalties. That is hardly a vision.

If the Government was genuine about wanting to work with councils and deal with the problems that abandoned and damaged share bikes make, which is where the real problem lies, it would have already been consulting with councils on a draft code of practice before introducing the bill to this House. It would have had found its way—because I do not know if the Government knows the way to get there—to the Lord Mayor of Sydney's office and spoke with her and her team about it. The Government is so aggressively against dealing with most of local government in New South Wales that it cannot even bring itself to do the most basic consultation. The code of practice needs to be put out for consultation.

The Government needs to genuinely engage with local government, because many of the answers will come from local government. The answers will not come from the Minister's office; they will not come from his department. The answers to these sorts of problems will come from local councils that have the rangers on the ground, who are closest to the residents, who know what the problems are and who know how to achieve solutions. This kind of legislation of an imperial style from the State Government—

The Hon. Dr Peter Phelps: Draconian.

Mr DAVID SHOEBRIDGE: This is not quite draconian, but it is an imperial style of legislation where the Government passes the legislation and then starts talking with local government. I hope it does not make the same mistake of creating the code of practice and then talking with local government. It needs to have local government as a genuine partner, not as a junior player who does all the dirty work in dealing with share bikes. With those observations I note that The Greens are not opposing the bill.

The Hon. SHAYNE MALLARD (20:59): I speak in support of the Impounding Amendment (Shared Bicycles and Other Devices) Bill 2018. I do so with the thought that the horse has bolted on this issue and I wonder why we even need the legislation. Those of us who inhabit the inner city—as I do when I am not in Katoomba—will know that shared bicycles have disappeared off the streets. However, this bill is still necessary because no doubt there will be a second wave of investors and investment in the city and we must address this problem before the irresponsible behaviour of a small minority of either vandals or people associated with the bicycle share schemes again damages our cycling sector collectively and prompts attacks on all cyclists.

The bill empowers councils and public land managers to deal with the impacts on public safety and amenity of sharing services that operate on public land, with an initial focus on dockless bike sharing. It will require the operators of sharing services to manage the operations responsibly and will provide councils and public land managers with the power to penalise operators if those requirements are not met. The bill acknowledges the responsible operators of dockless bike-sharing services who already strive for high levels of collaboration with local councils, who are making cycling more accessible and who manage their fleets responsibly. It is well known in this House that I am a very strong advocate of cycling.

Not long after I was elected I had an altercation about that issue and I learned a valuable lesson. But getting more people to cycle is a good thing, and I will come back to that point. I ride a bike and my history in cycling goes back many years—I probably attribute it to my partner/husband, Jesper, and when I first went to Denmark in 2000 and saw a city that embraced cycling as a legitimate additional transport choice.

Ms Cate Faehrmann: Don't you wish Sydney was like that, Shayne?

The Hon. SHAYNE MALLARD: We have been striving for that, and I have spoken about cycling many times in this Chamber. My 12 years on the City of Sydney council were about striving to get Sydney more and more like other cities in the world where cyclists are respected and cycling is a legitimate platform for transport in the city. As Liberals—and I have had this argument with many Liberals over the years—we should support cycling because it is about giving people choices. People can choose to drive a car—we acknowledge that. People can choose to use public transport or to walk, which is a very legitimate transport option, or they can choose to cycle.

As I said, during my time on City of Sydney council I campaigned for safer cycling conditions and I was a strong advocate for separated cycleways, which are progressing slowly through our city, and improving infrastructure. Someone from the City of Sydney came to see me the other day and briefed me about the council's latest cycling strategy. Key components now are education and an attitude change for cyclists and the community around cycling. This is all linked to share bikes because I believe they damaged the public's attitude to cycling. I of course support safer cycling for everyone. The Government's 40-year vision for transport in New South Wales, Future Transport 2056, recognises that cycling helps to create livable cities. Livable cities is the philosophy behind a lot of things that are going on at the moment, including the light rail, which, when completed, will deliver a much more livable city.

The future transport vision includes urban spaces that are great places for people. The guru of that philosophy is Jan Gehl, who has worked on the master plan and, as far as I am aware—perhaps those opposite might like to blame him for it—was the first person to suggest closing George Street and putting in light rail. I was on the City of Sydney council when he made that proposal.

The Hon. Greg Donnelly: What did you think of that idea?

The Hon. SHAYNE MALLARD: I totally support it, and at the beginning the Labor Party did too—the Hon. Penny Sharpe supported it when she was a candidate for Newtown. I certainly believe we will get through this painful period of retrofitting a world-class transport system for the next century and, as is often the case, people will look back and say that it was worth the pain. Jan Gehl talks about urban spaces being for people, and that is fundamental to cycling. Walking and cycling increase the vibrancy of local places and are efficient ways to travel short distances while reducing congestion and lowering emissions and air pollution. Congestion across metropolitan Sydney is estimated to cost up to $5 billion per year and will rise to $8 billion by 2021 if nothing is done.

Moving more people from high-emission vehicles to more sustainable public and active transport—and cycling is active transport—will improve air quality and support the better health and wellbeing of all those people who live in and visit New South Wales. We have an obesity problem in New South Wales. In 2011 NSW Health reported that 56 per cent of adults were overweight or obese.

The Hon. Scott Farlow: Hear, hear!

The Hon. SHAYNE MALLARD: I acknowledge the Hon. Scott Farlow, who chaired the inquiry into childhood overweight and obesity that reported to this Parliament. The Hon. Greg Donnelly and the Hon. Dr Peter Phelps also served on that inquiry, which gave rise to the Active Kids program that encourages kids to get out and be more active. One of the issues that came up during the inquiry—and I spoke about it when we tabled the report—was that these days children are driven to school. They are not walking or cycling to school because of legitimate fears about stranger danger and road accidents.

Active planning is fundamental to tackling obesity at an early age. That is a New South Wales Government priority—it goes back to former Premier Mike Baird. We want to reduce overweight and obesity

rates of children by five percentage points by 2025, and that is not easy. But we are already getting more kids active through the Active Kids program, which gives every school child up to $100 towards sport and fitness activities. It is now safer for kids up to 16 years of age—we have increased the age from 12 to 16—to ride to and from school because they can travel on the footpath.

Share bikes, which are conveniently located and inexpensive, further reduce the barrier to cycling for kids and parents. More people cycling is not only great news for the health of kids; it is supporting active and healthy lifestyles to prevent illness and is laying the foundations for good travel behaviour early in life to combat traffic congestion and pollution from car emissions. If that behaviour is locked in early, it can often be sustained throughout a person's life. Cycling is an important contributor to the first mile/last mile journey principle that can get more people onto public transport and out of private cars. The other day some other members of this House and I had the privilege of inspecting the prototype that is being used for consultation on the new interurban train fleet. The trains were made in Korea and I was told that 1,000 people in different user groups will test them out. I was pleased to see that the design has been adjusted to meet the needs of disability groups, parents and carer groups. The cyclists have influenced the design and there are cycle racks in the carriage—the first I have seen.

Our current train system is not very pro-cycling; in fact, I do not think you can take a bicycle on a peak-hour train because of overcrowding. Interurban trains on the network from Newcastle to Wollongong and Lithgow will have cycle racks—and also surfboard racks. People from the Blue Mountains can throw their surfboard on the train and go down to Wollongong and do some surfing. That is great. One of the things I loved about Copenhagen was that the train would pull up and you would see a giant bicycle painted on a carriage to show where the bikes went. Other passengers travelled in another part of the train. It is a totally interactive, connected transport network.

Ms Cate Faehrmann: We're not Copenhagen.

The Hon. SHAYNE MALLARD: We can aspire. Bike-sharing services, which do not require people to own their own bike, can reduce the barriers to cycling. Bike-share schemes in other parts of the world, such as Paris, have contributed to the uptake of cycling overall—even beyond the scheme itself. Researchers believe this effect is multiplied because of the "normalising" of people cycling in "ordinary" clothing. That is important because the cycling community is strataed and does not always talk to each other. You have the lycra-wearing long-distance cyclists—the Tony Abbotts of this world—and you have the urban cyclists, which is what I am, who wear jeans and cycle to the local shops. If members go down to Bourke Street Public School at eight o'clock each morning they will see mums and dads on the cycleway taking their kids to school on those Copenhagen-style bikes.

There are many different types of cyclists. Cyclists in ordinary clothing is a big move and it is what share bikes encourage. People get on the bike, swipe their card—as Mr Scot MacDonald described seeing—and ride to a meeting or to work, parking the bike responsibly. Where traditional docked bike-share schemes exist, the lack of docking stations close to home and work locations and the fact that docking stations in popular locations can fill up have been given as reasons for people not using those systems. I have time to talk about docking schemes.

The Hon. Scott Farlow: You have plenty of time.

The Hon. SHAYNE MALLARD: I am glad to aerate these issues. The last generation of public bicycles are in London—members will be familiar with the Boris bike—and in Paris. When these bikes first arrive they are disrupters, just like Uber.

The Hon. Niall Blair: We need a disrupter right now.

The Hon. SHAYNE MALLARD: Indeed. The fact is that the cost of building the docked bike scheme infrastructure called for by some councils is horrendous. The City of Sydney examined doing it and companies such as Adshel and JCDecaux offered to do a deal to put them in, but the investment in the public domain was huge.

The Hon. Dr Peter Phelps: What does Copenhagen use?

The Hon. SHAYNE MALLARD: Copenhagen does not have a docked system; it has a share scheme like the one outlined in this bill. It was a very early version of it.

Ms Cate Faehrmann: Everyone has a bike in Copenhagen.

The Hon. SHAYNE MALLARD: Copenhagen does have a public share scheme. In contrast, I have been advised that preliminary customer research undertaken by Transport for NSW shows users of the dockless model choose the service because of the ease of finding a bike and the ability to leave a bike at their destination. So the convenience of this new model makes it an attractive service, despite creating some complications in the

use of public space. That is what we are dealing with tonight. In the inner city the take-up of these services is more than evident. I return to the point with which I opened my address: Three to six months ago those bikes were everywhere. I know the Minister is unable to cycle at the moment but he is pro-cycling. Bikes were dangerously cluttering the public domain. They have now disappeared because the operators have left town—I understand for financial reasons.

No doubt there will be new, responsible investors in the future because cycling is part of the transport mix and it is viable overseas. Many people have embraced share bikes as an alternative to cars. Since our city is hilly we face the challenge of having large numbers of share bikes accumulating around the bottom of hills, at beaches and near recreation spaces because people do not seem to want to ride them back up the hill. Share bike operators have a responsibility to relocate them to where they are needed. It is a fact that share bikes that are left lying around are more likely to be the target of vandalism, which affects the reputation of all sharing services.

This point was missed in earlier speeches: The people who register and pay to ride the bike from Y to Z are monitored on the global positioning system [GPS] if the bike is then chucked in the river or onto a roof the rider did not do that; it was vandals. What happened in Sydney was disgraceful. An orgy of vandalism of share bikes was condoned by conservative media and some other commentators and it became a bizarre sport. I understand that only one person has been prosecuted for share-bike vandalism and that was a drunk gentleman who after an Anzac Day service picked up a bike and threw it on a road.

The Hon. Dr Peter Phelps: Outrageous!

The Hon. Rick Colless: Was it on his lawn?

The Hon. SHAYNE MALLARD: It was on the footpath. That prosecution occurred in Perth and the incident was caught on closed-circuit television. Vandalism was a big problem. This bill may address that issue by ensuring bikes are moved more quickly, thus preventing vandalism. In the past, inner-city councils have impounded share bikes but responsible operators have been proactive in responding to council requests and redistributing the bikes to places where they will be ridden. In other jurisdictions such as the United States sharing service models have seen the rollout of other forms of mobility such as electric scooters and electric bikes, which were referred to by a previous speaker.

Electric bikes are the biggest-selling bicycle in the world, largely taken up by the Chinese. They are ideal for Sydney because they are a small electric motor assisted bicycle. The motor does not drive the bike; it requires the rider to pedal. That law was changed some years ago to make sure that electric bikes were supplementing riding. They are ideal for people who are older, who may be unfit, who do not want to get sweaty riding to work, who might be tired that day or who have an injury, luggage or a child on the bike. They are ideal for riding up William Street. They are selling like crazy in Sydney now.

I can imagine that electric bikes will further enhance the uptake of cycling in New South Wales. Electric bikes have batteries that need charging, which can be done through a docking station—a trial is currently taking place in Newcastle—or there is a floating, or dockless, model that operators use proactively to recharge the bikes themselves. Crowd-sourcing members of the public may want to earn some money by recharging the bikes at home. I believe this bill effectively targets operators who do not pull their weight and who leave councils to bear the cost and burden of managing share bikes in their public spaces while leaving room for operators to form strong, collaborative relationships with councils, deal with requests in a timely manner and provide a successful service.

This bill does not cramp the style of new and innovative businesses seeking to enter the Sydney market or stifle innovation. Rather, the penalties in the bill are targeted towards outcomes for well-managed open space. The future of bike share in Sydney is one where operators work with councils and other authorities and comply with requirements before penalties are issued. It will see well-managed schemes flourishing, working with councils and residents, meeting response times to deal with issues as they arise and ensuring safe access to footpaths and public spaces. Companies may come and go as the bike-share model evolves, but this bill paves the way for future companies to know the rules for this shared and active transport mode. I commend the bill to the House.

The Hon. PAUL GREEN (21:17): I contribute to debate on the Impounding Amendment (Shared Bicycles and Other Devices) Bill 2018. The past 12 months have seen numerous complaints about the irresponsible dumping of shared bikes across our communities, not only in public but also in private spaces. As a result these devices cause obstructions for citizens and, in some cases, have been considered safety hazards. Local Government NSW is supportive of this legislation. It notes: Dockless bicycle ride sharing services are supported by councils on a fundamental basis as they support active and/or sustainable transport policies. Across Sydney councils dockless bike share accounts for more than 6,500 active transport trips. Unfortunately, there have been major issues with bicycles from these services being dumped, blocking thoroughfares and causing potential safety

hazards. The objective of the bill is to equip local councils, public land managers and the police to more effectively manage and deal with dockless share bikes. The amendments aim to empower local authorities to enforce public standards and provide incentives for service providers to better manage the devices. The Impounding Act 1993 stipulates that, while abandoning a device such as a bike in a public space is an offence, only those responsible for the dumping are liable for the penalty.

I now turn to parts of the bill. Schedule 1 contains the proposed amendments to the Impounding Act. New section 19A affirms that the amendments add to the powers of impounding officers without encroaching on the current powers they hold under the Impound Act. New section 19B defines "device" as "a bicycle or any other thing for transporting persons". New section 19C defines "sharing service" as an arrangement that has certain listed features, such as that the devices are not hired from or returned to any docking station or premises. That would probably include shopping trolleys. Many times I have seen youths running down the street with a shopping trolley. I do not know whether shopping trolleys fall into that category. I am sure that will be clarified in the Government member's reply speech.

New section 19D gives impounding officers the power to immediately impound a shared device if it poses an obstacle or safety risk or, alternatively, move the device. Shared device operators must remove any shared device left in a public space within three hours of being alerted, otherwise the device will be considered abandoned and impounded by an officer. If the major corporate sectors are not able to retrieve their shopping trolleys from creeks, valleys, sporting fields or urban drainage systems, I believe it is open for anyone to recycle the metal to make a buck. That would be an initiative because shopping trolleys cost a few thousand dollars to make. It becomes a free-for-all if the people who own those products do not look after them and do not retrieve them as requested. New section 19E further stipulates that a shared device left in a public space that does not pose an obstacle or safety risk must be removed within four days of the operator being alerted to its presence and it must not remain in the same location for more than seven days. If the operator does not remove the device, it is taken as being abandoned.

New section 19F provides that the regulations may make further provision for the obligations of operators. New sections 19G and 19I pertain to the authorisation of an impounding officer to issue removal notices and dictate that these may be issued via email or short message service. New section 19H asserts that the operator is considered to be the owner of a shared device with their name or business name on the device unless it is proven otherwise. Schedule 2 stipulates that the maximum penalty of abandoning a shared device be raised from five penalty units to 25 penalty units, indicating that fines could increase from $550 to $2,750. I note that Local Government NSW generally supports the bill as it is a positive step forward in helping councils to better manage dockless bicycle ride-sharing services. The bill gives councils the legal grounds to act against ride-sharing operators who fail in their duty to comply with council guidelines on the acceptable operation of these services.

The Christian Democratic Party believes the bill will help to further create social cohesion between private transport options and the public community. It sets a standard and seeks to hold operators responsible for the management of the bike-sharing services they operate. It will clean up our footpaths and parks by removing this potential hazard, which is also an eyesore. The Christian Democratic Party supports the use of eco-friendly transport options. They provide environmental and personal health outcomes. In New York they have docking stations, which work effectively. That is probably the best way for Sydney to go rather than having people dropping bikes wherever they want. The Christian Democratic Party commends the bill to the House.

The Hon. Dr PETER PHELPS (21:24): In *Hans Christian Andersen*, Danny Kaye famously sang:

To wonderful, wonderful Copenhagen
Salty old queen of the sea
Once I sailed away
But I'm home today
Singing Copenhagen, wonderful, wonderful
Copenhagen for me.

Copenhagen offers some wonderful, wonderful lessons, not the least of which is the utility of bicycles when one wants to get about town easily and quickly. There is no need to own a car or hire a taxi. One does not need to take general public transport—just hop on a bike and zoom around to your heart's content. It is a wonderful, wonderful Copenhagen operation. Copenhagen is simply one city where that happens. If we go to Paris, Madrid or Barcelona, we will find the same thing. Indeed, my son was in Europe recently and discovered the delights of bicycling around cities. He went to a local bike shop and hired a bike. He found that he got around the cities quickly, conveniently and easily, and he saw a lot more than if he had gone around on foot.

Do tourists coming to Sydney have that option? Unfortunately, to a large extent they do not. As the Hon. Shayne Mallard mentioned earlier, the demise of the swipe-and-ride operations in this town has been quite sad. There is more to that than meets the eye. One of the problems is that people who are not tourists but who live

or commute here do not have the ability to take advantage of those bike operations. Another problems is to do with the helmet laws in this State, and indeed around Australia. I will have more to say about that later. I remember when I was a young lad—

The Hon. Scott Farlow: A wee lad.

The Hon. Dr PETER PHELPS: A wee lad. I bicycled everywhere. I had my wonderful Dragster with the big orange flag on the back. I did not ride on cycle paths because there were no cycle paths. I did not ride on the footpath because we were not allowed to ride on the footpath back then. I had to ride on the road. It was quite good because I learnt the road rules—how to signal and how to deal with traffic. It served me well when I bought a motorbike and, indeed, when I bought a car because I had learnt how to operate a motor vehicle or a conveyance on a public road. It was a useful lesson. It is a far better, practical example of learning road rules than one can get from a book, a computer simulation or something like that. As a child, bicycling offers not merely the benefit of exercise but a valuable pedagogical tool to learn road rules and about dealing with other people on the roads. We cannot get that through simulations or books or anything of that nature.

I would ride my bike everywhere. If I wanted to go to Camperdown, I would hop on my bike and go to Camperdown Oval, or to the park near St Stephens. I would hop on my bike if I wanted to pop down to the local shops at Stanmore, where there was a lolly shop or a hobby shop or, indeed, the local barber—there was an old Italian gentlemen at Stanmore. I would hop on my bike with my shaggy hair, which would be even shaggier when I got there because even then we had to wear a helmet. I am not saying that children should not be forced to wear helmets. There is a good argument for forcing children to wear helmets. However, is there an argument to force adults to wear helmets? I will come back to that later. The simple fact is my brother and I used our bicycles as an effective means of transport.

Cycling was far easier than using public transport which was irregular, even in those days, and without the necessity of calling on our parents to drive us around. Cycling also provided an element of freedom which I am strongly in favour of as a useful pedagogical tool for people to get used to. That means that people can do what they want when they want. It is sad that as roads have become busier, cycling has become more difficult. I am disappointed that the road rules have been changed to allow cycling on footpaths, although I understand why. It is rather sad that the respect that was previously shown to bike users by motor vehicle users appears to be going the way of the dodo. In the past year I came across a remarkable little oasis in the eastern suburbs of Sydney. I am sure people will think me naive or uncultured but I had not been to the beautiful Trumper Park.

Ms Cate Faehrmann: Where is it?

The Hon. Dr PETER PHELPS: It is a park in the eastern suburbs of Sydney. I am sure the member's good friend Mr David Shoebridge will be able to take her there. It is a wonderful place for a picnic, where one can meet all the local members of The Greens from the Eastern Bloc—I mean the eastern suburbs of Sydney—where they could have their double decaf soy mocha fair trade coffee from the Sandinista cocoa fields of Nicaragua. Trumper Park is beautiful—it would have been beautiful except for the proliferation of yellow bicycles.

The Hon. Niall Blair: There were some there last night.

The Hon. Dr PETER PHELPS: Were there? When I saw them I thought this beautiful park was despoiled by lazy people who could not be bothered cleaning up after themselves. They just left the bikes scattered about willy-nilly like a pack of poo tickets. Because Trumper Park is very beautiful I thought: What can be done about these dumped bikes? I was hoping for an injunction against the owners of the bikes to prevent it from happening but there was not one, until today. This Government produced a piece of legislation, an amending bill, which will clean up not only Trumper Park but also Centennial Park, Hyde Park, Glebe Park and all the parks that have been overrun and infested with decaying and lost bikes. More to the point, the scenic rainwater channels around Sydney that have beautiful concrete sides and bases are covered in dumped hire bikes.

The Hon. Shayne Mallard: By vandals.

The Hon. Dr PETER PHELPS: By vandals. I would like to call them urban despoilers. I am pleased that as part of this arrangement there will now be fines of up to 25 penalty units for the abandonment of shared devices of an operator, and in other cases five penalty units. That sends an instructive message to operators who do not do the right thing. I strongly approve of bikes in the central business district areas. I refer members to an article by Chris Rissel, Professor of Public Health at the University of Sydney, who, unlike most public health academics, supports genuine health initiatives as opposed to nanny state schemes. Professor Rissel states:

> There's little doubt Australia would have healthier communities if more of us chose to cycle for transport, exercise or even relaxation. But mandatory helmet laws, introduced in Australia in the 1990s, continue to deter many potential riders from getting on a bike and increasing their fitness.

He continues:

> We found that one in five Sydney adults said they would cycle more if they didn't have to wear a helmet, with occasional cyclists (those who cycled in the past week or month) most likely to cycle more. Even non-cyclists [one in five] … said they would get on a bike if they didn't have to wear a helmet.

I fall within that category; I am one of those one in five. There are many times when, after a parliamentary session, I have to go to a function and I would like to be able to hop on a bike and zoom down George Street, go to The Rocks, Haymarket, or wherever I have to go, but I cannot because the nanny state demands that I must wear a helmet for my own safety, which is appalling. One has to ask, "Am I better off in overall health outcomes for the remainder of my life if I cycle more regularly without a helmet, or I choose not to cycle and to take a taxi?" The obvious answer is that any degree of physical activity that is undertaken will materially benefit a person. The necessity to wear a helmet for all transport on a bike is simply ridiculous.

Approaches have been made by the Sikh community about the requirement for them to wear a helmet whey cycling. They are unable to wear a helmet while they are wearing their traditional turban. We have many Sikhs who would like to cycle but because of their religious commitment they are simply unable to do so because of this State's ridiculous laws. I suggest that this Government should be looking into that. I do not say that children should be exempt from wearing a helmet, but the idea that adults must wear a helmet while riding a bike in all circumstances is an overreach of the worst kind that does not deliver health outcomes. Professor Rissel states further:

> Because around 65 per cent of the population hasn't cycled in the past year, one in five non-cyclists riding more translates to a massive increase in the number of people cycling—around 400,000 adults in Sydney alone.
>
> Compare this figure to the 10,000 people who ride to work on Ride to Work Day. Even if you multiply this group by 10 to include the 10 per cent of the population who occasionally ride, and then halve the number of people saying they'd ride but don't (even best intentions aren't always followed through), this would still double the number of people currently cycling in Sydney.
>
> Overall, after twenty years of pro-helmet advertising, one third of the survey respondents did not support mandatory helmet legislation.
>
> Interestingly, there was an inverse association between riding frequency and support of the helmet legislation: the non-riders were most likely to support helmet legislation and more frequent riders less likely to support it. So the non-riders were happy to impose the mandatory helmet legislation on "other people"—and of course it didn't directly impact on them.

Yet another useful reminder that so many people indulging in nanny state proclivities are happy to do so when it does not apply to their own activities. Professor Rissel continues: The finding that helmets are a barrier to more people cycling is consistent with other research. A recent survey of cycling in Australia found 16.5 per cent of those who cycled for transport cited helmets as one of the barriers to them riding more. While the question was asked differently in that study (helmets were one option of a long list of possible barriers), one in six cyclists nationally thought helmets were a barrier. There is also the gendered aspect. Many women refuse to cycle if they have to wear a helmet because of their hairstyles. For someone like me it is relatively immaterial as to whether or not I wear a helmet. For many women the prospect of having helmet head is a major barrier. In Europe many women ride around wearing scarves to prevent their hair from becoming windblown. As they are not required to wear a helmet they feel more comfortable riding round the cities. A number of safety improvements came to Australian roads in the 1980s. Mandatory helmet legislation came in on their coat-tails but it has had very little impact on safety.

A fascinating study done in Western Australia showed that helmets were good in the sense that a person who had a serious accident was more likely to survive. However, the study also showed that a person wearing a helmet was more likely to be in a serious accident in the first place. Researchers have pondered that and found two interesting phenomena. First, proper scientific tests have found that riders who wear helmets tend to be bigger risk takers. Secondly, an even scarier phenomenon is that car drivers who see cyclists wearing helmets are less likely to be concerned about the safety of those cyclists. That resonates with the study in which all street signs and speed limits were abolished in a particular Dutch town. Drivers were found to be more aware of pedestrians because the external influences of signposting was not taking up their attention. They had to be more aware. It is interesting to learn that, while better in a crash, cycling helmets lead to a society where a serious crash is more likely to take place in the first instance. The article continues:

> Mandatory helmet legislation has perpetuated the negative image of cycling as an inherently dangerous activity that requires protection, regardless of actual risks. Safety concerns are cited by most people as one of the main barriers that stop them from cycling.

Importantly, safety is one of the main barriers that stops parents from allowing their children to cycle. The article goes on:

> But injury statistics from the public bicycle share schemes around the world (where helmets are not required) show the risk of injury is low. In the first three months of the London scheme, share bikes were used more than six million times and the injury rate was a low 0.0023%.

That is microscopic. It continues:

> Locally, bicycle share schemes in Brisbane and Melbourne are operating at about 10% of comparable schemes in other countries, largely due to the requirement for users to wear helmets.

It is all about choice. The article goes on to say:

> Not all cycling is equally dangerous—mountain biking and racing are far riskier than recreational riding on a separated off-road bike path. Mandating helmets for all riders at all times, therefore, is a very blunt tool to attempt to increase bicycle safety.
>
> Instead, cyclists should be given a choice about whether to wear a helmet or not, based on the riding that they do and the individual's assessment of risk.

That is my view too. As the article says:

> If we're serious about improving Australians' health and getting more people active, it's time to bring Australia and New Zealand in line with the rest of the world and acknowledge that the helmet experiment has failed.

The mandatory helmet experiment will continue to fail so long as it acts as a disincentive for people to get on a bike in the first place. I commend the bill to the House.

The Hon. WES FANG (21:43): While listening to the Hon. Dr Peter Phelps speak in debate on the Impounding Amendment (Shared Bicycles and other Devices) Bill 2018 I was reminded of a case that my wife drew to my attention. Sue Abbott lives in Scone. Her husband is a doctor and was a partner of my late father-in-law, who was also a doctor.

The Hon. Sarah Mitchell: He married well.

The Hon. WES FANG: I acknowledge that interjection. I certainly did marry well and I am happy to acknowledge it at any juncture. Sue Abbott is an amazing lady and a self-proclaimed elderly cyclist who refuses to wear a helmet. I first recall reading about Sue in a *Sydney Morning Herald* article on her being fined for refusing to wear a helmet. If members google "Sue Abbott no helmet Scone" a number of other articles will appear. I am drawn to a 2016 article in the *Daily Telegraph*, which reads:

> A SELF-proclaimed "elderly" cyclist who refuses to wear a helmet has again showed her disdain for traffic rules, riding away from court bareheaded after copping a $220 fine.
>
> In a seven-year battle against bike helmets Sue Abbott has had her driver's licence suspended, bikes confiscated and four criminal convictions recorded. But she insists her war on helmets has nothing to do with spoiling her "crazy hair", claiming it is all about saving the planet.

I concur with the comments of Sue Abbott and with the contribution of the Hon. Dr Peter Phelps. As a society we should put in controls to minimise injuries, but I think that mandatory bike helmets act as a barrier that stops people from cycling for a number of reasons. The first reason is the availability of a helmet. Members would often see share bikes with no helmets. How can somebody ride that bike legally if they are not carrying their own helmet? The second reason, which the Hon. Dr Peter Phelps acknowledged, is people's hairstyles. I used to wear a helmet during my career working in helicopters. We accepted that wearing a helmet was part of the job, but other professionals may not feel that way. A helmet is a barrier that stops people cycling.

The Hon. Dr Peter Phelps: And it's a gendered barrier, even worse.

The Hon. WES FANG: I accept that interjection; it is a gendered barrier. I think it would not be unreasonable to accept that women with, shall we say, more complicated hairstyles would find wearing a helmet an impediment to going about their daily activities. That is not the case for Sue Abbott, who has said it has nothing to do with her crazy hair but has everything to do with people's freedom. That is the point I am getting to. We should be at liberty to choose to ride a bike without a helmet. Perhaps a lack of helmets is a barrier to the use of the share bikes that have proliferated in our society. I cannot help but discuss the contribution by Mr David Shoebridge, who said that the Government hates all things bicycle. Members may or may not know that I reside in Wagga Wagga.

Reverend the Hon. Fred Nile: Do you ride your bike there?

The Hon. WES FANG: I do ride my bike around Wagga Wagga sometimes, with the helmet that I am forced to wear.

The Hon. Scott Farlow: Can you do it with your knee?

The Hon. WES FANG: Cycling is a good recovery exercise for knee injuries because it is low impact. Wagga Wagga has just been given $11.7 million to implement a network of cycle tracks around the town. It is wrong for Mr David Shoebridge to say that this Government does not value cycling—

The Hon. Dr Peter Phelps: We love cycling.

The Hon. WES FANG: We love cycling and we have dedicated $11.7 million to the implementation of a cycling network in Wagga Wagga. I also note the comments that the Hon. Duncan Gay—the person who formerly filled my position in the Chamber—hated bicycles. But I note the contribution of the Hon. Dr Peter Phelps who said, "Lycra was his middle name". That is not an unfair thing to say because I think the Hon. Duncan Gay was quietly a bit of a fan of cyclists.

The Hon. Dr Peter Phelps: I think he was.

The Hon. WES FANG: I think he was. In this Chamber we have to acknowledge that by suggesting cyclists carry identification he was helping to protect them should anything happen to them. He dedicated a lot of time to make safe passing distances for cyclists. He was certainly a champion of cyclists. There is no doubt that share bikes have created much angst in the community. Previously when walking around the city one would see a proliferation of share bikes. There was no question that they were creating an impediment to cyclists—genuine cyclists and people who were walking on footpaths and pushing prams. I spend quite a bit of time in Sydney, given that I am now a member of Parliament but when I am not here it is good to get out and to do physical exercise. Sometimes when walking around the Glebe area and along the waterfront I would see a proliferation of share bikes. However, the majority of the share bikes were damaged and not able to be ridden. If this Government can do something to improve the issue of abandoned share bikes it will be beneficial to this State and it will provide a good model for the rest of the country. I commend the bill to the House.

The Hon. SCOTT FARLOW (21:53): On behalf of the Hon. Don Harwin: In reply: I thank all members for their contribution to the debate, namely the Hon. Peter Primrose, Ms Cate Faehrmann, Mr Scot MacDonald, Mr David Shoebridge, the Hon. Shane Mallard, the Hon. Paul Green, the Hon. Dr Peter Phelps and the Hon. Wes Fang. We heard a diversity of views with respect to the Impounding Amendment (Shared Bicycles and Other Devices) Bill 2018. One of the things that was mentioned in the debate was the cost borne by councils in the process. Councils and other impounding authorities already have the power to impound vehicles and other items under the Impounding Act 1993. These authorities are funded to perform their functions under various laws. Councils are primarily funded by local ratepayers. It is appropriate that wherever possible these costs are borne by the market being regulated—the bike share operators and not the councils and their ratepayers in local communities.

When vehicles and other items are impounded, the Impounding Act already provides that the impounding authority can recover the costs of impounding actions by charging impounding, storage and release fees to the owner of the item. In certain circumstances it can sell the item to recover these costs. By providing for a better means of managing bikes that are a part of dockless sharing services, it is anticipated that local authorities will receive fewer complaints concerning abandoned bikes and therefore will need to impound fewer bikes. The bill also provides for penalties to be imposed on bike share operators who do not do the right thing. Under section 694 of the Local Government Act 1993 fines and penalties, including penalty notice amounts imposed under the Impounding Act and which are recovered in proceedings instituted by a council, are to be paid to the council. This helps to recover the costs of enforcement. I note the love that members in this Chamber have expressed for Copenhagen.

When investigating this issue we looked globally for solutions. Copenhagen has a different approach and a different climate. We heard that from Ms Cate Faehrmann, the Hon. Dr Peter Phelps and the Hon. Shane Mallard. Sydney is Sydney and we have to address a problem that is unique to our city. Mr David Shoebridge said, "The Government says that we have a problem with share bikes." It is not just the Government; the community says that we have a problem with share bikes. Members in this Chamber would acknowledge the problems we have with share bikes in New South Wales and across the community. I heard interjections from the Hon. Rick Colless about problems with share bikes in New South Wales and the issues that they present when they are strewn across parks and on people's front yards. The Hon. Dr Peter Phelps also noted that share bikes have been thrown into local parks. Comments have also been made by people who are not necessarily great friends of the Government such as Inner West Council Labor Mayor Darcy Byrne. On 25 September 2018 in an article in the *Sydney Morning Herald* entitled "Bike share operators in firing line", Mr Byrne said:

> The amendment to the Act will put councils in a much stronger position to force bike share operators to clean up their act.

He also said:

> Finally, all NSW councils will have the power to slap a meaningful fine on operators if their bikes are causing safety issues.

I also note the comments of Waverley Labor Mayor John Wakefield, who is also not a great friend of the Liberal Party or The Nationals. He said that the ability to impose large fines would be a substantial weapon in councils armoury to stem problems caused by dockless bikes. In the same *Sydney Morning Herald* article Mr Wakefield is quoted as saying:

We absolutely welcome them. It has taken a long time and a lot of lobbying by councils to achieve an outcome.

We are looking at a significant problem in our community—something that this Government is addressing. As the Hon. Dr Peter Phelps said earlier in the debate, we are addressing this problem. The Government has come forward with solutions to this problem and that is what this legislation is about. Comments were also made concerning the code of practice, which is intended to be introduced under the Impounding Act. It is intended to be based on the voluntary code of practice that has been co-developed by the municipality of Canada Bay, the City of Sydney, and the Inner West, Randwick, Waverley and Woollahra councils in consultation with Transport for NSW and bike share operators. These codes have been developed by councils and the New South Wales Government sees that as an appropriate model and solution for the community.

From looking at the codes that have already been outlined, it can be seen in the guidelines for dockless bike-share operators—and the Hon. Shayne Mallard noted this—that bike share has an important role to play in Sydney's transport future. However, this needs to be addressed properly and these laws will assist in helping councils in doing that. Councils, public landholders and bike-share operators are committed to working together to establish a balanced position that achieves transport, environment, health and other related goals, as well as the fair use of public space. The guidelines will set out minimum standards and expectations for dockless bike-share operations in Sydney. They will be in operation from 22 December 2017 and councils and relevant authorities will review their operations every three months. The guidelines will apply across the six municipalities of Canada Bay, the City of Sydney, Inner West, Randwick, Waverly and Woollahra councils. They entail items such as custom safety and conduct—

The PRESIDENT: According to sessional orders, proceedings are now interrupted to permit the Minister to move the adjournment motion if desired.

The House continued to sit.

The Hon. SCOTT FARLOW: The guidelines include items such as customer safety and conduct; safe bike placement; distribution and redistribution of bikes; faulty, damaged or misplaced bikes; legal and insurance, data sharing; council staff access to bikes; fees collection and relocation of faulty or damaged bikes; unused bikes; seizing of operations; and the review of the guidelines. The Government's approach will be to ensure that bike sharing is available in New South Wales and that it is properly regulated so that councils have the enforcement powers to be able to deal with the legitimate concerns of the community. 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. SCOTT FARLOW: On behalf of the Hon. Don Harwin: I move:

That this bill be now read a third time.

Motion agreed to.

RESIDENTIAL TENANCIES AMENDMENT (REVIEW) 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. Catherine Cusack, on behalf of the Hon. Sarah Mitchell.

The Hon. CATHERINE CUSACK: I move:

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

Motion agreed to.

Second Reading Speech

The Hon. CATHERINE CUSACK (22:03): On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a second time.

The Hon. Peter Primrose: Point of order: Mr President, are copies of the bill available for members?

The PRESIDENT: I am reliably informed that the bill is now in the House and copies will be circulated immediately.

The Hon. CATHERINE CUSACK: I seek leave to have the second reading speech incorporated in *Hansard*.

Leave not granted.

I am pleased to introduce the Residential Tenancies Amendment (Review) Bill 2018. This bill will implement a comprehensive package of reforms to help ensure that tenants can make a house a home—

The Hon. Rick Colless: What are you doing?

The Hon. Adam Searle: You kept this place going ridiculously.

The PRESIDENT: Order!

The Hon. Adam Searle: We could not even get the bill—

The PRESIDENT: Order!

The Hon. Adam Searle: Mr President, can I ask the Hon. Rick Colless to step back?

The PRESIDENT: I have given the Parliamentary Secretary the call. The Parliamentary Secretary will continue her second reading speech.

The Hon. CATHERINE CUSACK: I am pleased to introduce the Residential Tenancies Amendment (Review) Bill 2018. This bill will implement a comprehensive package of reforms to help ensure that tenants can make a house a home and increase protections for the most vulnerable tenants. The bill provides greater protections for victims of domestic violence. It improves the ability of tenants to make a rented property into a home, by introducing minimum standards for rental properties and making it easier for tenants to obtain repairs. It gives security to tenants by restricting rent increases for periodic leases to once every 12 months, and includes set fees for breaking a fixed-term lease.

It also introduces easier and more robust dispute resolution processes. These commonsense reforms strike a balance between the interests of tenants and the interests of landlords. Tenants are entitled to suitable housing in reasonable repair and reasonable rights to enjoy their homes. Landlords have a right to ensure that their investment is protected and can generate reasonable returns. Currently around one-third of New South Wales households rent their home. In the past, renters were primarily young people who rented only for a short time. However, people are now renting for longer and families and older people make up a larger proportion of tenants.

The reforms in this bill acknowledge the increasing importance of modern and relevant residential tenancies laws, and the need to ensure that the increasing numbers of renters are able to live in properly maintained premises that they can make into a genuine home. The bill arose out of the statutory review of the Residential Tenancies Act 2010, which was completed in 2016 following an extensive public consultation process. After further consideration and consultation with key stakeholder groups over the past 12 months, a number of additional reforms have been included in the bill that I am confident will improve the operation of the Act. The specific reforms in the bill will strengthen protections for victims of domestic violence and allow them to immediately leave a rental property to escape violence without being penalised.

Domestic violence is a scourge on our communities and the New South Wales Government is serious about taking action on this issue. Currently, section 100(1)(d) of the Residential Tenancies Act provides that a tenant may terminate a tenancy with 14 days notice on the basis that a current or former co-tenant or occupant is prohibited by a final apprehended violence order from access to the premises. Women's and domestic violence advocates have argued that most victims of domestic violence never obtain a final apprehended violence order. The process of obtaining such an order can take months and many women are fearful of seeking an order, as this typically causes the violence to escalate. It is also difficult to obtain an order excluding the perpetrator from the premises if they have no other housing to go to.

The bill expands the types of evidence of domestic violence that a victim can provide to include: a provisional, interim or final domestic violence order [DVO], a certificate of conviction for a domestic violence offence, a family law injunction, or a declaration by a medical practitioner that the tenant is the victim of domestic violence. A declaration by a medical practitioner has been included in response to concerns that many victims of domestic violence will not contact police or engage with the justice system at all, and so will not be able to obtain any form of domestic violence order, family law injunction or conviction certificate. This is particularly true for disadvantaged women, Aboriginal women and new immigrants who may have a distrust of the police or fear that the perpetrator may be imprisoned and their families and communities broken up.

Medical practitioners are a trusted profession within the community and the option of a declaration from a medical practitioner provides victims with another avenue to leave a rented home and find safety as soon as

possible. The declaration will be in a standard form prescribed by the regulations. It will be an offence for the tenant to provide false or misleading information or for the medical practitioner to make a false or misleading declaration. Importantly, the reforms allow the victim to terminate their tenancy immediately, rather than being liable for another 14 days of rent. When escaping violence and urgently finding new housing for themselves and their children, not being liable to pay double rent can make the difference between staying and being able to leave and find a safe home. A perpetrator of domestic violence should be solely liable for any damage to a rental property caused by their conduct. Under clause 54, victims of domestic violence will not be held liable for any damage caused to the rental property by the perpetrator during the commission of a domestic violence offence. Other co-tenants who are not the perpetrator will also be exempted from liability for any damage.

To further protect victims of domestic violence and ensure that their ability to rent another property is not negatively affected, a new section 213A will prohibit landlords and agents from listing a tenant on a tenancy database if they terminated their tenancy by means of a domestic violence termination notice. This protection is vital to enable victims to find new housing. The immediate departure of a tenant in circumstances of domestic violence may leave remaining co-tenants in a difficult situation, including being financially unable to continue the tenancy. A new section 105E will enable a remaining co-tenant to apply to the NSW Civil and Administrative Tribunal to end their tenancy if another co-tenant leaves after giving a domestic violence termination notice. This ensures remaining co-tenants can also leave if they can no longer afford to stay in the property. Remaining co-tenants will also be protected from undue financial burden by the new section 105D, which provides a period of two weeks during which co-tenants will only be responsible for their share of the rent and will not be required to cover the departing tenant's share as well.

I seek leave to incorporate the remainder of my speech into *Hansard*.

Leave granted.

This will provide co-tenants with the opportunity to consider their options and advertise for a new tenant or apply to the tribunal to end the tenancy.

To ensure the new domestic violence provisions are working effectively, section 105I will require the provisions to be subject to review after three years. This will provide an opportunity to evaluate these reforms and ensure they are working as intended, or identify any improvements that can be made.

I now turn to some of the other key reforms in this bill.

At a minimum, a tenant should be able to live in a rental property that is safe, secure and does not endanger their health.

The bill introduces some basic minimum standards that all residential rental properties in New South Wales will be required to meet.

This reform will provide greater certainty to both tenants and landlords by clarifying seven essential features a rental property must have as part of being fit for habitation.

All rental properties must:

- have adequate ventilation;
- have adequate natural light or artificial lighting in every room, other than those used only for storage or a garage;
- are supplied with electricity or gas and have adequate outlets for lighting, heating and appliances;
- have adequate plumbing and drainage;
- are connected to a water supply service or infrastructure that can supply hot and cold water for drinking, ablution and cleaning activities;
- contain bathroom facilities, including toilet and washing facilities, that allow privacy for the user; and
- are structurally sound.

In order to meet the definition of being structurally sound, the floors, ceilings, walls, supporting structures (including foundations), doors, windows, roof, stairs, balconies, balustrades and railings of a residential rental property must:

- be in a reasonable state of repair, and not liable to collapse because they are rotted or defective;
- in the case of the roof, ceilings and windows, not allow water penetration into the premises; and
- in the case of the floors, ceilings, walls and supporting structures, not be subject to significant dampness.

For the vast majority of landlords who maintain their properties, the introduction of these basic minimum standards will not have a practical impact.

For landlords with properties that have fallen into disrepair or which lack basic, working amenities, these reforms will provide an opportunity to carry out the necessary repairs to ensure tenants are not living in sub-standard conditions.

The Government will consult with stakeholders about the commencement of the new standards, to ensure landlords have the necessary time to make any repairs or modifications.

In 2017-18, NSW Fair Trading received close to 3,000 tenancy complaints. Around 40 per cent of those tenancy complaints related to repairs and maintenance of a rental property.

Under new sections 65A to 65D, a faster, more efficient dispute resolution service will be available to tenants and landlords to deal with repairs, maintenance and damage-related disputes that arise during the tenancy.

Under the new provisions, tenants and landlords will be able to request Fair Trading investigate and assess claims relating to damage or repairs to the rental property.

Tenants will be able to apply to the secretary to investigate whether the landlord has breached their general obligation under section 63 of the Act to provide and maintain the residential premises in a reasonable state of repair.

Landlords will be able to apply to the secretary to investigate whether a tenant has intentionally or negligently caused or permitted damage to the premises and, without reasonable excuse, failed to repair it.

Both the tenant and landlord will have an opportunity to respond to any claims by the other party and provide any evidence they may have about the issue.

If the secretary is satisfied that the landlord has breached their obligation, or the tenant has caused damage and failed to repair it, the secretary may issue a "rectification order".

The rectification order will set out the steps that will need to be taken by either the tenant or landlord, to ensure that the repairs specified in the order are carried out, rectified or completed by a required date.

If a tenant or landlord does not agree with the rectification order, they can apply for an internal review of the decision by the secretary to make the order, or make an application to the tribunal to have the matter heard.

If either party makes an application to the tribunal about the matter that gave rise to the rectification order, at any time during the process, the Fair Trading investigation into the dispute will immediately cease. If a rectification order has already been issued, the rectification order will be suspended and any tribunal decision will determine the outcome of the dispute.

The bill also allows for the Regulations to provide for guidelines relating to reasonable times within which repairs and maintenance should be carried out, and the tribunal is to take these into account in relation to repairs orders.

The bill contains specific provisions in relation to the repair and maintenance of smoke alarms, arising out of a recommendation from the Coroner's Inquest into the death of Miata Jibba. The fire which caused Miata's death occurred in a rental property that did not have a functioning smoke alarm.

Tenants need to be assured that necessary repairs and maintenance of smoke alarms will be addressed urgently to help ensure they are working when they are most needed.

The bill clarifies that landlords are obliged to carry out repairs and maintenance of smoke alarms, and includes regulation making powers so that further detail relating to the timing of repairs, reimbursement and any types of repairs that the tenant can carry out can be prescribed following further consultation.

With more tenants renting for longer periods of time, it is important that tenants are able to make the rented premises into a genuine home.

While a tenant needs the landlord's consent to make alterations to a property, the bill will allow regulations to prescribe minor alterations for which it would be unreasonable for the landlord to withhold consent. The regulations may also provide that, in some circumstances, the landlord's consent may be conditional on the alteration only being carried out by a qualified person.

I will now briefly outline some of the other provisions in the bill.

Under the current Act, rent increases during fixed-term agreements of two years or more are limited to once every 12 months. New section 41(1A) will provide the same certainty for tenants on periodic leases by limiting rent increases to once every 12 months.

For a fixed term agreement of less than two years, section 41(1B) will remove duplication by removing the 60 day notice of rent increase where the date of increase has already been written into the residential tenancy agreement.

The bill introduces information disclosure provisions to ensure there is clarity and transparency between tenants and landlords before the residential tenancy agreement is signed.

Under amendments to section 26, where the rented premises are within a strata scheme, landlords or their agents will be required to give the tenant a copy of the strata by-laws.

If a strata renewal committee for the strata scheme has been established under the Strata Schemes Development Act 2015, this fact will also need to be disclosed to the tenant.

New sections 98A and 103A allow the tenant to terminate a tenancy if the landlord's information disclosure obligations are not complied with.

A new section 100(1)(b1) will also enable a tenant to terminate a tenancy if the premises have been listed on the Loose Fill Asbestos Insulation register, or were listed on the register prior to the tenancy agreement being entered into.

To make landlords more aware of their responsibilities and to help reduce disputes over routine repairs and maintenance, a new section 31A introduces an obligation for landlords to acknowledge that they have read and understood the contents of a prescribed information statement, which sets out their rights and obligations under the legislation.

The bill includes minor changes to modernise and clarify provisions relating to the provision of condition reports and rent receipts, and the separate metering of premises.

Amendments to section 29 allow for only one copy of the condition report to be given to the tenant if it is given electronically, and for the tenant to provide the completed report to the landlord within seven days of taking possession of the premises, rather than within the current seven days of receiving the report.

Amendments to section 36 allow rent receipts to be provided electronically.

In relation to metering, an amended definition of separate metering will ensure that tenants are separately charged for utilities only where the amount used by the tenant can be accurately measured. If a property is not separately metered, landlords can factor utility costs into the rent.

The bill will also clarify rights and responsibilities in circumstances where a landlord wishes to take photos or videos of the interior of a property for the purposes of advertising it for sale or rent. The landlord will be able to access the premises once in the 28 day period before beginning to marketing the property or the termination of the agreement, if the tenant is given reasonable notice and a reasonable opportunity to move their possessions.

Under new section 55A, landlords and agents will be prohibited from publishing photographs or visual recordings of the interior of the rental property in which a tenant's possessions are visible, without the written consent of the tenant. Although 55A(2) provides that a tenant must not unreasonably withhold consent, 55A(3) ensures that it will not be considered unreasonable for a tenant to withhold consent if they have been or are in circumstances of domestic violence. This will help to ensure the safety and security of victims who have left a violent relationship and are concerned about being identified or located through photos or videos of their possessions.

The bill also makes a number of amendments to provisions governing the termination of tenancy agreements.

A minor amendment will treat terminations by a landlord on the basis of failure to pay utility charges in the same way as terminations on the basis of failure to pay rent.

Amendments to provisions governing a tenant's liability when terminating a fixed term tenancy agreement before the end of the fixed term introduce more certainty and fairness into the calculation of the amount owing.

Under the current provisions, a tenant can be required to either pay a four or six week break fee, or compensate the landlord for the costs involved in the early termination. It is not clear whether the landlord or tenant chooses the method that applies, and calculating the compensation owed to the landlord can be difficult and lead to disputes.

In amendments to section 107, the bill introduces a new mandatory break lease formula for leases of up to three years. The formula uses a sliding scale, whereby the break fee amount payable to the landlord reduces in line with the reduction in proportion of the fixed term that is left to run.

In other amendments to termination provisions, the bill provides that, in the case of ongoing tenancies that are provided in return for or as part as the remuneration for a person's employment, the notice period for termination is either the period agreed to in the tenancy agreement or 28 days, whichever is the longer.

This is a reduction in the 90 day notice period that usually applies to termination of periodic agreements, and recognises that, particularly in the case of workers who live and work on a farm, the employer will be unable to replace an employee until the premises they have occupied are vacant and available for the new employee to move into.

The final amendment I will mention will broaden the purposes for which money in the Rental Bond Interest Account can be used to include general consumer protection purposes. This will provide flexibility in relation to the use of these funds.

In closing, I would like to thank the many individuals and organisations who have joined the New South Wales Government to help develop this important legislation at various stages of the reform process.

I am confident that the reforms contained in this bill will improve the operation of tenancy laws in New South Wales, to the benefit of landlords, tenants and the community as a whole.

I commend this bill to the House.

Second Reading Debate

The Hon. PETER PRIMROSE (22:14): I have a substantial speech but given the lateness of the hour I will make a couple of remarks. The Opposition acknowledges that there are significant and worthy reforms in the bill, including domestic violence reforms and minimum standards. We will not oppose the bill. Labor has a clear and realistic plan to bring fairness back to renting. One third of New South Wales residents rent, so it is only right that this Parliament legislate to get the balance correct. We want to ensure that all renters have a fair go. Our plan is to protect renters and that plan is clear. A Foley Labor Government will make it a priority in March 2019to put an end to unfair no-fault evictions. Renters' advocates and experts have been calling for it for years. They say it is the one change that will truly make a difference for renters. Without removing no-fault evictions, the Government is simply tinkering around the edges. Many in our State will now rent for their entire lives, either by choice or necessity. It is incumbent on us in this place to legislate to protect those who rent and ensure that they have a safe, secure and comfortable place to live.

As I indicated, I have a substantial speech, but it is effectively the same as was given by the shadow Minister in the other place. Given the lateness of the hour, I refer honourable members to that speech. I will not read it out. I reiterate that the Opposition does not oppose the bill.

The Hon. SCOTT FARLOW (22:16): I commend the work of the Minister's office in introducing the Residential Tenancies Amendment (Review) Bill 2018 to the House. The bill seeks a better deal for residential

tenancies across New South Wales. These reforms introduce a valuable new power for Fair Trading NSW. They will provide an additional, simple and efficient avenue for both tenants and landlords to deal with repairs and damage-related disputes that may arise during a tenancy. Disputes relating to the repairs and maintenance of a property are one of the most common to arise during a tenancy agreement. In 2017-18, Fair Trading NSW received 2,847 complaints about residential tenancies. Of these complaints, repairs and maintenance was the subject of the most concern, with 979 separate complaints being made during that year. I commend the bill to the House.

Mr JUSTIN FIELD (22:17): The Greens do not oppose the Residential Tenancies Amendment (Review) Bill 2018. We recognise that there are improvements, especially as the bill relates to protections for victims of domestic violence. The bill also sets out minimum standards for rental properties and restricts rent increases. It puts obligations on landlords that non-working smoke alarms must be repaired urgently. There are forward steps in the bill.

The Greens' position generally on housing is that everyone should have a home where they can feel secure, live comfortably and be part of the community. The Greens advocate for addressing the impacts of a housing system that has historically privileged investors and landlords over tenants and people trying to afford a safe and secure home. The Greens advocate to end the unfair tax breaks for housing that have locked generations of Australians out of home ownership by targeting negative gearing, capital gains tax discounts and stamp duty, by pushing for more social housing, by requesting funding and support for homelessness services, and by requiring stronger renters' rights.

This bill is a missed opportunity to address some of the critical issues impacting on the rights of tenants and the ability to ensure people feel safe and secure in rental accommodation in New South Wales. With a growing number of tenants in this State—about one-third and growing—including many families with children, it also seems like a missed political opportunity to address the serious challenges renters face in this State. I recognise the phenomenal advocacy of The Greens member for Newtown, Ms Jenny Leong, for renters' rights in New South Wales. Her engagement in this legislation, including the preparation of significant amendments to improve the Act and the outcomes for renters in this State, deserves to be commended. I know she has been well informed through the advocacy of the Tenants' Union and other stakeholders and I also recognise those contributions to this public debate.

I will not be able to deliver as informed a contribution to the debate as the member for Newtown did on this bill in the other place. I refer those reading *Hansard* or watching this debate to look at her contribution in the Legislative Assembly to get a more complete picture of The Greens' position on renters' rights in this State. In particular, this bill is a missed opportunity because it fails to address one of the most critical issues affecting tenants in New South Wales today—no-ground evictions. Without curtailing the ability of landlords to evict tenants without grounds, any other controls that are put in place for rental increases, maintenance issues, minimum standards or addressing disputes will be much, much less effective because tenants will be unlikely to raise issues, even if they are in the right, because there remains a clear risk that they could face retribution ultimately through eviction. A rental increase cap can also be skirted through eviction, without grounds, and enable a new lease to be signed with a new tenant at a higher rent.

I know that all members received an open letter today from a group of academics who research housing and housing issues. I point out to the House some of the issues they raised in their letter, particularly in regard to the issue of no-grounds evictions. They recognise that overwhelmingly, without changes to the no-grounds eviction clauses in this bill and in the current legislation as it relates to renters, people will not feel secure in their homes and that people will feel unable to address issues. The researchers called for an approach similar to some of the approaches that have been taken in other jurisdictions in Australia. The researchers want to see a set of reasonable grounds for terminations enshrined in law. I will move amendments on behalf of The Greens in Committee to that effect. The researchers stated in their letter:

> These reasonable grounds would include grounds already in the legislation, such as rent arrears and other breaches by the tenant, and sale of the premises, as well as new grounds, such as where the landlord needs the premises for their own housing, or where the premises are to be renovated or demolished …

They concluded:

> This reform would make all tenants feel more secure, without unduly restricting landlords in reasonable uses of their properties. The only inconvenience would be to the retaliators, the discriminators, and those who cannot cope with even a modest level of accountability.

Let us be clear, many landlords are benefiting from significant and overly generous tax breaks from negative gearing and capital gains tax exemptions. They also benefit significantly from public investment in infrastructure that drives up the value of their housing investments. The Greens' position is that it is not unreasonable to ensure that these property owners, who hold significant portions of Australia's housing stock, play their role in a fair way that supports the broader social objective of ensuring that people have a safe, secure and affordable home.

The Greens do not oppose this bill, but we see it as a missed opportunity. I will move a series of amendments in the Committee stage to try to improve the bill, especially when it comes to ending the unfair no grounds evictions. These amendments were all put by the member for Newtown in the Legislative Assembly and, as I understand it, almost all were opposed by the Liberal, National and Labor party members. I am sure many renters and other fair-minded people in this State will be disappointed by that response to what I saw, and I believe they saw as well, as reasoned, well-crafted and well-argued amendments. On behalf of The Greens, I will give all parties another opportunity to consider their positions and to support renters in this State at the Committee stage of the debate.

Mr DAVID SHOEBRIDGE (22:24): I indicate, as does my colleague Mr Justin Field in this place and my colleague the member for Newtown in the other place, that whilst The Greens do not oppose the Residential Tenancies Amendment (Review) Bill 2018 we see one enormous gap in it—the failure to end no-grounds evictions. All members in this House—in fact, all members in both Houses—had the opportunity to attend a fair renters' rights event at lunchtime today. If members had taken the time to attend they would have seen powerful contributions from the likes of the Tenants' Union and other organisations, which have been fighting for renters' rights for decades in this State. Each speaker at that event pointed out that whilst this bill gives some additional rights to renters—rights in relation to some maintenance and some limited rights in relation to rental increases—the failure to get rid of no-grounds evictions means many of those rights are valueless, because if any tenant seeks to exercise their rights they can have their lease terminated for no reason on notice by the landlord. Without that fundamental right these other rights are close to worthless in large part.

As I understand it, there were members within the Coalition who got that and argued for it, but they seem to have lost the vote in the party room. I assume that there are members of the Labor Party who would support limited circumstances in which leases can be terminated, the removal of no-grounds evictions and a clearly legislated limited set of bases upon which people can be evicted from their home. That is what we are talking about—evicting people from their homes. Across this State and across parts of Sydney in particular we are getting to a tipping point where in parts of this city there are a majority of renters rather than home owners. We have an obligation as Parliament to legislate to protect their rights.

If members had attended that event today at lunchtime they would have heard a contribution from a man who is probably about my age, who spoke about the stress on his partner and his children because over the last 10 years or so he had been evicted close to a dozen times on no-grounds evictions. He is a good tenant, he pays his way and he is seeking to build a home, but he kept getting evicted time after time after time, often because the landlord just wanted to flip the property on the property market. He said that each time he got evicted and had to move, his children had to change schools, he had to buy them new uniforms, they had to make new friends and they had to find new ways to school. Quite often the costs of moving on a no-grounds eviction are borne by the tenant and he said each move would cost him around $2,000 to $3,000, which was putting him backwards financially. He asked for what many renters—in fact, I would say all renters—are asking this Parliament to do: to stop that. The only way we can make the rights that we are legislating for valuable is to end no-grounds evictions and clearly enumerate a limited statutory list of bases upon which leases can be terminated. That is what renters deserve, that is what renters need and it is not what is achieved in this bill. What a tragic missed opportunity.

The PRESIDENT: If a member is seeking the call I need them to do much more than simply stand up and look at me. I need members in a very loud and concise voice to seek the call. It makes it very difficult for me when members simply stand there looking at me. Is any member seeking the call?

The Hon. DANIEL MOOKHEY (22:29): I feel that a too-lengthy contribution to this debate at this late hour risks my being evicted from the affections of the House.

The PRESIDENT: Or by me.

The Hon. DANIEL MOOKHEY: Or by you, Mr President. I will keep it short, sharp and pertinent. The Residential Tenancies Amendment (Review) Bill 2018 purports to restore some balance in law between landlords and tenants. If the bill were serious about that proposition it would end no grounds evictions. I am proud that the Labor Party committed to that position last year. I pay tribute to the shadow Minister in the other place, Yasmin Catley, the member for Swansea, for the way in which she has carried that position through the party and in the community. We have an opportunity to pass that into law and to provide meaningful protection for tenants against retaliatory evictions, amongst many other ills that result when it is possible under law to remove someone from their house without giving them a reason.

The Hon. PAUL GREEN (22:29): On behalf of the Christian Democratic Party, I contribute to debate on the Residential Tenancies Amendment (Review) Bill 2018. The Christian Democratic Party believes everyone should have a place to call home; a place that provides stability, security, safety and connection to family and community—whether it be a cottage, terrace, studio, bedsit, unit, caravan park or room in a boarding house.

Access to affordable, safe and sustainable housing is imperative as it can ameliorate disadvantage and enable people to participate in society, both economically and socially. In Australia renting is on the rise: There are now almost as many Australians renting as there are people who own their property outright. In the 25 years since the 1991 census the rental population has increased from 26.9 per cent to 30.9 per cent. That is one in three people. New South Wales remains the most populous State, home to approximately 7.7 million people. The percentage of households who are now paying more than 30 per cent of their income in rent has also increased, rising from 10.4 per cent to 11.5 per cent. The growing ranks of renters face a shortage of properties, high rents, low-quality rental stock and the likelihood of having to find a new place to live on a regular basis.

The key changes that the Minister for Innovation and Better Regulation highlighted in this bill include: the ability for tenants to make minor alterations to properties; the introduction of a new minimum standard for properties; the ability for tenants to get rectification orders from Fair Trading for repairs; restricting rent increases for periodic leases to once a year; and the ability for victims of domestic violence to break a lease without incurring a penalty. I met with the St Vincent de Paul Society and the Tenants Union NSW to discuss the bill and the Opposition's proposed amendments. The Tenants Union NSW welcomes the introduction of these changes following the review of the Residential Tenancies Act 2010. Leo Patterson Ross, Senior Policy Officer, Tenants Union NSW, stated:

> Overall it attempts very positive things, particularly for people experiencing domestic violence, and people struggling with poor quality housing with only a few sections which we are concerned will cause tenants some issues. Unfortunately the overall effectiveness of these positive changes will be reduced as it does not address the fundamental imbalance in our renting laws caused by unfair no grounds evictions. Reasonable grounds for eviction will re-balance our tenancy laws in a simple and fair way, without causing issues for the level of investment in the system. It does leave a number of other issues unresolved, such as share housing and giving tenants responsibility around pets, which we hope Parliament will address in the near future. We support this bill being passed with key amendments to ensure the good proposals can do their job.

Rhiannon Cook, Manager for Policy and Advocacy, St Vincent de Paul Society, stated:

> The St Vincent de Paul Society NSW believes everyone has a right to a safe and affordable home. Yet for more and more people a home is rented rather than purchased; home ownership is simply out of reach.
>
> Our housing system needs to adapt to better protect renters—many of whom are on lower incomes—so that renting can provide families with the secure home they need in order to thrive.
>
> Many of the proposed amendments to the Residential Tenancies Act are a step in the right direction. We commend Government for better defining the minimum standards for dwellings to be considered "fit for habitation". And we support changes that will see tenants able to request rectification orders from Fair Trading for repairs. But these changes are missing a vital ingredient.
>
> Too often, the people we assist report being reluctant to assert their rights because they fear it will lead to eviction. And in many cases they are right to be fearful given evictions can currently occur with no grounds.
>
> We therefore support replacing "no grounds" evictions with a requirement that evictions must only occur on "reasonable grounds". This change would underpin renters' rights, and help ensure tenants can properly benefit from the other reforms being put forward by Government.

Last year Minister Kean told the *Sydney Morning Herald*:

> No grounds evictions, retaliatory evictions, all these things are currently undermining renters' rights in New South Wales ... We want to make life fairer and better for renters in NSW. We're currently working on a comprehensive plan to provide renters in New South Wales with more rights.

Tonight provides that opportunity. A 2017 survey by consumer group Choice found that renters lived with widespread anxiety, with one in five fearing eviction and nearly 10 per cent being evicted on a no grounds basis at least once. The Make Renting Fair organisation stated:

> We have in common [a] commitment to the principle that everyone should have a secure, affordable home of decent standard, whether they own or rent ... the provision for landlords to give termination notices, with no grounds, at the end of a fixed term tenancy or during a continuing tenancy, is contrary to genuine security.

It is most important to acknowledge that families do not wish to be uprooted from their home without reasonable grounds. I acknowledge that the 90-day notice can be considered sufficient by some people. However, for a family with kids needing to be close to schools, sports and community activities, finding a suitable home within the same area of a populous city is very difficult to do within 90 days.

On a more positive note, I commend the Government for its proposed protections in the bill for victims of domestic violence that allow victims to terminate their tenancy immediately and without penalty. This can be done by providing evidence of domestic violence through a provisional, interim or final apprehended violence order, certification of conviction, a family law injunction or a declaration made by a medical professional. I also congratulate the Government on the amendment to limit the frequency of rent increases in a periodic lease to a maximum of one in any 12-month period to reduce the scope for retaliatory rent increases.

In conclusion, the Christian Democratic Party believes everyone deserves a good home no matter where they reside, and there should be a healthy balance between landlord rights and tenants' rights. We believe this bill, for the most part, strikes a good balance between each. However, I encourage the Government to acknowledge the challenges faced by tenants regarding no grounds termination and implore it to approach such terminations based only on reasonable grounds. I have contacted the Government about this matter but it has chosen not to go that way. I give an early indication that we will listen very carefully to the consideration of amendments moved by Labor and The Greens in Committee. We feel that we are compelled to do so, given the Government has fallen short of supporting some of the State's most vulnerable people. I commend the bill to the House.

The Hon. CATHERINE CUSACK (22:37): On behalf of the Hon. Sarah Mitchell: In reply: I thank the following members for their contributions to the debate: the Hon. Peter Primrose, the Hon. Scott Farlow, Mr Justin Field, Mr David Shoebridge, the Hon. Daniel Mookhey and the Hon. Paul Green. As honourable members have heard, the purpose of the Residential Tenancies Amendment (Review) Bill 2018 is to provide a framework regarding the rights and obligations of landlords and tenants, rents, rental bonds and other matters relating to residential tenancy agreements. A number of issues raised by members will be considered in more detail in Committee and I will reserve my further remarks until then. In the meantime, I commend the bill to the House.

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

Motion agreed to.

The Hon. CATHERINE CUSACK: I move:

That consideration of the bill in Committee of the Whole stand an order of the day for the next sitting day.

Motion agreed to.

Adjournment Debate

ADJOURNMENT

The Hon. NIALL BLAIR: I move:

That this House do now adjourn.

INTERNSHIPS

The Hon. GREG DONNELLY (22:39): It is trite to say that the world we live in is changing or appears to be changing at an ever-increasing velocity. The changes, whether desired or not, are washing through all aspects of our lives, including our families and society. The world of paid or remunerated work is changing rapidly. The alterations, particularly over the past two decades, have been many and significant. Some changes have been so radical that questions are being raised about whether the nature of the engagement can still be described as "employee and employer". The saying "A fair day's wage for a fair day's work" is well known to us all. Until recently its meaning in Australia was generally understood and employers respected its application: a person is paid their due for the work they have performed. There were always some employers who fell short of their legal obligation but, if I may use the medical analogy of vaccinations, the herd effect kept the majority on the straight and narrow.

However, this has been breaking down in recent times. I draw the attention of the House to an impressive organisation that has committed itself specifically to becoming engaged with particular aspects of modern work, namely, internships. That organisation is Interns Australia. Not that long ago the term "intern" had a narrow use in Australian workplaces. It was typically associated with people working in hospitals. Outside a medical setting it was unusual to talk about a person as an intern being engaged in an internship. Things have changed. I encourage members to spend 15 minutes on the internet to see how extensively this form of workplace engagement is happening in our State, and indeed Australia, in 2018. I particularly draw the attention of members to the listings on the largest job websites, including careerone, seek, Linkedin, Gumtree, Jora and indeed. It has been observed by those who study labour market trends that unpaid internships are increasingly becoming the first step that many young people believe they must take to commence their professional career. As if working without pay and other entitlements with the fancy title of "intern" was not bad enough, some employers have been outed for charging young people $990 for the privilege of working for three months with no pay or entitlements.

Interns Australia is a support and advocacy body for interns and students undertaking work placements in Australia. It was founded in 2013 and step by step over the past five years it has built its scope of work and capacity. It works with interns, employers, industry, governments and the community to promote the value of quality and equitable internships. As it notes on its website, internships should combine education and employment to support young Australians' transition from study into work. However, if mismanaged, internships

may fail to deliver educational and training benefits, breach workplace laws, create social inequality and leave young people vulnerable to discrimination, harassment and bullying. Those who established Interns Australia judged—I believe correctly—that the manifestation of internships in Australian workplaces were not going to go away. It formed the view that the best way to deal with them was to engage with the objective of working towards making Australia the world leader in fair, equitable internships.

Its website contains a range of useful information for interns and employers. It has links to the Fair Work Ombudsman's website, where visitors can find accurate, plain English explanations about the laws relating to internships. Interns Australia's website contains access to various research, reports, newsletters and resources. The website also contains details about the National Fair Internship Pledge. Employers who offer internships are encouraged to sign the pledge, which enables them to publicly identify as organisations that are committed to creating a culture of fair, high-quality internship programs. Interns are fortunate to have an organisation such as Interns Australia acting on their behalf. I commend its great work. I take this opportunity to acknowledge and thank executive director Sarah Ashman-Baird, partnerships director Dimity Mannering, director Jack Kenchington-Evans, director Max Resic, secretary Tilly South, technological director Jodie Lam and co-founder Colleen Chen. I look forward to seeing their advocacy and various initiatives prosper. I encourage anybody who is considering taking on an internship to contact Interns Australia so they are fully informed before committing to something they may seriously regret.

MULTICULTURAL COMMUNITIES DROUGHT ASSISTANCE

The Hon. SHAOQUETT MOSELMANE (22:43): I make a short contribution on this terrible drought that our State is currently experiencing. It is a crisis that is likely to be the worst for many decades. Farmers consider this drought to be the worst they have faced for years, which is impacting on them emotionally and financially. The drought has hit other States but New South Wales has been hit hardest. Approximately 99 per cent of the State is officially in drought. With grazing pastures turned to dust and feed scarce, the drought is having an impact on livestock and farmers alike. Desperate farmers are being forced to slaughter livestock by the thousands and it will take years for their numbers to recover. Farmers are struggling financially and are in psychological distress. Australia's culture of mateship and solidarity has always been an essential part of our national identity. People go out of their way to assist their brothers and sisters in need. They step up to the challenge when any part of our society is in need of help. This is what we have seen across multicultural Australia. We feel a great sense of pride when we see communities step up and join in to raise funds to help farmers who are devastated by this drought. Those communities have stood side by side to help drought-affected farmers.

In the middle of September Muslim Aid Australia, in partnership with other Muslim charities in New South Wales and Queensland, delivered 33 tonnes of hay bales to farmers hit hard by the ongoing drought. Three trucks rolled into Goondiwindi on the New South Wales and Queensland border, where the aid was delivered to dozens of farmers who are struggling to survive. Many more truckloads of hay bales are planned for distribution to farmers during October. On Sunday 23 September 2018 Human Appeal Australia commenced a charity ride organised by Sydney Muslim cyclists. More than $90,000 was raised for our drought-stricken farmers. The funds raised provided food hampers, water and hay bales for livestock as well as case support for some financial relief. Many mosques and Islamic centres across Australia have used the holy festivities to raise funds for affected farmers and their families. In early August a car convoy from the Russian, Indian and Nepalese communities left Sydney, delivering much-needed food and water to drought-stricken farmers in regional New South Wales, including canned food, coffee, toiletries and more than 8,500 litres of drinking water.

On 14 August the Pakistan Association of Australia celebrated Pakistan Independence Day, marking the nation's seventy-first anniversary with a fundraiser for drought relief. The United Indian Associations [UIA] Incorporated organised a walk from Sydney to Canberra to raise funds for drought relief in New South Wales. It called its initiative Our Farmers, Our Pride. On Saturday 22 September, UIA members set off from Parramatta and will arrive in Canberra on Monday 1 October. They hope to raise $150,000 for drought-stricken families. The Australian Chinese Community Association joined in the fundraising by holding a community drought relief charity concert, bringing together artists with big hearts, raising donations from many of their warm-hearted members. Mateship and multiculturalism have gone hand in hand, bringing the best out of our people regardless of their cultural origin, religion or ethnicity.

Australians have come together to provide the best they can for their colleagues in need. The drought has brought our multicultural communities closer, strengthening our bound. From adversity comes goodness and from diversity comes unity. I am delighted to note that my good friend the first Mayor of Bayside, His Worship Councillor Bill Saravinovski—otherwise known as "the people's mayor"—has thrown down a challenge to other councils. Bayside Council will donate $5,000 with an additional $1,000 for every donation of $5,000 that other councils make. I am informed that a number of councils have responded to the mayor's challenge. To date, they have raised $394,000, and there is more to come. On behalf of our hardworking farmers, I thank all our community

groups, individuals, councils and institutions that have made a contribution towards drought relief by whatever means.

WILLIAM MILLS LONGCASE CLOCK

The Hon. LOU AMATO (22:48): On 26 August 1768 Captain James Cook set sail from England's Plymouth Harbour on the HMS *Endeavour*, recording his landing at Botany Bay in his journal on the afternoon of Sunday 29 April 1770. As Captain James Cook sailed across the seas on his voyage of discovery, somewhere in England the passage of time was being recorded on a Georgian English longcase clock made in London by William Mills circa 1750. Research indicates that possibly only one example of a complete William Mills longcase survives to this day. The only information obtained about the maker was that he died in 1761. In the mid-eighteenth century the English longcase clock reached the height of mechanical timepiece excellence until other forms of technology evolved.

When Captain James Cook left Plymouth Harbour on his epic voyage, on board the *Endeavour* was a longcase clock made by John Shelton of London. The Shelton Longcase was not too dissimilar to the William Mills longcase that is part of our story. The Shelton longcase clock on board the *Endeavour* was used to record an astronomically important event, the transit of Venus, which is when the planet can be observed as a small black disc moving across the face of the sun. The transit of Venus is one of the rarest astronomical phenomena that occurs in repeating patterns every 243 years. On 3 June 1769 Captain James Cook and British astronomer Charles Green recorded the transit of Venus at a location in Tahiti, which to this day is still known as Point Venus.

Let us now return to our story of the William Mills longcase clock. For more than 260 years, this rare and spectacular timepiece recorded the flow of time with its mechanically operated movement. At some point the clock arrived on the shores of Australia, possibly as an addition to a new home or building erected during the early years of the colony. While New South Wales was a penial colony, the clock ticked. When the first United States President, George Washington, took the oath of office on 30 April 30 1789 the Williams Mills clock had recorded more than 30 years of history. Long before the first foundation stone was laid to build our Parliament and the first speech was ever made in this place, the William Mills clock was there recording the passing of time. When Australia federated in 1901, it ticked.

As our Anzacs landed at Gallipoli, its pendulum slowly rocked in tune with the passing of the seconds and pounding heartbeats of our Anzac heroes. On the eleventh hour of the eleventh day of the eleventh month in 1918 eleven musical and joyous chimes rang from William Mills clock. When the Sydney Harbour Bridge was built and when in 1960 Paul Robeson became the first person to perform at the Sydney Opera House by climbing the scaffolding and singing *Ol' Man River* to construction workers as they worked to complete our beloved Opera House, the William Mills longcase clock recorded that moment in time.

Interestingly, many years ago the William Mills clock found its way to this very building. All of us have at one time passed this special timepiece as we make our way in and out of this place. As far as I can ascertain, the timepiece was donated by a generous individual whose name appears to be forgotten. After the clock's arrival at our Parliament a daily task of the Legislative Council support staff was to wind the chiming mechanism and lift the weight to keep the clock running. Sadly, approximately 20 years ago the clock went silent and ticked no more. However, the Williams Mills clock is not beyond repair. The clock can be fully restored to perfect working order. Our Parliament is the oldest in Australia and contains one of the oldest and finest examples of English longcase clock manufacturing in the world. I think it would be a joyous moment if we had the clock restored and once again the sound of its ticking heart was heard in the corridors of this place for future generations to enjoy.

WILTON SOUTH-EAST DEVELOPMENT

Mr DAVID SHOEBRIDGE (22:52): Earlier this year we heard a lot from the Independent Commission Against Corruption [ICAC] about how the disgraced former Liberal member of Parliament, Daryl Maguire, had been doing all he could to influence the planning system for his mega client in Canterbury. But wait, there's more, and it is located in Sydney's south-west. Wilton is a beautiful, sleepy area located 85 kilometres south of Sydney at the Picton exit of the M5. It is not exactly suburban central but there is big money to be made down Wilton way. Wilton is part of a massive carve-up. In 2016 the Department of Planning announced a plan for 15,000 new homes for more than 40,000 people, and associated industrial and commercial zones for non-existent jobs across several precincts.

Until last year the council was involved and was following a standard planning route. But this is New South Wales and, with hundreds of millions in profits up for grabs, that was not going to last. Wilton is a very poor choice for large-scale development. It has no public transport, an inadequate water supply, major environmental constraints and no identifiable way to dispose of its sewage. So the players decided to give the proposal a big push. Walker Corporation was the applicant negotiating the planning process but behind the scenes

Country Garden Australia was developing a business interest in Wilton south-east. Remember Country Garden? It was the notorious developer shown by ICAC to have a close relationship with disgraced former Liberal member of Parliament, Daryl Maguire.

In February 2017 Country Garden established a business entity called Country Garden Wilton East Pty Ltd and later in June 2018 it registered three business names: New Wilton Greens, Wilton Greens and New Wilton. It sold bonds for lots at Wilton south-east, subject to approval of the development application. It appears that Walker Corporation was all set to onsell the precinct to Country Garden once the planning approval was complete. Walker Corporation lodged a development application for Wilton south-east in June 2017. On 5 August 2017 the land release of Wilton south-east was put on public exhibition for just six weeks, despite the very real concerns of Wollondilly Shire Council that exhibition was premature. The week after the release was put on exhibition was a very busy week. On 8 August the planning Minister announced that councils would be stripped of their power to consider developments worth $5 million or more. On 9 August the Minister met with Country Garden Australia and then member of Parliament Daryl Maguire.

At that time the chief executive officer of Country Garden had been complaining publicly about councils holding up developments. What they specifically discussed in that meeting is on the public record. The Minister said they did not discuss any specific planning proposal. At the end of September 2017 the proposed development came off exhibition. Immediately after this—and notwithstanding concerns being raised by government agencies including the Office of Environment and Heritage, the Environment Protection Authority and water authorities about issues that included critical koala habitat and water infrastructure—the precinct was moved into the fast lane by the Minister for Planning and his department.

It is worth noting that the local koala population around Wilton was first sighted and identified by non-Aboriginal people when, in 1798, John Price, a servant of Governor Hunter, recorded in his diary seeing two koalas for the first time since the invasion in 1788. John Price sighted the koalas while he was a member of an exploratory party investigating the land south-west of Parramatta. That population remains the last healthy and chlamydia-free population in Sydney. It is essential that we protect it. Between the end of 2017 and early 2018 the Department of Planning drafted a comprehensive rezoning for the State environmental planning policy [SEPP]. It fast-tracked negotiation, exhibition and a voluntary planning agreement that provided Walker would make a direct payment to the State Government.

That was nailed down on 10 April 2018. Three days later, on 13 April 2018, the Wilton south-east precinct was comprehensively rezoned by the Minister by amendment to the growth centres SEPP. This rezoning was extremely favourable to the proponent. The amended SEPP set all the zonings and permissible uses for the urban release. It included what was described as "an innovative new urban development zone", which allows the developer basically to mix and match any residential, commercial and other development as they see fit to maximise profit. We saw no minimum lot sizes, no development standards, maximum flexibility and no provisions at all for koala protection, environmental protection, public transport and affordable housing. We need to keep an eye of Wilton because something is rotten in south-west Sydney.

TWEED HOSPITAL

Ms DAWN WALKER (22:57): I take this opportunity to speak about something that is causing considerable concern in my community, the new Tweed Hospital. Usually the announcement of a new hospital and improved health services would be cause for celebration. Instead, the community is torn. This is because the proposed site for this new hospital is on State significant land that has been farmed for generations. It is the precious red soils of Cudgen. What many cannot understand is why the Government has put the community in this position—forced to choose between a sorely needed investment in health infrastructure and irreplaceable fertile land—especially when there seems to be alternatives. To better understand what is really going on, we do not have to look far. And let us be clear: The Nationals have a long history of trying to get their hands on Cudgen for redevelopment. All previous attempts to unlock this last remaining piece of protected farmland in the Tweed have been met by strong community opposition and defeated.

Yet The Nationals continue to pursue their own agenda for the land. The first attempt to develop the land came from the Anglican Church and was refused by Tweed council, with Mayor Max Boyd at the helm. The council recognised how important the land was, refusing to develop it and taking steps to have it granted the highest possible level of government protection as State-significant farmland, which it still holds today. The backlash from the decision was huge. A pro-development small business group was formed and funded the 1999 council election campaign of a group of so-called Independents. They won and became the pro-development majority on Tweed council.

In 2005 the then Tweed mayor and National Party member Lynne Beck entered into a deal with Coles Myer to sell her Cudgen land. Ms Beck stood to earn $5 million if the land was rezoned. But before she

could vote on any rezoning, the council was sacked after an inquiry found that her pro-development majority had been improperly influenced by developers. What followed was a series of attempts to allow rezoning of the land. In 2010 it was to be a police station and in 2013 it was to be an aged-care home. Both proposals were met with community resistance. Many viewed them as "thin edge of the wedge" tactics, opening up the precious site for further urban development.

It is no surprise that from the beginning there were questions over how and why the Cudgen site had been chosen for the new hospital. I received scores of emails and phone calls from concerned members of the community and the council asking that other locations be considered. I spoke to farmers such as Hayley Paddon who have families that have worked the land for generations and are devastated to hear that their farms could be lost. With the State election around the corner, this latest attempt is perhaps The Nationals' most desperate. To do it they must ignore their own North Coast regional plan, which identifies the growth precinct for the region's health services at the current Tweed Hospital site. In fact, in March 2017 the minutes of the local health district board meeting show that they were awaiting formal confirmation of full funding of the redevelopment of the existing Tweed Heads hospital. There was no mention of the new hospital development on a different site just three months out from when The Nationals made the shock announcement about Cudgen.

Just recently the Minister for Primary Industries confirmed to me that the Government will plough ahead with site acquisition and the planning application process for a new hospital at Cudgen, despite acknowledging that it is categorised as State-significant farmland under the Northern Rivers Farmland Protection Project 2005. That makes two things very clear. First, The Nationals are determined to concrete over the red soils of Cudgen. Secondly, they will not give anything to the people of New South Wales without first taking something away. I can tell them that my community will not give up on saving those red soils and will ensure that generations to come have access to fertile food producing land.

COMMUNITY PRESCHOOLS DROUGHT RELIEF PAYMENTS

The Hon. BRONNIE TAYLOR (23:02): Recently Minister Sarah Mitchell made a fantastic announcement that will support preschools across regional New South Wales that are facing sustainability issues due to the drought. The New South Wales Liberal-Nationals Government continues to respond to the needs of the agricultural community when it comes to the drought. As the season remains dry, we have committed more than $1 billion to drought support. That includes $190 million for drought transport subsidies, $100 million for cutting the cost of farming fees and charges, and $150 million to bolster the Farm Innovation Fund infrastructure program. The Government also announced funding for counselling and mental health support as well as critical services in regional communities, including the transport of water and road upgrades and repairs. However, as everyone who has lived through drought knows, it is not just our farmers who are impacted by these devastating dry seasons.

Contractors are not out harvesting or shearing. Rural supplies stores sales are down. The cafes and pubs are quiet. The clothes store does not move as much stock and there is not as much work around for our tradies. When farmers suffer, their communities suffer with them. The impact flows from farming businesses through to other small businesses and to the heart of the sustainability of rural communities. Something that can be sacrificed by families when times are tough and they are flat out trying to keep on top of the additional pressures that drought brings is preschool. Driving the 50 kilometres or more each way to take a little one to preschool a few days a week takes valuable time, and it uses expensive petrol. If a person is a small business owner and their income is being impacted perhaps that extra day of preschool fees is too important to the family budget. But we know that early childhood education is so important to give our children the best possible start to life. Up to 90 per cent of a child's brain develops before the age of five, laying much of the foundation for their future life and learning.

The 2018 drought relief payments will provide sustainability funding to affected community and mobile preschool services to ensure that they can continue to operate in adverse circumstances. Services may use the funding in a number of ways to support families and children, including to maintain preschool participation through additional transport arrangements or fee reductions. They may also use the payments to repair aspects of their service's physical environment that have been damaged by the dry weather such as water management equipment or playgrounds. Finally, services may choose to invest the funds in their future sustainability through crisis management planning or staff training.

Obviously, given that the New South Wales Government has primary responsibility for the community preschool sector, it is doing what it can in the area it has control over. The funding has been happily received by the many community preschools and mobile preschool services around regional and rural New South Wales. I had the great pleasure of advising preschools that they would have those funds to assist families in communities including Adelong, Tumut, The Rock and Uranquinty, where the Hon. Wes Fang grew up. Many preschool staff have commented on how they have really noticed and appreciated the Government's and the Minister's attention to their services. Minister Mitchell has a great understanding of the importance of our preschools, which we can

see through programs such as the drought relief funding, the Start Strong capital works program to expand places and the Quality Learning Environments grants to improve facilities.

The Government's ongoing commitment to invest in the future of early childhood education is clear. Since the Government's Start Strong program was introduced in 2016, average daily fees in community preschools have decreased by a huge 25 per cent. On top of that, participation rates in community preschools across the State have increased by 40 per cent. Since the capital works program was introduced in 2013 the Government has supported 70 services to either expand their current preschool or establish a new one. That has added more than 1,500 spaces for preschoolers across the State. It really is a phenomenal result. Labor members can continue their scaremongering tactics as much as they want to when it comes to early childhood education, but what they are really doing is crying too little too late. They know that when it comes to delivering for the people of New South Wales the facts do not lie. Only a Liberal-Nationals Government can deliver for the people of this State.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 23:07 until Thursday 27 September 2018 at 10:00.