New South Wales

Legislative Council

PARLIAMENTARY DEBATES
(HANSARD)

Fifty-Sixth Parliament
First Session

Wednesday, 17 October 2018

Authorised by the Parliament of New South Wales

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LEGISLATIVE COUNCIL

Wednesday, 17 October 2018

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

The PRESIDENT read the prayers.

Motions

CONDEMNATION OF NEO-NAZI AND FASCIST POLITICS

Mr DAVID SHOEBRIDGE (11:02): I seek leave to amend Private Members' Business item No. 2514 outside the Order of Precedence for today of which I have given notice by:

(1) Omitting the words "that a number of members of the New South Wales Young Nationals are active members of" and inserting instead "regarding the rise of Australian" in paragraph (1) (a).

(2) Omitting the words "including the repetition of the white genocide myth and outright aggressive racism against immigrants by major parties" in paragraph (3) (a).

(3) Inserting the words ", a motion that was later voted down on the voices" at the end of paragraph (3) (c).

Leave granted.

Accordingly, I move:

(1) That this House notes with concern:

(a) media reports regarding the rise of Australian alt right groups including the Lads Society, Antipodean Resistance as well as fascist organisation The New Guard; and

(b) that these men have also been identified as attendees of a secret men-only fight club run by the Lads Society.

(2) That this House recognises the investigation undertaken by the White Rose Society and ABC Background Briefing and recognises the critical importance of this work.

(3) That this House reflects on:

(a) the mainstreaming of far-right discourse in Australian politics;

(b) the role of years of racist dog whistling, Islamophobia and entrenched colonial beliefs in making parts of Australian politics the kind of places that white supremacists feel included; and

(c) that on 15 October 2018 in the Federal Parliament 28 members of Parliament, including the Minister for Indigenous Affairs, voted for a motion that "it's ok to be white", a known White Supremacist slogan, a motion that was later voted down on the voices.

(4) That this House affirms:

(a) the need for all parties to stand up against fascists moving into mainstream politics; and

(b) the call from the Australian Jewish Democratic Society to "join together to build a world where neo-Nazis can find no space to call home".

(5) That this Parliament unambiguously condemns neo-Nazi and fascist politics.

Motion agreed to.

Documents

UNPROCLAIMED LEGISLATION

The Hon. SCOTT FARLOW: According to Standing Order 117, I table a list detailing all legislation unproclaimed 90 calendar days after assent as at 16 October 2018.

Committees

PORTFOLIO COMMITTEE NO. 1 - PREMIER AND FINANCE

Report: Fresh Food Pricing

Reverend the Hon. FRED NILE: I table report No. 47 of Portfolio Committee No. 1 - Premier and Finance entitled "Fresh food pricing", dated October 2018, together with transcripts of evidence, submissions, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry. I move:

That the report be printed.

Motion agreed to.

Reverend the Hon. FRED NILE (11:04): I move:

That the House take note of the report.

I urge members, now that copies are available, to study the committee's report. It is probably unique; I do not remember any other inquiry into fresh food pricing.

Debate adjourned.

Petitions

PETITIONS RECEIVED

Plastics Pollution

Petition calling on the Government to ban single-use plastics, including bags, balloons, straws and cutlery; adopt a world-class container deposit scheme for New South Wales; invest in soft plastics recycling programs; support research to clean up plastics pollution; and ban the use of microbeads in all cosmetic and detergent products, received from **Mr Justin Field** [*During the giving of notices of motions*] [*During the giving of notices of motion*]

Notices

PRESENTATION

The PRESIDENT: Order! I ask Mr Jeremy Buckingham to repeat the motion as I did not hear a word of what he said because of the interjections from Government members.

[*Later,*]

The PRESIDENT: Order! Mr Jeremy Buckingham will resume his seat. I am trying to give members as much latitude as possible. Honourable members may not wish to hear a member's motion, but they may be assured that the Chair does. The continued interjections by Government members are unnecessary. I will call members to order if they continue to interject.

Business of the House

POSTPONEMENT OF BUSINESS

Mr JEREMY BUCKINGHAM: I move:

That Business of the House Notice of Motion No. 1 be postponed until Tuesday 23 October 2018.

Motion agreed to.

The Hon. DON HARWIN: I move:

That Government Business Notices of Motions Nos 1 to 5 and Government Business Order of the Day No. 2 be postponed until a later hour.

Motion agreed to.

Matter of Public Importance

RACING AND GAMBLING INDUSTRIES

Mr JUSTIN FIELD (11:21): I move:

That the following matter of public importance should be discussed forthwith:

The undue influence of the racing and gambling industries on New South Wales politics.

I bring before the House as a matter of public importance the issue of the undue influence of the racing and gambling industries on New South Wales politics. Over the past fortnight, the curtain has been lifted. The blatant commodification of the State and national icon the Sydney Opera House has exposed the pervasive capture of New South Wales politicians, from both the Coalition and the Labor sides, by the powerful racing and gambling industries, whose interests are enforced by media outlets and media personalities who stand to profit from the industries' success.

The PRESIDENT: Order! There is too much audible conversation in the Chamber. Mr Justin Field will be heard in silence.

Mr JUSTIN FIELD: The hard influence of the racing and gambling industries came down upon the public in such an overt and shameless way that it struck a chord and ignited broad public outrage. When the Premier made the decision to project promotions for a horse race onto the Sydney Opera House sails last week, overriding the wishes of the Chief Executive Officer [CEO] of the Sydney Opera House and going against community expectations that important public space will not be diminished for racing industry and gambling industry profits, the people of New South Wales realised that our political system is well and truly broken. The public sees this in the capitulation to the bullying by Alan Jones of the Sydney Opera House CEO. They have realised that the priorities of many politicians in New South Wales now reflect entirely the priorities of powerful lobbying interests.

The racing and gambling industries have bought out our democracy by manipulating the naked ambition that we see in this Parliament, using political donations, gifts, privileged access and threats of negative headlines from the racing industry's broadcast partners and major advertisers such as Channel 7 and the *Daily Telegraph*. After a week of headlines in the *Daily Telegraph* that shamelessly promoted The Everest as if it was the only news in New South Wales, berating anyone who dared speak out against the absurd promotion plan and elevating to near hero status anyone who spoke out for the industry and the race, the public are right to be cynical about the puff piece that appeared on the front page of the *Daily Telegraph* just a couple of days after the promotion was allowed to go ahead. Entitled "I'm an outsider on the inside", it was nothing more than a puff piece for a Premier and a Government on the ropes. It is not hard to see how people joined the dots between the decision and the payoff all the way back down to the shock jocks and the tabloids, who rewarded them with the positive story.

We do not need spotlights on the Opera House; we need it on the relationship between the gambling and racing interests in this State and the major political parties. This is a matter of utmost public importance and we should debate it today before more damage is done to our democracy and public institutions as a result of these relationships. This motion is both important and urgent because only last weekend we saw the New South Wales Coalition sign a new memorandum of understanding [MOU] with ClubsNSW, an industry body that represents the big pokies clubs in this State. There are approximately 70,000 poker machines in New South Wales and approximately $4 billion are lost from the community in pokies profits every year in this State. The special treatment by the Government of gambling interests in this State is most explicit in the clubs industry. The idea that major political parties would sign an agreement to lock in gambling profits that effectively constrains it from taking action to reduce gambling harm is nothing short of disgraceful.

The MOU the Government signed in 2014 has been delivered in full and, as a result, we have seen profits from pokies rise. They will hit $7 billion a year by the end of the decade. Machines are being concentrated in higher-profit areas as a direct result of laws passed in this place that reflect the previous MOU and that were supported without question by the Liberal-Nationals Government and the Labor Party. The consequences are extreme. New South Wales has the highest density of poker machines in Australia and Australia has the highest density in the world outside dedicated gambling destinations like Macau and Nevada. We lose more money per person to gambling in this State than any other jurisdiction in the world. These losses manifest in housing insecurity, homelessness, food insecurity for children, relationship breakdowns, domestic violence and sometimes suicide. Many of the clubs in this State are good, local, community clubs, but their business model is built on harm and suffering, and it is broken. It needs to be fixed.

The big pokie dens in our communities are more like mini casinos than social clubs, and they are gutting local communities and economies. Political parties should be signing agreements with the community to address gambling harm; not to protect profits, not to explore new machine technologies to attract younger users, not to explore new payment technology to make it easier to gamble, and not to co-locate public services such as TAFE and Service NSW to deliver patrons to club poker machines. But that is exactly what the agreement the Government has just signed with ClubsNSW does. When the Government signs an agreement that has as its first point a commitment not to change pokies tax arrangements it bells the cat on what this is really about. It is about profits for an industry that has cosied up to politics and politicians for too long, that gives political donations and that invites pollies to be in photo opportunities for community grant announcements.

Those grants use money that should have been paid in tax but is rebated back to clubs for community public relations—another part of the Government's MOU deal. Those grants represent a tiny fraction—less than 1 per cent—of profits, but they are hailed and heralded by politicians and clubs as if they are the result of a great, benevolent gift. What a joke. Clubs mount campaigns of lies and misinformation to affect election results and attack anyone who dares call out the truth of the harms caused by poker machines, and they do it using the money made from the suffering of people and the beneficial tax arrangements set into these types of agreements.

But it is not just the clubs. Hotels in this State are allowed to run poker machines for profit, and they are even more profitable than clubs. This year we have seen the consequences of when poker machines are allowed to be owned and run by for-profit businesses, and it is gross. The Woolworths-owned ALH Group was exposed

by whistleblowers this year. Despite an admission from Woolworths that staff had offered free drinks to gambling patrons to keep them at the machines and kept and shared dossiers of players between clubs to encourage them to gamble more, the Government has absolutely failed to respond in a meaningful way. There has been no action to suspend or restrict ALH's licence to operate, no penalties have been issued and there is no public information about any investigation that is underway or a time line for action.

This lack of meaningful action gives a green light to the industry that even serious breaches of New South Wales gambling laws will be tolerated. Even when the Government claimed to be making efforts to rein in gambling laws, the behind-the-scenes lobbying ensured the gambling industry would be let off quietly. In March this year racing Minister Paul Toole announced, with some fanfare, changes to gambling laws around advertising inducements to close loopholes and to increase penalties for breaches, such as gambling advertisements that offer inducements and for publishing prohibited gambling advertising. Under the Government Information (Public Access) Act I was able to uncover evidence of the intense lobbying that came from Racing NSW, Racing.com and Seven West Media to exempt the racing industry from these laws. The language is telling. Peter V'landys from Racing NSW and the chief executive officers of Racing.com and Seven West Media wrote to the Government:

> Wagering is thoroughbred racing's primary source of income and its raison d'etre.

They also commented:

> The sustainability and growth of our racing industry is highly dependent on media distribution and promotion support—and media coverage is dependent on wagering advertising.

They further noted:

> We are concerned that brand and price wagering advertising alone will be insufficient to sustain national media platforms coverage of thoroughbred racing.

They are condemned by their own words. Their comments are an admission that racing's entire reason for being is to gamble and that its profitability is built on the back of inducing people to gamble more. Despite the Government stating "the saturation of gambling inducements" and the fact previous laws had "enabled highly undesirable conduct" by the industry and "diminished the measures in place to prevent and minimise gambling harm in the community", the racing industry was given an exemption from these laws. The laws which were passed in this place, through this House, were overturned, in effect, by a set of guidelines issued by the Government.

The public is right to question the relationships between the Government and politics and the racing and gambling industries in this State. The examples of favouritism, bullying and turning a blind eye to breaches and to harm caused without action taken are too many and too great. We need a public special commission of inquiry into the influence of these industries on New South Wales politics. These issues should be debated in this House today. All these examples are live; they were caused by decisions that were made in the last few months. This is a critically important issue for the people of New South Wales and for our democracy.

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (11:31): I welcome the opportunity to speak briefly on this matter as it allows me to lay out a few facts and set the record straight. Let us be clear, there are far greater matters of public importance to be discussed in this place today and the Government will not be supporting further debate on this matter. We want to deal with the Government's plans to transfer over 4,500 hectares of unproductive State forests to the national park estate. This is part of a wider land management strategy across government that secures sustainable forestry operations and good environmental outcomes—something I would expect The Greens would support.

With only a number of weeks remaining before Parliament rises before the election next March, the House has a number of important pieces of legislation on the *Notice Paper*, for example, the Residential Tenancies Amendment (Review) Bill 2018, the Civil Liability Amendment (Organisational Child Abuse Liability) Bill 2018 and the Crimes (Administration of Sentences) Legislation Amendment Bill 2018. Each of these pieces of legislation will have more impact on the welfare of the people of New South Wales than the virtue signalling inherent in this motion.

As I have said, the Government will not support further debate on this matter. For the avoidance of any doubt, the Government does not agree that the racing and gambling industries have undue influence in this State. By way of example, let us reflect upon the glorious sight at Royal Randwick last Saturday. The Everest event, just two years old, attracted 40,000 people who voted with their feet and paid for their tickets. It was a fantastic thing to see, given the event generates an expected $100 million for the New South Wales economy. While people such as The Greens and others worked themselves up into a lather about the Opera House—

Ms Cate Faehrmann: How many? Hundreds of thousands?

The PRESIDENT: Order! Mr Justin Field was heard in silence. His colleagues will show the same courtesy to the Minister.

The Hon. NIALL BLAIR: —they helped generate almost $21 million worth of free advertising for the race. Of course there will be a diversity of views about the use of a building as iconic as the Sydney Opera House. Such diversity of views is encouraged. But I call upon The Greens to explain their hidden agenda: the elimination of the thoroughbred racing industry. They want it gone. The Greens were at it again in the *Sydney Morning Herald* this morning. On the weekend the Premier, the Deputy Premier and the Minister for Racing signed a memorandum of understanding [MOU] with ClubsNSW. The MOU, which is publicly available to provide transparency, covers a wide range of issues that are important to the Government, to clubs and to the community, including the delivery of workplace skills training, jobs creation, drought support and responsible gambling. The Government has signed MOUs with other peak representative groups in the past, such as with NSW Farmers, but The Greens do not make a noise about that.

In the *Sydney Morning Herald* this morning The Greens claimed that somehow we were selling off TAFE NSW to clubs to entrap students into a life of gambling or some other sort of conspiracy. Wrong. TAFE NSW has historically hired ClubsNSW facilities for uses such as graduations, workshops and training spaces. These arrangements are most common in rural and regional locations where suitable spaces are not readily available. For example, TAFE NSW Inverell has limited hospitality facilities but an agreement with the local club allows the TAFE to access industry standard hospitality facilities to deliver training such as commercial cookery which otherwise may not be made available to students in the area. TAFE NSW partners with clubs to access suitable facilities and provide hands-on training in local communities where required. The Greens have had a few goes at this issue since the weekend because they cannot seem to get anyone interested and that is why we are debating this motion today.

Mr Justin Field: Where did you read about it?

Mr Jeremy Buckingham: You were reading it this morning.

The PRESIDENT: Order! I call Mr Jeremy Buckingham and Mr Justin Field to order for the first time. As I indicated earlier, Mr Justin Field was able to speak in silence.

The Hon. NIALL BLAIR: While the majority of people gamble responsibly, the Government recognises that for a small percentage of the population gambling can present problems and we want to support those people and their families to get help. That is why we have invested a record $25 million this year in initiatives through the Responsible Gambling Fund to prevent and reduce problem gambling. That is why we are committing an additional $5 million a year from the point of consumption tax on online wagering to build on this work. That is why our new MOU spells out the new harm minimisation initiatives this Government plans to introduce, such as strengthened exclusion schemes and forfeiture of jackpots for excluded gamblers.

Not much will be heard from The Greens on this issue because they are more interested in attacks than action. I am tired of this hypocrisy from The Greens. The Greens members like to present themselves as morally superior to the rest of us but the reality is they cannot see the wood for the trees. They cannot see that clubs employ about 43,000 people in New South Wales, including about 23,000 in regional communities. They cannot see that 6.7 million people in New South Wales are members of clubs and that many others use them as a refuge in times of emergency or benefit from the contribution they make to their local communities. They cannot see that the racing industry is a major employer that sustains more than 27,550 full-time equivalent positions in New South Wales. They cannot see that more than 90,000 people directly participate in the racing industry as employees, participants or volunteers.

All of these people understand the importance of these industries, not just to the economy but to our social fabric. These people also understand that there are matters of real public importance ahead of us today and which The Greens are wishing to distract us from in a bid to score political points. The Government will not support The Greens in their efforts today. As I said, we are getting towards the end of the sitting period and we have a number of bills to be debated as priority. This is nothing more than a grandstanding exercise from The Greens. They want to cast aspersions on good people who contribute a lot to our communities. The House has more pressing matters to deal with. The Greens have had all year to raise these issues and all year to bring on this debate but because they think that this matter will get some traction in the papers they want to disrupt the passage of legislation that will make a real difference to the lives of the people of New South Wales. That is why the Government cannot support The Greens motion to further debate this matter.

The PRESIDENT: Mr Justin Field moved that the following matter of public importance be discussed forthwith: the undue influence of the racing and gambling industries on New South Wales politics. The question is that the motion be agreed to.

The House divided.

Ayes 6
Noes 34
Majority.....28

AYES

Buckingham, Mr J (teller)	Faehrmann, Ms C	Field, Mr J (teller)
Pearson, Mr M	Shoebridge, Mr D	Walker, Ms D

NOES

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

Motion negatived.

Committees

PORTFOLIO COMMITTEE NO. 5 - INDUSTRY AND TRANSPORT

Reference

The Hon. ROBERT BROWN (11:46): As Chair: I inform the House that in accordance with paragraph 2 (6) of the resolution of the House establishing the portfolio committees, Portfolio Committee No. 5 - Industry and Transport resolved to adopt the following reference:

(1) That Portfolio Committee No. 5 - Industry and Transport inquire into and report on the long-term sustainability of the dairy industry and the role of the Department of Primary Industries and other Government agencies in supporting that industry, and in particular:

(a) the nature of and the relationship within the value chain between farmers, processors, logistics companies and retailers and their respective influence on price;

(b) the impact of external influences on the dairy industry including but not limited to drought, water, energy and price setting;

(c) the impact of previous policies, in particular the deregulation of the dairy industry; and

(d) the role of the Government in addressing key economic challenges to the industry.

(2) That the committee report on or by 14 December 2018.

Bills

RESIDENTIAL TENANCIES AMENDMENT (REVIEW) BILL 2018

In Committee

The CHAIR (The Hon. Trevor Khan): There being no objection, the bill will be taken as a whole. I have three sets of amendments: the Animal Justice Party amendment on sheet C2018-119A, the Opposition set of amendments on sheet C2018-123 and The Greens amendments on sheet C2018-122.

The Hon. MARK PEARSON (11:50): I move Animal Justice Party amendment No. 1 on sheet 2018-119A:

No. 1 **Companion animals**

Page 3, Schedule 1. Insert after line 24:

[2] Section 19 Prohibited terms

Insert after section 19 (2) (e):

(f) that a companion animal of a person who is lawfully residing on the residential premises is not permitted to be kept on the premises. This amendment is a double negative and relates to companion animals. The 2016 Census figures show that more than 30 per cent of households in Australia rely on rental accommodation for their housing needs. Combine that figure with the fact that 62 per cent of households have companion animals and we have a significant social problem with the lack of legal protections for tenants with companion animals. This problem is escalating as housing affordability causes many people to remain tenants, often for life. In Europe, where renting is the norm, there is legal recognition that tenants should not be unfairly restricted from experiences such as living with pets.

A landlord may own a property to derive income and capital gains and it is obviously not unreasonable for them to want to protect that asset. As a society we recognise the benefit that private landlords bring to the housing sector for people who cannot afford to buy their own homes or who are not eligible for social housing. However, we must also acknowledge that the landlord's asset is also the tenant's home. I believe that it is entirely reasonable for tenants to be able to enjoy the same benefits of living with companion animals as do home owners. It also helps to address a terrible tragedy, that is, the increasing number of tenants who are forced to surrender their animals to pounds and shelters.

RSPCA statistics show that 15 per cent of the dogs and cats that are surrendered are because people are moving house and cannot find accommodation that allows companion animals. As a society we intervene in the operations of many commercial enterprises on the understanding that it is for the public good. We legislate to ensure that retailers must sell food that is not adulterated, that a motel owner cannot refuse to book a room for a gay couple, and that property developers must comply with building standards to ensure public safety. We do this because we believe that public health, welfare and fairness is important and that the "market" is unlikely to provide those protections if left to its own devices.

Landlords are currently free to refuse tenants and the consequences are such that most landlords choose the easy option of not allowing any pets, without any consideration of the social, physical and psychological benefits that companion animals have in the lives of humans. We live in a society where single and older person households are on the rise. These two groups are at risk of social isolation. For older persons the isolation may be due to physical disabilities or illness. Both groups may struggle with the lack of social interaction leading to anxiety and depression. Psychiatrists at the University of Rochester Medical Center undertook research which found that those living with pets were 36 per cent less likely than non-pet owners to report loneliness. We know that human beings are social animals and that loneliness is a killer. Older adults who report feelings of loneliness are at an increased risk of many serious physical and mental health conditions, including death.

There have been many research studies undertaken that show a raft of health benefits from living with companion animals. Human-animal relationship lowers blood pressure and heart rate, and people recovering from heart attacks recover more quickly and survive longer when there is a pet in the home. For people living alone, a companion animal may be the only affectionate touch they experience through their day. Petting an animal is known to release oxytocin, a hormone that reduces stress and boosts levels of serotonin and dopamine, which promote alertness and a sense of wellbeing. According to beyondblue, it is estimated that 45 per cent of people will experience a mental health condition in their lifetime and that in any one year approximately one million Australian adults will experience depression and more than two million will have anxiety.

According to depression research, being responsible for the care of an animal promotes mental health. Self-esteem is improved when people realise they are capable of caring for another sentient being. For people debilitated by depression, living with a companion animal brings a structure to the day and may be the only reason that they are able to get out of bed. Feeding, caring and exercising a beloved animal provides positive feedback and helps with healing from depression. I note that the Victorian Government has recently amended its residential tenancy legislation to allow pets in rental accommodation and that the Queensland Government has a similar provision before its Parliament. If our sister States are able to recognise the case in favour of companion animals, then surely we can join them in that compassionate approach. Allowing tenants to have companion animals will not only significantly improve the wellbeing of people but also quite simply save lives, both human and animal. I commend the amendment.

The Hon. CATHERINE CUSACK (11:56): The Animal Justice Party amendment is not supported by the Government. Companion animals are not defined under the Companion Animals Act 1998 as a dog or cat. Properties vary greatly and different types of pets may not be suitable for some properties. The landlord and tenant are best placed to negotiate on whether a particular pet would be appropriate for a property. The Residential Tenancies Act leaves the issue of whether a tenant can keep a pet—but not an assistance animal—to be negotiated between a landlord and tenant, and the Government considers that that is appropriate.

Mr JUSTIN FIELD (11:57): The Greens support the amendment moved by the Hon. Mark Pearson on behalf of the Animal Justice Party. The Greens had a similar amendment to ensure that those living with companion animals are not unfairly impacted by these changes and that the Residential Tenancy Act supports them to continue to live with their pets. There are more people living in rental properties than ever before. Many of them have pets and these pets are an important part of their family. Certainly I have had that experience living in rental accommodation. I have been fortunate to find rental accommodation where it has been possible for my family to have our pets. I know how important our pets are to my young son. It is important that we keep families together, including the non-human parts of our families. The Greens support the amendments moved by the Animal Justice Party.

The Hon. PETER PRIMROSE (11:58): The Opposition appreciates the intent of the amendment moved by the Animal Justice Party. We are concerned about the need to ensure that there are not unintended consequences. The best way of doing that is to have consulted fully with all stakeholders involved to ensure that the outcome is both fair and balanced and that there are no negative impacts that we are aware of. While we appreciate the intent, for the reasons I have outlined at this stage the Opposition does not support the amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. Mark Pearson has moved Animal Justice Party amendment No. 1 on sheet C2018-119A. The question is that the amendment be agreed to.

Amendment negatived.

Mr JUSTIN FIELD (12:00): I move The Greens amendment No. 1 on sheet C2018-122:

No. 1 **Occupants in shared households**

Page 3, Schedule 1. Insert after line 24:

[2] Section 10 Application of Act to occupants in shared households

Omit the section.

This amendment would allow the Residential Tenancies Act protections to apply to people living in shared houses. The amendment is strongly supported by the Tenants' Union of NSW, which understands the impact that informal arrangements have on people living in shared houses. Its experience is that in its current form the Residential Tenancies Act provides little or no protection to those tenants. While we are going through this reform process, it makes sense to clean up the legislation to ensure that people living in those circumstances have similar protection.

Often, but not always, this involves young people who we know have been exploited in the housing market. They might have limited resources or be pressed for time because they are studying and trying to work and cannot address issues that arise because of their living arrangements in shared rental accommodation. This amendment will ensure that they are protected under the Residential Tenancies Act. That makes sense for people living in those circumstances. I commend the amendment to the Committee.

The Hon. CATHERINE CUSACK (12:01): The Government does not support this amendment. It has conducted consultations on this issue and opinions were divided. It was clear that many residents in shared households chose this form of residence because they wanted an informal and flexible arrangement without the rights, obligations and mandatory notice periods that would apply under the Residential Tenancies Act. As the mother of two boys in their twenties, I often have contact with young people who are travelling and who believe this is the perfect arrangement. A job might come up and they might need to move at short notice. These conditions suit a certain group of tenants.

The Act provides clear means for those who wish to be subject to the legislation and to ensure they are covered by entering into a written tenancy agreement. Those who do not wish to be covered do not need to have a written agreement. The Government believes that given the range of views and aspirations of shared housing residents, the current legislation provides an appropriate level of choice.

The Hon. PETER PRIMROSE (12:02): For reasons similar to those I outlined in relation to the Animal Justice Party's amendment, the Opposition does not support this amendment. The Opposition appreciates the intent of the amendment, but given the range of opinions that have been presented it is concerned to ensure that there are not unintended consequences. Whatever the outcomes, they need to be fair and balanced. The Opposition is concerned that there may be negative impacts for those we are trying to help. Indeed, the Government has raised

a couple of those concerns. While the Opposition appreciates the intent of this and other amendments, it cannot support it.

The CHAIR (The Hon. Trevor Khan): Mr Justin Field has moved The Greens amendment No. 1 on sheet C2018-122. The question is that the amendment be agreed to.

Amendment negatived.

Mr JUSTIN FIELD (12:03): I seek leave to move The Greens amendments Nos 2 and 16 on sheet C2018-122 in globo.

The CHAIR (The Hon. Trevor Khan): I note that the Opposition has an amendment that covers the same or a similar issue as that covered by The Greens amendment No. 16. I have been advised that Mr Justin Field can move his amendment and if it is negatived the Hon. Peter Primrose can move his amendment. It does not create a problem methinks. Is leave granted?

Leave granted.

Mr JUSTIN FIELD (12:04): I move The Greens amendments Nos 2 and 16 on sheet C2018-122 in globo:

No. 2 **Termination of residential tenancy agreements**

Page 3, Schedule 1. Insert after line 24:

[2] Section 14 Landlord's obligation to ensure written residential tenancy agreement

Omit section 14 (3). Insert instead:

(3) If a landlord fails to comply with this section, the rent under the residential tenancy agreement must not be increased during the first 6 months of the tenancy.

No. 16 **Termination of residential tenancy agreements**

Page 10, Schedule 1. Insert after line 31:

[21] Section 82 Termination notices

Omit "84, 85," from section 82 (1) (c).

[22] Sections 84–85A

Omit the sections. Insert instead:

84 End of residential tenancy at end of fixed term tenancy

(1) A landlord may, at any time before the end of the fixed term of a fixed term agreement, give a termination notice for the agreement that is to take effect on or after the end of the fixed term on one of the following grounds:

(a) the landlord requires the residential premises for the landlord's own use, or the use of a member of the landlord's family, for a period of not less than 12 months,

(b) the landlord wishes to carry out renovations or repairs to the residential premises that will render the premises uninhabitable for a period of not less than 4 weeks,

(c) the residential premises are to be used in a way, or subject to circumstances, that will render the premises not able to be used as a residence for a period of not less than 6 months.

(2) The termination notice must specify a termination date that is on or after the end of the fixed term and not earlier than 90 days after the day on which the notice is given.

(3) The Tribunal must, on application by a landlord, make a termination order if it is satisfied that:

(a) a termination notice was given in accordance with this section, and

(b) the landlord has established the ground on which the notice was given, and

(c) the termination is appropriate in the circumstances of the case, and

(d) the tenant has not vacated the premises as required by the notice.

(4) This section does not apply to a residential tenancy agreement if the tenant has been in continual possession of the same residential premises for a period of 20 years or more and the fixed term of the original fixed term agreement has ended.

(5) In this section:

member of the landlord's family means:

(a) the landlord's spouse or de facto partner, or

(b) a child of the landlord or the landlord's spouse or de facto partner, or

(c) a parent or step-parent of the landlord or the landlord's spouse or de facto partner, or

(d) another person who ordinarily resides with the landlord and is substantially dependent on the landlord.

85 Termination of periodic agreement

(1) A landlord may, at any time, give a termination notice for a periodic agreement on one of the following grounds:

(a) the landlord requires the residential premises for the landlord's own use, or the use of a member of the landlord's family, for a period of not less than 12 months,

(b) the landlord wishes to carry out renovations or repairs to the residential premises that will render the premises uninhabitable for a period of not less than 4 weeks,

(c) the residential premises are to be used in a way, or subject to circumstances, that will render the premises not able to be used as a residence for a period of not less than 6 months.

(2) The termination notice must specify a termination date that is not earlier than 90 days after the day on which the notice is given.

(3) The Tribunal must, on application by a landlord, make a termination order if it is satisfied that:

(a) a termination notice was given in accordance with this section, and

(b) the landlord has established the ground on which the notice was given, and

(c) the termination is appropriate in the circumstances of the case, and

(d) the tenant has not vacated the premises as required by the notice.

(4) This section does not apply to a residential tenancy agreement if the tenant has been in continual possession of the same residential premises for a period of 20 years or more.

(5) In this section:

member of the landlord's family means:

(a) the landlord's spouse or de facto partner, or

(b) a child of the landlord or the landlord's spouse or de facto partner, or

(c) a parent or step-parent of the landlord or the landlord's spouse or de facto partner, or

(d) another person who ordinarily resides with the landlord and is substantially dependent on the landlord.

85A Wrongful termination of fixed term agreement

(1) This section applies if a residential tenancy agreement for residential premises is terminated under section 84 or 85.

(2) A landlord or a person who obtains possession of the residential premises following the termination must not use, or permit the premises to be used, other than for a use that is in accordance with the grounds on which the notice was given.

Maximum penalty: 100 penalty units.

(3) The Tribunal may, on application by the tenant under the residential tenancy agreement, if satisfied that the landlord has contravened subsection (2), make an order:

(a) directing the landlord to cause the premises to ceased to be used other than in accordance with the grounds on which the notice was given, and

(b) if the Tribunal considers it appropriate in the circumstances to do so, deeming the premises to be subject to a residential tenancy agreement between the landlord and the tenant for a term, and on the terms, specified by the Tribunal.

(4) Without limiting section 187 (1) (d), the Tribunal may, on application by the tenant under the residential tenancy agreement, if satisfied that the landlord has contravened subsection (2), make an order that the landlord pay compensation to the tenant for wrongful termination of the residential tenancy agreement.

(5) A tenant may make an application to the Tribunal under this section before the termination date and within the period prescribed by the regulations after the termination notice is given to the tenant.

These amendments seek to put an end to unfair, no-grounds evictions in New South Wales. A coalition of groups has been calling for these amendments for a long time in support of the Making Renting Fair Campaign. I take on board the comments made by the Opposition in the debate today. It has publicly claimed that it supports ending unfair, no-grounds evictions in New South Wales. However, it did not support these amendments in the other place, which make it clear how this would be implemented in legislation. I hope it reconsiders and takes this opportunity to support the amendments so that people living in rental accommodation in this State have these protections as soon as possible.

We know the impact of living in insecure housing. We also know that in a rental market like the market in Sydney people can be impacted through no fault of their own and often many times in their life by being forced out of rental accommodation for whatever reason. These changes would provide important protection for those people. I will read onto the record some of the comments my colleague Ms Jenny Leong made in the other place. She has been a tireless advocate for rental rights and housing generally in New South Wales. She spoke about these amendments and what they would achieve. She said that they would include in the Act the very specific circumstances under which it would be reasonable for tenants to be given notice to vacate a property; that is, for them to be evicted. There would no longer be no-grounds evictions; landlords would need to have grounds and they would need to be provided.

The Act has no such provision. That omission was a Labor Government decision, and it has not been addressed by the Liberal-Nationals Government. These amendments address that omission. They are essential because we know that no-grounds evictions are often used to retaliate against residents who make maintenance requests. Ms Leong moved these amendments in the other place because it is crucial to recognise that the Government may have no interest in listening to the problems and issues of the two million people in New South Wales who rent, including many people in regional areas. As has already been noted in this debate, more families than ever are now renting accommodation in this State. That is why The Greens have taken up this issue.

These amendments will include in the Act the specific grounds under which a termination notice for an agreement can take effect. They include that the landlord requires the residential premises for the landlord's own use or the use by a member of the landlord's family for a period of not less than 12 months, that the landlord wishes to carry out renovation or repairs to the residential premises that will render the premises uninhabitable for a period of not less than four weeks, or that the residential premises are to be used in a way or subject to circumstances that will render the premises not able to be used as a residence for a period of not less than six months.

These are totally reasonable provisions to include in legislation. It is ridiculous for any member to say that this will be unfair to landlords or property investors. These grounds are fair and they will enable people who own a property to exercise their rights over that property by giving reasonable notice to those renting it. Importantly, they also protect renters and ensure that they cannot be evicted for spurious reasons and that retaliation cannot be taken against them for whatever reason. There must be grounds and they must be revealed.

Members should know that the 90 coalition groups who make up the Make Renting Fair campaign support an end to no-grounds eviction. You would have to be blind not to have seen the public discussion about this—not just in this State but in other States in Australia—and not to have seen why it is really important to those groups and to people who rent. This campaign involves organisations as broad as the Redfern Legal Centre, the Newtown Neighbourhood Centre, the Uniting Church in Australia and the Combined Pensioners and Superannuants Association.

I urge members, including the Opposition—who did not support this in the other place—to rethink their support for no-grounds eviction. We can bring this in now, with the Opposition's support. Let us test it on the floor of the Legislative Council today. The Leader of the Opposition as well as the member for Swansea have been advocating for these sorts of things and for support for renters. The Opposition has an opportunity to show that support in the Legislative Council right now, today. I commend the amendments and urge all members to support them.

The Hon. CATHERINE CUSACK (12:10): Section 14 (3) of the Act currently provides a number of protections in a situation where a landlord has failed to ensure that a written residential tenancy agreement is provided at the start of a tenancy. These protections are that the rent must not be increased during the first six months of the tenancy, and if the residential tenancy agreement is a periodic agreement then the landlord cannot terminate the agreement under section 85 during the first six months. The amendment would, if accepted, replicate the first of these provisions but, at the same time, remove the second important protection that prevents a landlord from being able to terminate a periodic lease within six months if no written lease has been provided. It is considered important and appropriate that both protections are maintained. The Government does not support The Greens amendment No. 16. However, at least The Greens, unlike Labor, does its homework.

On this side of the House we stand by our principles. Today we want to talk about two of those principles. The first is our respect for property rights. We respect the sacrifices that many mum and dad investors have made to buy an investment property as a nest egg for their future. We respect their property rights, and so do the Australian people. The Australian people expect that if you own a property you own the property—you do not have some form of quasi ownership imposed on you by the Government, which is what is being proposed here.

The second principle is that we believe in economic freedom for the people of New South Wales, and we trust the people of New South Wales. We do not believe that Government always knows best. This proposal depends on the idea that Government can foresee every legitimate reason a landlord may have to terminate the tenancy, and on tribunal members showing the wisdom of Solomon. That is simply unrealistic. The reality is that it is difficult for investors to get good tenants, and mum and dad investors can lose significant rental income by having a property left vacant for even a few weeks. Accordingly, both tenants and landlords have an incentive to make tenancy work, and we trust them to do just that.

I do not want to see landlords or tenants wasting their time and money debating these technicalities. That said, we recognise that there is a balance that needs to be struck. Tenants need to be able to ensure that they have the time needed to find accommodation, and landlords should be held to the agreements they enter into. Under the law as it is today a landlord cannot terminate a tenancy without grounds during the course of a fixed agreement, and we are not changing that. A landlord has to give a tenant 90 days' notice—that is about three months' notice—to terminate a periodic lease, compared to the 21 days' notice that tenants are required to give. We are not changing that. The law gets the balance right. Tenants also still have the option to negotiate a new fixed term rental agreement once their original lease ends. This provides further security and another period of time when the landlord cannot terminate the tenancy.

I have seen media reports arguing that no-grounds terminations prevent tenants from making complaints. While this argument may make sense in theory, after considering the evidence, the Government has formed the view that the argument is actually yet to be substantiated by the evidence. A recent study by CHOICE found that more than 95 per cent of tenants are not concerned by no-grounds evictions. But nearly twice as many tenants cited fear of a rent increase as the reason they did not complain to their landlord, as those who cited the fear of eviction. A retaliatory rent increase is by far the bigger concern. That is why the Government is limiting rent increases to once every 12 months. This will limit the ability of landlords to raise the rent in response to requests for repairs. For those reasons the Government does not support the amendment.

The Hon. PETER PRIMROSE (12:14): I do not wish to debate the foreshadowed Opposition amendments—as a couple of the other speakers have done—so I will try to restrict my comments to the amendments before the Committee. The Opposition has been pleased with the sheer volume of support that it has received for its amendments, which will be moved soon, in relation to no-grounds termination. We look forward to The Greens supporting the Opposition on that matter. The Greens may have an opportunity to show whether they are serious in relation to this matter if we may have a division on this matter.

In relation to amendment No. 2—I also refer to amendment No. 5, because it covers similar ground—Labor is concerned about rent caps and how that could have a perverse outcome that is not favourable to renters in the private rental market. There is a substantial body of literature that points to an array of unintended consequences regarding rent control so the Opposition does not support amendment No. 2.

In relation to amendment No. 16, I have already indicated that I do not wish to cover the grounds that relate to the four amendments that the Opposition will be moving in globo later, but Labor believes that reasonable

grounds are critical to removing unfair evictions and we need to consult widely to ensure that we come up with a common sense, reasonable set of grounds. That is best done through consultation and through the regulations as per Labor's subsequent amendments. The Opposition does not support this amendment.

Mr DAVID SHOEBRIDGE (12:16): I support The Greens amendments, I adopt the words of my colleague Mr Justin Field and I note the work of my colleague the member for Newtown, Ms Jenny Leong, in the other place on this important work. The Greens are not alone. A large number of organisations such as the Tenants' Union of NSW and CHOICE have put no-grounds evictions on the agenda finally in New South Wales. I listened carefully to the Government's reasons for opposing this proposition. The Government says it opposes getting rid of no-grounds evictions because it believes in property rights. First of all, requiring landlords to have a reason to terminate a tenancy does not negate property rights; it simply puts a balance between the rights of the increasing proportion of our population who are tenants and those who have the benefit and the wealth of having investment properties.

Giving rights to tenants does not take away property rights but it puts a fair balance in the system. The Government, in opposing this amendment, did not once refer to the rights of tenants or what should be a universally accepted right to have a house, which shows just how out of step with the community the Government is—as is Labor—in rejecting this amendment. The Government says that it is concerned about the impact on property owners and cites one survey that said a majority of tenants are not concerned about no-grounds evictions. There was no reference at all to the detailed research and consultation done by the Tenants' Union, which says that no-grounds evictions is the key problem being faced by tenants. Landlords having the ability to terminate a lease without reason means that many of the other rights that are allegedly given to tenants are not able to be exercised, because if a tenant complains about the leaking roof, the rent rise, the fact that the carpets stink, or the fact that there are fleas in the living room because of the state of disrepair, that tenant may face a no-grounds eviction notice.

The other arguments being raised by the Government are about economic freedom and putting in place some kind of quasi-ownership model for landlords. These kinds of neoliberal, far right economic arguments are being used to defeat what should be a common sense, basic and accepted right for a tenant to have a landlord who cannot throw them out on their ear for no reason. The Government relies on these Thatcherite, neoliberal arguments about economic freedoms, avoiding quasi-ownership and the cult of property. The Government relies on those arguments to oppose giving tenants the rights that would prevent landlords evicting them for no reason, which shows again how increasingly out of touch the Coalition is on this issue.

Under these amendments, if a landlord has a good reason for ending the tenancy—for example, a family member needs to move in—the landlord can do that. Under the amendments moved by The Greens, if the landlord has a good reason, such as the need for significant renovations that will require the property to be vacant for four weeks or longer, the landlord can do that and end the tenancy. For Labor to simply say that we should not put the reasons in legislation—we should just have a waffly "reasonable grounds" term, put it off in regulations and kick the problem down the alley for three, six, nine, 12 or 14 years—again fails to understand that there is a rising community sentiment that housing is a right, not a privilege. Housing is a right and tenants have a right to the occupation of the property that they are leasing. They have a right not to be evicted for no reason. This is an amendment that turns a house into a home for the increasing number of people who rent in our society. I commend the amendments to the Committee.

The Hon. DANIEL MOOKHEY (12:20): I will outline the substantive reasons I think no-grounds evictions should be out of our laws when the Hon. Peter Primrose moves the Labor amendment, so I will not use this as an opportunity to advance those arguments. I will also save Government members from a direct reply to their contribution. I look forward to debating with them their theory of property rights in rental laws when we get to that point of the debate. I simply make this point about The Greens amendment No. 16, which is about establishing grounds on which a landlord can terminate a lease. It is interesting that The Greens nominate three grounds in their amendment. It stands in contrast to the Victorian legislation, which specifies approximately 30 grounds. It also stands in contrast to the position adopted by the Victorian Greens who, after an equally fraught debate in the Victorian Parliament, saw fit to support that bill.

One of the grounds which, for example, the Victorian Greens thought it was worthwhile including in law that The Greens NSW have not included in this is the right for a landlord to terminate if a crime is being committed in the house—a rather obvious reason to be careful in creating these grounds in laws. Indeed, the Victorian experience is salient because its rental market is similar to ours, with as many people renting and as fast a rise in rent. Understanding the magnitude of impact that this would have on the rights of renters, the Victorian Government undertook detailed consultation and reform in order to carry community confidence in making such a seminal change as this. The Victorian Government understood that getting it wrong would create an immense backlash and set back the cause of renters' rights for a long time.

We in this place can learn from that example as it is a comparable market that has undertaken that reform. That is one aspect of the reform model that we have to carry here. There are 2.2 million rental agreements in this State. Things such as the manner of transition from "no grounds" to "reasonable grounds" and how to prevent landlords going on a spree of termination before the law is proclaimed must be factored in. Victoria managed the property interests of landlords and their representations in an equally mature manner, with very sensible contributions to make about how these provisions would be incorporated into law so that it is not simply a case of disturbing 2.2 million of these contracts that are in place today.

When we are going to disturb 2.2 million contracts, as a matter of course we in this Parliament should be prudent and cautious about how we do it. We should not abandon the goal of ending no-grounds evictions. What is happening here is simply a character dispute between a serious progressive party that is serious about implementing these laws and writing them into our legislative books in a way that cannot be removed and cannot create the backlash that sets backs renters' rights and a political party that simply wants to opportunistically engage in this type of stunt at the expense of 2.2 million renters.

Mr JUSTIN FIELD (12:23): I will briefly respond to some of the things that have been said in the debate so far. The Labor Party has been going around in public talking about how it is going to end no-grounds—

The CHAIR (The Hon. Trevor Khan): I remind members that they should be debating the amendments. I do not wish to encourage any members to end up in a position of having an argument between The Greens and Labor as to who is more hairy-chested, because that does not address the amendments. Members will concentrate on the amendments.

Mr JUSTIN FIELD: If I may, the Chair will see how it gets there very quickly. Labor members have been going around in public saying how they will end no-grounds evictions. The Greens have amendments that are on the table right now to do just that. We set out some grounds. The Opposition's response is, "We will not talk about this now. We will talk about what we want to do later." We have put grounds on the table. If Labor members think there should be more grounds, why do they not make an amendment to our amendment to put more grounds? If Labor does not think there has been consultation, it should tell that to the 90 groups that have been part of a campaign to end unfair no-grounds evictions in this State for some time and who support these amendments. What is it that Labor is offering? I am sure we will hear about it in the debate. I will make a contribution to the debate on Labor's amendments as well, but those amendments will not do this now. They will put it off into the future. Labor may not get elected. This is our opportunity to fix this law now.

The Hon. Catherine Cusack: Point of order: Further to the Chair's ruling, the member is now debating Labor Party amendments which are not before us at the moment. I ask that he be returned to his own amendments that are the current subject of debate.

The CHAIR (The Hon. Trevor Khan): I would uphold the point of order except that I think Mr Justin Field is getting close to the end of his contribution. Are you, Mr Field?

Mr JUSTIN FIELD: To the point of order: By the Chair's own admission at the start of this discussion, there is quite a lot of crossover between this amendment and the Labor amendment. It is difficult to draw a line between the two. I am coming close. A little latitude would be appreciated.

The CHAIR (The Hon. Trevor Khan): I extend a little latitude to Mr Justin Field.

Mr JUSTIN FIELD: We have put these amendments on the table. They reflect the wishes of a large number of groups that have been advocating in the community for a long time. This is a public debate that has been alive for a long time. Significant consultation has happened. We know that there were disputes within the Government about how to deal with this. There is an option on the table now. If Labor is not elected, this is our opportunity to fix this now. I implore Opposition members to support The Greens amendments.

The Hon. PETER PRIMROSE (12:26): It is a little difficult given the Chair's ruling to not engage in party political polemic on this point, but I simply say it is a bit disconcerting—

Mr David Shoebridge: Labor's no-grounds Opposition.

The Hon. PETER PRIMROSE: I point out to Mr David Shoebridge—

Mr David Shoebridge: Point of order: The member knows it is wrong to respond to interjections.

The Hon. PETER PRIMROSE: I point out to Mr David Shoebridge that he should take the time to go to sheet C2018-123, the Opposition's amendments, which are before the Committee today. I refer Mr Justin Field to them as well. The Chair has correctly chosen the order in which we do it. The debate the Chamber has in relation to this matter will be the appropriate mechanism, whether this is embedded in the legislation itself per se, which means it will have to come back to Parliament every time to amend it, or whether it could be done by way of

regulation. What Labor is proposing in its set of amendments, which I foreshadow, is the mechanism by way of regulation which would be far easier, more comprehensible and, frankly, more able to be influenced by reasonable debate, changes in the market and changes within the faith groups—

Mr David Shoebridge: Property developers, real estate agents.

The Hon. PETER PRIMROSE: —and the community groups who approach members about doing this. It achieves the same end but, frankly, it is a much more reasonable way of achieving it. Again—because I do not respond to interjections, as per the directions of the Chair, but I may well respond to them at some point in the future—I simply say that is where this debate is. That is why Labor is not opposing because of the intent. Labor members believe in the same outcome but we believe our proposal in relation to no-fault evictions, when we get to it, is a better mechanism to achieve that, a more equitable way and, frankly, more in keeping with what we have been advised by the many community groups who have consulted with our shadow Minister.

The CHAIR (The Hon. Trevor Khan): Mr Justin Field has moved The Greens amendments Nos 2 and 16 on sheet C2018-122. The question is that the amendments be agreed to.

The Committee divided.

Ayes 6
Noes 33
Majority.....27

AYES

Buckingham, Mr J (teller)	Faehrmann, Ms C	Field, Mr J
Pearson, Mr M	Shoebridge, Mr D	Walker, Ms D (teller)

NOES

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

Amendments negatived.

The Hon. PETER PRIMROSE (12:37): By leave: I move Opposition amendments Nos 1 to 4 on sheet C2018-123 in globo:

No. 1 **Termination on reasonable grounds**

Page 10, Schedule 1. Insert after line 31:

[21] Section 82 Termination notices

Omit "84, 85" from section 82 (1) (c).

No. 2 **Termination on reasonable grounds**

Page 10, Schedule 1. Insert before line 32:

[21] Section 84 Termination at end of fixed term tenancy

Insert after section 84 (1):

(1A) A termination notice may only be given under this section on a reasonable ground prescribed by the regulations for the purposes of this section.

[22] Section 84 (3)

Omit section 84 (3) and (4). Insert instead:

(3) The Tribunal may, on application by a landlord, make a termination order if it is satisfied that:

(a) the ground specified in the notice is a reasonable ground prescribed under subsection (1A) and has been established, and

(b) the termination notice was given in accordance with this section and the tenant has not vacated the premises as required by the notice.

[23] Section 85 Termination of periodic agreement

Insert after section 85 (1):

(1A) A termination notice may only be given under this section on a reasonable ground prescribed by the regulations for the purposes of this section.

No. 3 **Termination on reasonable grounds**

Page 10, Schedule 1 [21], line 32. Omit "**-no grounds required to be given**".

No. 4 **Termination on reasonable grounds**

Page 10, Schedule 1. Insert after line 41:

[22] Section 85 (3)

Omit section 85 (3) and (4). Insert instead:

(3) The Tribunal may, on application by a landlord, make a termination order if it is satisfied that:

(a) the ground specified in the notice is a reasonable ground prescribed under subsection (1A) and has been established, and

(b) the termination notice was given in accordance with this section and the tenant has not vacated the premises as required by the notice.

These amendments will create a set of clear and reasonable grounds upon which a tenancy may be terminated. The reason the Opposition did not support the amendments put forward by The Greens, which have now been dealt with by the Committee, was that we believed they created a rather clunky and difficult mechanism. While we agree with what The Greens were seeking to achieve, we believe creating a list of reasonable grounds that is set out in much greater detail in regulation is a far more effective way of achieving the same policy outcome.

While we have no concerns about the intention, we are concerned about the mechanism. Our policy will create a list of reasonable grounds, set out in regulations. They will contain much greater detail and can be amended more easily—as is required by the community—as issues arise. Our proposed amendments will put in place a set of clear and reasonable grounds on which a tenancy may be terminated. They will create a level playing field, where everyone will know the rules and what actions can be taken if they are breached. At the moment, landlords can play the trump card and evict a tenant with no obligation to supply a reason. The playing field is tilted clearly in one direction. Accordingly, when a landlord acts in this manner the tribunal is presently powerless to consider any action beyond the termination itself.

The majority of landlords do the right thing; it is in their interests to maintain long-term, stable tenants. Yet there are a few who abuse these powers and use no-grounds evictions in a retaliatory fashion to evict tenants who may be standing up for their entitlement to a safe and secure home or when they consider the market has shifted. Almost one in three people rent in New South Wales, and that number is growing. Yet this Government is happy to leave in place rules that are straight out of a Dickens novel. Where these changes have been introduced, the world has not fallen apart. We must provide fair and reasonable rules that benefit society as a whole. Not to do so, as the Parliamentary Secretary indicated in a neoliberal response to an earlier amendment, shows that the Government is more concerned about ideology than good policy. To be prejudiced against the plight of tenants and fail to reflect that renters are increasingly average families and individuals—renting is not simply a transitionary stage that applies only to university students—fails to appreciate the full complexities of the issues in this market.

We owe it to those renters to establish rules that promote stability, security and the sense of fair go. Labor's amendments remove no-grounds evictions and commit to creating in regulations a set of agreed, common sense reasons that a tenancy may be terminated. Those reasons would include breaking the tenancy contract, selling a home, renovating a property or family reasons that require the tenant to vacate. The Labor Government will work with everyone—tenants, community legal centres, landlords and the broader sector—to establish reasonable grounds. The Government should be championing these amendments but I suspect, as indicated earlier, it will not back them—showing yet again it has the wrong priorities. It might be left to a Foley Labor Government, after March next year, to put an end to unfair evictions—and every renter in New South Wales knows that.

All members have received an extensive volume of correspondence from faith groups, community organisations, renters and civil society groups saying that no-fault eviction is unfair. They have provided detailed case examples. I would argue—as a matter of social justice and equity, and in law—that not to provide a reasonable explanation why action is being taken against a person for breach of contract is obnoxious. It is even more obnoxious in the twenty-first century to say that one party to a contract, which was entered into in good faith, is able to break that contract without needing to supply a reason for doing so. How is that regarded in a small-l liberal democracy, such as ours, as being reasonable in law? It is something one would expect in a tyranny and should not exist today.

We need to give people the reasons—fair and reasonable reasons—that a contract may be altered, changed or breached. But it is frankly wrong simply to say to one party, "We are not going to give you the reasons; this is your life, it is over, it's breached", and that is the only thing the law and the relevant tribunal can consider. That is why Labor is moving these amendments. We believe this is a game changer for all people who rent in New South Wales. It is frankly unreasonable not to support the amendments.

The Hon. CATHERINE CUSACK (12:44): That was a quite breathtaking contribution by the Hon. Peter Primrose. The law that Labor is proposing to amend is a Labor law. It is a law described by the member as containing "rules that are straight out of a Dickens novel". But who wrote those rules? The Labor Party wrote them. In 2010 the Labor Party amended the legislation to create this law, which the member is now likening to a Dickens novel and saying is the work of people—

The CHAIR (The Hon. Trevor Khan): Order! Members on both sides of the House will cease interjecting. The discussion so far has been conducted in a civil manner, and that will continue.

The Hon. CATHERINE CUSACK: I note that I listened in astounded silence to the Hon. Peter Primrose. I hope that members opposite will do me the courtesy of listening to my response to these extraordinary allegations—

The CHAIR (The Hon. Trevor Khan): Order! The Hon. Catherine Cusack does not need to worry about courtesy. My ruling was plain.

The Hon. CATHERINE CUSACK: —that the authors of these rules are prejudiced against the plight of tenants and that the amendments will—and I quote the Hon. Peter Primrose—"end unfair evictions". That is hysterical nonsense. The laws were drafted 7½ years ago by the Labor Party, and we reject the characterisations made today. Members opposite should look in the mirror and understand that they are being criticised by those ludicrous assertions. I will not go over the material that I presented previously in response to a similar amendment moved by The Greens. I will leave it to The Greens and Labor to slug it out over the nuances in the two sets of amendments that were moved but, suffice to say, for similar reasons the Government opposes both sets of amendments.

Our concern is that the amendments will trigger a bonanza for lawyers. For every new line of regulation that is put in place, there will be 10 different legal opinions on what it means. The people involved may be in vexed situations, and I do not want to see landlords or tenants wasting their time and money debating technicalities. We recognise that a balance needs to be struck. Tenants must have the time they need to find accommodation and landlords should be held to the agreements they enter into—I emphasise that point. It is critical to understand that these provisions for no-grounds termination occur after the lease has expired. The Hon. Peter Primrose's assertion that this Government—he means himself and Labor—gave landlords the power to breach contracts without giving a reason is incorrect. I note that the honourable member ought to be well aware of this information because he had carriage of the bill in the Legislative Council in 2010 when these very provisions—these "rules that are straight out of a Dickens novel"—were inserted.

Let us examine the facts. Under the law as it is today, a landlord cannot terminate a tenancy without grounds in the course of a fixed-term agreement. I do not understand what part of that sentence Labor and The Greens do not understand. This relates to tenancies that are outside a fixed agreement, and that is not changing. A landlord has to give a tenant 90 days' notice when the tenant is outside that agreement, and that gives about three months to terminate a periodic lease compared with the 21 days' notice that tenants are required to give landlords. The Government is not changing that either, and in this way the law has the balance right. Tenants also still have the option of negotiating a new fixed-term rental agreement once their original lease ends. That will provide further security and another period when the landlord cannot terminate the tenancy.

All the Government is saying is that when someone is out of the lease, the arrangement has expired and the landlord wants his property back, at the end of the day it is his property. Labor members and The Greens can call that neoliberal hysteria if they wish, but at the end of the day landlords are property investors. I add a comment about all this so-called wealth that is accumulating. It is well known that for many mum and dad investors,

providing rental accommodation is very expensive and there is not big money for them in the rental market—in fact, they take a great risk. We need them to continue to provide rental accommodation so that we can have a rental housing market and so that accommodation of all types can be provided. That is why the Government limits rent increases to once every 12 months and limits the ability of landlords to raise rent in response to requests for repairs. Those constraints are all provisions in the legislation. For the reasons I have stated, the Government believes it has the balance right. The Government does not support the amendments moved by the Opposition.

The Hon. PETER PRIMROSE (12:51): I indicate that the Hon. Catherine Cusack, in at least part of her contribution to the debate, is exactly correct. Almost a decade ago, the then Labor Government got it wrong. We were wrong in relation to this legislation, and we paid the price. In 2011 we paid the price for not listening. However, we have listened to people and to the community. The landscape for renters has now changed. There are 2.2 million renters. Many more families are now renting. But the Hon. Catherine Cusack is exactly correct. The landscape has changed. Labor has been forced to listen. When we get new, additional information, we are prepared to change our views and to change legislation accordingly. I urge the Government to consider that seriously. If the Government is not prepared to listen and to change, it will face the same fate as Labor experienced.

Mr JUSTIN FIELD (12:52): On behalf of The Greens, I will respond to the Opposition's amendments. I make clear, just as I made it clear when The Greens amendments to similar effect were moved, that The Greens support ending unfair no-grounds evictions in New South Wales. I am pleased with the acknowledgement by the Labor Opposition that in 2010 Labor made a mistake. But we are making a mistake by missing an opportunity in this legislation to be more explicit about what members of Parliament are trying to do to support renters in New South Wales. Under the Labor amendments, reasonable grounds will be set out in regulations, but Labor has made no effort to outline what those reasonable grounds will be. That is the situation, despite a long public discussion and debate and 90 community groups being involved in a public campaign. They are the stakeholders referred to by the Labor Opposition. Those community groups are involved in that campaign and support ending no-grounds evictions put by The Greens.

The Labor Party, despite admitting having made a mistake in 2010, is asking Parliament to trust Labor—if it forms government in 2019—to make the improvements behind the scenes by regulation. This morning in this Parliament I have been talking about how vested interests in this State get behind closed doors with governments and manipulate outcomes through regulations in their own interest. That is one of the reasons The Greens wanted to put an end to no-grounds evictions.

The CHAIR (The Hon. Trevor Khan): Order! I note that The Greens amendments have been voted on and negatived. Mr Justin Field should direct his comments to the amendments moved by the Hon. Peter Primrose, which are now before the Committee.

Mr JUSTIN FIELD: I understand, Mr Chair. I have made clear that The Greens support putting an end to no-grounds evictions. For the information of members, I make it clear that The Greens will support the Opposition's amendments. But I highlight the risks associated with developing regulations behind closed doors. That is a totally logical conversation to have. In 2010, why did Labor introduce no-grounds evictions? What was the lobbying that produced that result? That is the type of lobbying that will occur when regulations under this bill are being developed. Members of Parliament know that community groups often do not get the ear of governments to the same degree as do vested property interests, and that is the risk inherent in the Opposition's amendments. The Greens will support the amendments moved by Labor. The Greens want to see an end to no-grounds evictions. After the next election, The Greens will discuss with whichever political party forms government the conditions under which grounds for eviction are stated in legislation. That is The Greens policy and that is what we have put to this Committee.

I understand the conditions of a tenancy agreement and that no-grounds evictions relate to when the tenancy agreement has come to an end and the renters continue to occupy the premises. Let us be real here. I have been a renter for the majority of my life. At the end of most tenancy agreements, almost everyone goes onto continuing tenancy arrangements. That has become the norm in many cases. At that point, landlords take the opportunity not to sign another agreement, which results in all parties being a little on shaky ground. Three months' notice might sound like a long time, but families, who may already have had to move because of a previous no-grounds eviction, get six months and perhaps are given notice three months after that. Then they are asked to move on. That is exactly why we need to end unfair no-grounds evictions in this State.

I take up the remark made by the Parliamentary Secretary about the premises being "his property". Women also own property in this State. But, aside from that, much of the wealth that is built up in the private property market in this country emanates from direct subsidies given by governments in the form of tax breaks and beneficial tax arrangements. That is how people are building wealth in the private property market, so there is a quid pro quo: people who make money out of property in this State, and have done so with assistance from the Government, will be responsible landlords. They will have rights over their property but they also have

responsibilities to the people who live in it. People have a right to housing. Many people have no choice but to be in the private rental market. Others want to be in the private rental market. But people have a right to housing. As parliamentarians, we should protect them. Housing security is critical, and no-grounds evictions are destroying housing security in this State. That is one of the reasons that The Greens are calling for an end to no-grounds evictions, and that is why The Greens will support the amendments.

The Hon. DANIEL MOOKHEY (12:57): Apropos Mr Justin Field's closing remarks, I think I should thank him for endorsing Federal Labor policies to reform tax laws as they apply to negative gearing. The major part of my contribution to this debate will not be directed to Mr Justin Field. I simply say that the vested interests that Labor looks forward to consulting next year when Labor forms government are the Tenants' Union, CHOICE, and the NSW Council of Social Service. They are the vested interests that Labor will want to talk to when we start to design regulations and they are the ones we will want to hear from.

No-grounds evictions ought to be out of our laws. Some 2.2 million families would benefit from that. It is important for this Committee to reflect upon precisely who those families are and the nature of those families. The most important event that occurred in the past eight years is that when property markets skyrocketed in Sydney and in many regional cities and towns, a lot of people were not able to secure home ownership, which has led to a massive change in the demography of renters. The fastest-growing group of renters entering the market currently are women over 60 years of age. They tend to be people who are coming from the dissolution of their families and are entering the rental property market. There is a wide category of people who have made the choice to exit property ownership and use the equity realised by the sale to fund their retirement. They have opted to rent because they do not wish to be fixed to a place.

There are many people who have made the choice that they do not wish ever to own a home, including young families and middle-aged families. All of which says that this is a fiction and metaphor that once existed in our law and popular culture, that those who rent are doing so in a transitory state as a step to home ownership. While it is true for many people still, it is not the case for all. In circumstances where there have been changes in the State, it is prudent that Parliament responds by changing the law to reflect the circumstances upon which people live. They are the 2.2 million people who would benefit from Labor's amendments.

In addition, the evidence shows that in practice no-grounds evictions have been applied as a form of retaliation when a tenant seeks to exercise any right that is available to them. There is overwhelming evidence about how no-grounds evictions have been used as a form of retaliation, how landlords have been able to use this provision as a form of arbitrage—that is, when they enter into an agreement for rent at one figure, then learn they can quickly up that by simply removing the tenant from the property. It is abundantly clear that no-grounds evictions weaken every other form of tenant provision that is in the Residential Tenancies Act to the point where they cannot be exercised in practice. They end up being fictional rights, not rights that are meaningful to people and how they live.

In response to this there has been an argument from the Parliamentary Secretary about the ancestry of the provision, dating it back to 2010. While the Hon. Peter Primrose is correct in saying that Labor got it wrong, Labor was responding to a circumstance then where there was no legislative guidance as to what should happen at the time. No-grounds evictions always preceded the 2010 Act, it is just that we never wrote into law what should happen when no-grounds evictions occur, and left it to the common law. That was what the Labor Government was responding to. As the Hon. Peter Primrose has said, we got it wrong.

The second aspect of this debate is an argument ventilated earlier about the CHOICE survey. It is ironic that we were told that CHOICE does not support no-grounds evictions. I think that is news to CHOICE, given that it has been campaigning enthusiastically against no-grounds evictions. It has been a catalyst in coalescing community opposition to no-grounds evictions. The property theory argument is bizarre and I am inclined to respond with a contract theory argument, but I do not want to turn this into a right-wing ideology debate, particularly as we are awaiting lunch and we will be here for a while.

The Hon. Dr Peter Phelps: Oh, no. That sounds like the sort of thing I would like to debate.

The Hon. DANIEL MOOKHEY: I am sure the Hon. Dr Peter Phelps would like that. Perhaps over lunch he and I can debate property theory versus contract theory. The lawyer's feast argument is simply ridiculous. That is saying if you give people rights, they may want to use them. I do not think that is a problem or a reason why we should not act. There is urgency about this. The Government has said that there is no data to support this. That is a fascinating argument, given that at budget estimates hearings we asked the Secretary of the Department of Finance, Services and Innovation, Mr Hoffman, whether or not it keeps the data. He said it does not. He effectively said on notice that it never thought to keep the data. It is disingenuous for the Government to come forward now and say that there is no data that would support this, given that it failed to collect the data.

When one listens to organisations such as CHOICE, one learns that the data is overwhelming about how this is used in practice. The number one point made in all of the submissions that the Minister for Finance, Services and Property received when he embarked upon the review of the Residential Tenancy Act was the need get rid of no-grounds evictions. It is not the case that the Government has been operating in a vacuum. It knows this. I understand that there are reasons why the Government has not come on board at this time and that this is the position it wishes to take into the election. We are happy to debate the Government in the election and when we win it we will be happy to act in Parliament next year.

The Hon. Rick Colless: Your lunch is getting cold, John.

The Hon. JOHN GRAHAM (13:04): I am similarly hesitant to trouble the House at this time, noting the Hon. Rick Colless's comment. I feel strongly on this and speak briefly in support of the Opposition amendment moved by the Hon. Peter Primrose. This is an issue about power for the poor, for the young and for the economically marginalised. My colleague the Hon. Daniel Mookhey has talked about how this is about power for women over 60 entering the rental market at the moment. It has always been about that, but it is about a lot more than that these days in New South Wales and Sydney. It is about the people who cannot keep up with how mad house prices are in Sydney and New South Wales. That is a lot of people. That is what is going on here. That is what these amendments moved today by the Opposition are about.

We have heard the figures which show that a third of citizens are affected. One figure which has not been widely discussed is the number of households with children—42 per cent with kids. It is hard enough sorting out lunch boxes, working out where the school notes are, dealing with the shoelaces, the mayhem that goes with ordinary life with kids, without parents worrying about whether they have to move house, what their security of tenure is, having to move house and cope with that, keep the kids on track at school and keep up with ordinary life. That is one of the figures that should be in our minds as we talk about this issue. It is about power versus developers versus real estate agents, for these people. Not all the time. There are a lot of good property owners and real estate agents. But we know that is not the case all the time. That is what this issue is about.

The Government has relied on two arguments. First, respect for property rights. The Minister has argued that there is a proposition by the Opposition about quasi-ownership imposed on owners by the Government. That case simply has not been made out. I am not sure what change to ownership is being proposed, what fundamental breach of property rights is being proposed here. There is none. We are talking about the responsibilities in a contract for each party. That is what this amendment is about. The second argument made by the Government is a stirring call for economic freedom. It is a Braveheart-style call for economic freedom. I found it quite moving. However, it ignores the economic fact and right for the citizens of New South Wales—that is, a basic social and economic right to have a house, a home, somewhere to live. It underpins the ability to have a job.

The Hon. Daniel Mookhey: To build wealth.

The Hon. JOHN GRAHAM: To build wealth and increase productivity. It is fundamental to the economic underpinnings of this State to have the basics right to be able to go out into the world and do your job. I agree with my colleagues: the demography has changed, the circumstances have changed. It is time for this change to happen in New South Wales law. I commend the amendment to the Committee.

The CHAIR (The Hon. Trevor Khan): The Hon. Peter Primrose has moved Opposition amendments Nos 1 to 4 in globo on sheet C2018-123. The question is that the amendments be agreed to.

The Committee divided.

Ayes 18
Noes 22
Majority.....4

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

NOES

Borsak, Mr R	Brown, Mr R	Clarke, Mr D
Colless, Mr R	Cusack, Ms C	Fang, Mr W (teller)
Farlow, Mr S	Franklin, Mr B	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. CATHERINE CUSACK: I move:

That the Chair do now leave the chair, report progress and seek leave to sit again at a later hour of the sitting.

Motion agreed to.

Adoption of Report

The Hon. CATHERINE CUSACK: On behalf of the Hon. Sarah Mitchell: I move

That the report be adopted.

Motion agreed to.

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

The PRESIDENT: Order! According to sessional order, business is now interrupted for questions.

Questions Without Notice

SHENHUA WATERMARK EXPLORATION LICENCE

The Hon. ADAM SEARLE (14:30): My question without notice is directed to the Leader of the Government, Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. Given the departmental submission he signed on 13 July approving the part renewal of exploration licence 7223 relating to the Watermark proposal states that under section 114A of the Mining Act the titleholder must relinquish at least 50 per cent of the title area on renewal unless the decision-maker considers that special circumstances exist, what special circumstances does the Minister say required his Government to pay Shenhua $262 million for part of the exploration licence, which it had to surrender anyway?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:31): Shenhua originally applied to renew 100 per cent of the area within the exploration licence [EL] on 5 February 2016. As the honourable member has just advised the House, section 114A (1) of the Mining Act ensures that prospective land is not held indefinitely by explorers by requiring the relinquishment of 50 per cent of the land held upon renewal. However, the subsequent section, section 114A (2), provides that the decision-maker may grant a renewal over more than half of the area if the applicant for the renewal claim can justify to the satisfaction of the decision maker that special circumstances exist, as the Hon. Adam Searle mentioned. Shenhua provided sufficient evidence to demonstrate that it complied with the criteria for special circumstances renewal. Most importantly, it has effectively and extensively explored the area of exploration licence 7223, investing more than $104 million in exploration during the initial five-year term of the licence.

If the Government overturned the long-established practice of allowing genuine explorers to apply for and receive special circumstances renewal of more than 50 per cent of their exploration licence it would drive investment to other jurisdictions and would severely impact this State's reputation. The relinquishment of 51.4 per cent of the exploration licence then occurred, following negotiations between the title holder and the Government to minimise the potential impacts of coalmining on the Liverpool Plains. As a result of these negotiations, the New South Wales Government refunded $262 million to Shenhua, which is proportionate to the area excised against the original $300 million paid by Shenhua to the former Labor Government as part of the competitive tender process. In this case, the negotiation occurred separately to the renewal process.

HUNTER REGION ENERGY AND RESOURCES INDUSTRY

Mr SCOT MacDONALD (14:34): My question is addressed to the Minister for Energy and Utilities. Will the Minister update the House on how the New South Wales Government is delivering for the Hunter, and are there any alternative policies?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:34): I thank the honourable member for his question. The energy sector is experiencing unprecedented change and I am pleased to share with the House how the Government is helping to capture opportunities for growth and business innovation. On 3 October 2018, I launched the Innovation Launchpad, a new dedicated collaborative office space and facility at the Newcastle Institute for Energy and Resources. This exciting initiative will support small-to-medium-sized enterprises to scale up and commercialise new energy technologies, products and services. This initiative is all about bringing small businesses together with researchers to capture opportunities for jobs growth, partnerships and commercialisation.

The launch pad is a major initiative of the Energy and Resources Knowledge Hub at the University of Newcastle. The New South Wales Government is a strong supporter of the hub, which has been at the forefront of creating opportunities in the energy and resources sector for industry research, collaboration, innovation and growth. The Hunter region has long played a critical role in our energy and resources industry. For example, it currently accounts for 44 per cent of New South Wales' power generation and approximately half of New South Wales' resources industry. The Hunter is literally the powerhouse of our State. Since coming to office in 2011, we have fixed the budget, we have paid back the debt and we have started building the infrastructure our State needs.

While the former Labor Government neglected communities across regional New South Wales, the Illawarra and the Hunter, this Government is delivering. For example, I refer to our $650 million light rail project in Newcastle. We are delivering it and it will be open early next year, on time and on budget. Under this Government, the city of Newcastle is positively booming. Because of the Government's plan to revitalise Newcastle there has been close to $2 billion in private investment to accompany it. There are more jobs and prosperity than at any time under Labor. Only 10 years ago the people of Newcastle were demanding that someone fix their city. For too long they were neglected by the former Labor Government, which was happy to take their votes but did nothing for them.

The former Labor Government was served by 20 of the current crop of Labor members of Parliament. It neglected not only Newcastle; the whole Hunter suffered under Labor. Where Labor failed, we are delivering. We have committed $470 million for the Maitland Hospital, which Labor has not committed to or included in its health infrastructure policy.

The Hon. Walt Secord: That is untrue. Fibber!

The Hon. DON HARWIN: It has not committed to it—it is not on your list! What have you got against Jenny Aitchison? This year, we have also announced $3.8 million for the Rutherford Ambulance Station, $13 million for Cessnock police station and almost $10 million in two stages for the Lake Macquarie Regional Football Facility. This Government is building a stronger, better future for the people of the Hunter and New South Wales. The biggest risk to that future is the return of the Labor Party.

THE NATIONALS ORANGE ELECTORATE PRESELECTION

The Hon. WALT SECORD (14:38): My question without notice is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry, Deputy Leader of The Nationals and Deputy Leader of the Government. Given that Yvette Quin has withdrawn her National Party candidacy for Orange at the State election, and the *Forbes Advocate* reported on 16 October that the National Party is "providing support to Ms Quinn", what administrative steps is the Government taking to ensure that senior Government members, including Parliamentary Secretary the Hon. Rick Colless—who was identified in the *Parkes Champion Post* on 28 September as being part of a review group assessing her candidacy—did not bully her into withdrawing, and will the Minister investigate whether he used taxpayer resources to undertake those activities?

The Hon. Don Harwin: Point of order—

The PRESIDENT: Order! The Hon. Walt Secord was heard in silence. The Minister's point of order will be heard in silence.

The Hon. Don Harwin: There is simply no nexus between the ministerial responsibilities with which the Minister is officially connected and the question that was asked. The matter is related to the internal affairs of a political party and a long line of precedents suggest that questions such as that are out of order.

The Hon. Walt Secord: To the point of order: I am asking specifically about public policy. What administrative steps is the Minister taking to respond to bullying? Bullying can occur anywhere in New South Wales. The second point is that the Hon. Rick Colless is a parliamentary secretary and the question is about the use of taxpayer resources, which also relates to public policy and the exercise of public policy in New South Wales. Those three major points reveal that the question is related to the public affairs of New South Wales.

The PRESIDENT: May I see a copy of the question?

The Hon. Rick Colless: You're a disgrace.

The Hon. Walt Secord: You're the disgrace, Rick.

The Hon. Natalie Ward: You are a grub; you're a grub, Walt.

The Hon. Walt Secord: The way you treated that young woman is disgusting.

The Hon. Trevor Khan: Point of order—

The PRESIDENT: I will hear the Hon. Trevor Khan's point of order when I have dealt with this matter. I know what the point of order will be, and I will uphold it—I make that very clear. I refer to the ruling in November 2000 of then President Burgmann, which states:

> Questions relating to the affairs of a Minister's department or office are in order. However, references in a question to the affairs of a political party are not in order.

The question is out of order.

The Hon. Walt Secord: You escaped, Rick. You'll be brought to justice, Rick.

The Hon. Niall Blair: Point of order—

The PRESIDENT: Order! I will deal first with the Hon. Trevor Khan's point of order.

The Hon. Trevor Khan: My point of order relates to the conduct of the Hon. Walt Secord while you were taking advice from the Clerk. It was, in my respectful submission, disorderly and unparliamentary in the extreme.

The Hon. Walt Secord: Point of order: I would also like to draw to the attention of the House that the Hon. Natalie Ward shouted across the Chamber, "You are a grub". "Grub" is unparliamentary and I ask for the comment to be withdrawn. I am offended by it.

The PRESIDENT: As I said before, I am happy to deal with every point of order. That is a different point of order, and I will consider it in due course. I will deal now with the point of order by the Hon. Trevor Khan. I uphold the point of order and I call the Hon. Walt Secord to order for the first time. I will deal now with the Hon. Niall Blair's point of order and I will come back to the Hon. Walt Secord's point of order.

The Hon. Niall Blair: My point of order is the same as that raised by the Hon. Trevor Khan. There was a second occurrence after you had made your ruling.

The PRESIDENT: I uphold the point of order. I call the Hon. Walt Secord to order for the second time. I will now deal with the Hon. Walt Secord's point of order in relation to the Hon. Natalie Ward. What is the member's point of order?

The Hon. Walt Secord: During parliamentary exchanges the Hon. Natalie Ward called me a "grub". I ask that that comment be withdrawn; I am offended by the comment. And I ask that it be withdrawn without qualification or sarcasm.

The Hon. Catherine Cusack: To the point of order: I would like to make a submission on this point of order because there was a lot of banter going on in the House. The Hon. Walt Secord is seeking to take one comment from all the banter and place it on the parliamentary record—by way of taking a point of order—which is not usually reported in *Hansard*. It was not a problem until he created the problem. I ask that members not do that. It wastes your time, Mr President, and the time of the House.

The Hon. Lynda Voltz: To the point of order—

The PRESIDENT: Order! I do not want to spend more time on this matter; I do not want to lose too much of question time.

[*Business interrupted*.]

Rulings

OFFENSIVE EXPRESSIONS

The PRESIDENT (14:40:0): I have referred previously to the ruling of then President Harwin in September 2012. The word "grub" has been ruled offensive and should be withdrawn.

Questions Without Notice

THE NATIONALS ORANGE ELECTORATE PRESELECTION

[*Business resumed.*]

The PRESIDENT: I indicate to the Hon. Natalie Ward that I did not hear the term, but if she used it I ask her to withdraw the term. I leave it to her.

The Hon. Natalie Ward: I withdraw the comment.

The PRESIDENT: I note that the term is withdrawn. I call the Hon. Natalie Ward to order for the first time for using the term. I make it clear that I have no hesitation in calling members to order, and I will do so today. It is getting out of hand. Mr Jeremy Buckingham is on one call to order, Mr Justin Field is on one call to order, the Hon. Walt Secord is on two calls to order and the Hon. Natalie Ward is on one call to order.

SYDNEY CBD LICENSED VENUE LOCKOUT LAWS

The Hon. ROBERT BROWN (14:46): My question without notice is directed to the Hon. Don Harwin, representing the Premier. Given the fact that the Deputy Premier is reportedly pushing for the 1.30 a.m. lockout laws in the Sydney central business district to be scrapped altogether to coincide with the removal of the George Street barricades, and given that at least eight Cabinet Ministers support the lockout laws being softened significantly, will the Government support the Shooters, Fishers and Farmers Party bill, which is now on the *Notice Paper*, to have the 1.30 a.m. lockout laws changed before the end of this Parliament?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:46): I thank the Hon. Robert Brown for his question. I will start by counselling him, as I have done other members in the Chamber previously, not to believe everything he reads in the newspapers. In relation to his bill, of which he gave notice today—we look forward to seeing it; if a copy is available before the second reading that may assist the process, but that is a matter for him—if the bill is second read in the normal course of events, we will look at it, Cabinet will form a view, it will be discussed in our party room and we will respond at the appropriate time. But it would be disrespectful of me, in light of the traditions of Cabinet Government, to do anything other than say those few words in relation to the bill. I am delighted that the Hon. Robert Brown is taking an interest in a subject that no doubt many people are also interested in, and we will revisit the issue in due course.

NEW SOUTH WALES-JAPAN TRADE RELATIONSHIP

The Hon. DAVID CLARKE (14:48): 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 the state of New South Wales-Japan trade relations?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:48): I thank the honourable member for his question. The relationship between Japan and New South Wales is one of mutual respect and warm friendship. Over 70 years we have built a close relationship based on shared values, interests and a shared commitment to free trade. Japan is the number one destination for our State's exports, with almost $12 billion worth of New South Wales goods exported to Japan last year. That was backed up by an estimated $7 billion of goods imported to New South Wales from Japan. But our relationship today is far more than simply entries on a balance sheet.

The Government is proud that more than 14,000 Japanese-born residents call New South Wales home. The Government is pleased to be the port of call for more than 166,000 Japanese visitors who passed through New South Wales last year on holiday. The Government is delighted that some 5,000 Japanese students choose to study here at our universities. Nothing builds stronger and longer-lasting bonds than living and studying among fellow students in the university environment. This week we saw a new high point in New South Wales' relationship with Japan as Sydney played host to the fifty-sixth annual Japan-Australia Joint Business Conference.

For 56 consecutive years, the heads of the largest companies from across both nations have come together. They come to reinforce the friendships that have been built and the prosperity of both nations. Many of the companies involved have been partners in New South Wales' economic growth for a long time, quietly providing the financial support that New South Wales has needed to grow. That is the Japanese way. We are now entering the next phase of that relationship, with Japanese companies set to become cornerstone investors in bringing the new city in Western Sydney to life.

Earlier this week, two of Japan's largest companies, Mitsubishi Heavy Industries and Sumitomo Mitsui Financial Group, signed a memorandum of understanding with the Premier to help attract investment and develop industry around the Western Sydney Airport. Getting those two Japanese giants on board is a huge step forward

in attracting international investment to the aerotropolis. I am excited that we will be working with the best of the best from Japan to bring Western Sydney to life.

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

The Hon. NIALL BLAIR: I make special mention of two people who have played unique roles in making the relationship what it is. The first is the Japanese Consul General for Sydney, Mr Keizo Takewaka, who is an outstanding representative of his nation in New South Wales. The second is the New South Wales Special Envoy for Japan, Mr Bob Seidler. I cannot praise Bob highly enough for his work, his expertise and his passion in bringing New South Wales and Japan closer than they have ever been. I am pleased to report that while many things may change in the world around us, the relationship between New South Wales and Japan continues to strengthen at every turn.

As I stated earlier, this is the fifty-sixth consecutive year that this important economic meeting has occurred between Japanese business leaders and Australian business leaders. The conference that was hosted in Sydney has been a huge success. The Sydney conference has been the largest of the meetings, with more than 450 delegates. The conference's program included a young leaders forum and a number of breakout sessions. I am informed that since the conclusion of the conference many business meetings have been held this week. The Ambassador for Japan and the Ambassador of Japan attended the event. As I said earlier, the conference has been a huge success. To all involved I say: Kanpai!

The PRESIDENT: That might need to be translated for Hansard.

The Hon. NIALL BLAIR: It means "Cheers!"

KEPCO AUSTRALIA PTY LTD

Mr JEREMY BUCKINGHAM (14:52): In directing my question without notice to the Minister for Resources and Minister for Energy and Utilities, I refer to today's *Newcastle Herald* reports on allegations that coalmining applicant, KEPCO, reportedly ordered employees to pour sump oil down wombat burrows in the Bylong Valley in an attempt to kill at least 10 wombats that reportedly were interfering with company infrastructure, and to the fact that KEPCO previously has been placed on an enforceable undertaking for providing false evidence relating to its mine application. I ask: Has the Government conducted a proper investigation into those wombat killings, including contacting all witnesses? If the investigation finds that KEPCO behaved in a reprehensible manner and has deceived the Government, will the Minister cancel its licence under section 380A of the Mining Act?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:53): I thank Mr Jeremy Buckingham for his question. I am happy to look into the matter for him. I will take the question on notice and seek to have an answer for him at the conclusion of question time.

GO NSW EQUITY FUND

The Hon. MICK VEITCH (14:53): My question without notice is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry, and Deputy Leader of the Government. Given the Minister's budget estimates answer about the Government's $3.3 million investment in a single South Coast oyster company, in which he stated that he was advised of the Government's investment "shortly before the announcement was made", who actually advised him of the investment? On what date did that occur?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:54): I thank the Hon. Mick Veitch for his question—a question that relates to a topic addressed not only during budget estimates, as he has clearly identified, but also during question time in the other place yesterday when a question was directed to the Deputy Premier and when questions were asked of me yesterday. I am more than happy to take the question on notice.

The Hon. Mick Veitch: You do not know who advised you?

The Hon. NIALL BLAIR: Will the Hon. Mick Veitch allow me to finish my answer, particularly as the question asks for dates? The Hon. Mick Veitch asked me when I was advised, and I will need to go back and have a look to see about that. But I know it was an issue that was raised with my office before the announcement, just as I said in budget estimates. I am happy to take the question on notice to see whether I have any more information. There may not be any more formal information that I can provide, but I am more than happy to take the question on notice.

The Hon. Mick Veitch: And who advised you.

The Hon. NIALL BLAIR: You take the whole question on notice. You cannot just take bits of it.

ABORIGINAL CULTURE AND EVENTS

The Hon. TREVOR KHAN (14:55): My question without notice is addressed to the Minister for Early Education, Minister for Aboriginal Affairs, and Assistant Minister for Education. Will she update the House on how the New South Wales Government is supporting key contemporary Aboriginal cultural events in regional areas of New South Wales?

The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (14:55): I thank the Hon. Trevor Khan for his question. I am proud to report that this Government acknowledges and supports the importance of Aboriginal culture in New South Wales. We work, and will continue to work, with Aboriginal communities to promote social, economic and cultural wellbeing. Aboriginal culture and events should be admired and celebrated throughout the year. Significant events, like the successful Koori Knockout held in Dubbo over the October long weekend, festivals such as the Yabun Festival, which was held on the traditional lands of the Gadigal people here in Sydney, and small community-led activities aim to reclaim and revitalise Aboriginal cultural expression in New South Wales.

As I am sure members will recall, last month I reminded the House about the importance of recognising NAIDOC Week and how, in 2018, the Government supported 123 NAIDOC community events across the State. Today I will highlight an example of the important work that is being done to support Aboriginal communities to promote culture and healing, and to determine their own futures. The Baabayan Aboriginal Corporation is an organisation located in Western Sydney. Baabayan was founded by five Aboriginal elders who believed by providing a place of healing, where Aboriginal people could connect with their culture and have a strong sense of belonging, they would be able to recover from past traumas, regain their self-esteem and realise their potential.

Baabayan is well known in the community. It runs regular family gatherings, such as the Homework Club, which I have had the opportunity to visit and speak about in the House on previous occasions and the Wirringa and Booris Group, which is their mums and bubs program, as well as the "Mt Druitt Says No to ICE" days. Baabayan was also a key stakeholder at the Western Sydney Healing Forum held last year. The work that Baabayan does within the Aboriginal community of Western Sydney is essential in maintaining connection to culture and the healing aspirations of the community. That is why I was pleased to hear that when Baabayan was in the process of planning a Healing Weekend for its Wirringa and Booris Group, it reached out to the New South Wales Government for some support.

Many of the young women whom Baabayan works with are suffering from intergenerational trauma and are at risk, or have young children at risk. They are vulnerable young families who are working hard to improve their lives and the lives of their children with the support of this community organisation. The healing weekend took a group of eight mums and bubs to the Yarramundi Camp, which is located in the beautiful Hawksbury Valley. The purpose of the weekend was to participate in cultural and healing activities, share stories and engage with trained counsellors. The hosts at the Yarramundi Camp, the YMCA, provided organised activities for the children, which gave the mums the time and space to relax, connect, reflect and heal. I am told that the young mums who participated in the camp report improved self-esteem, self-worth, confidence and a stronger connection to country. The connection they have to their culture has also improved, thanks to the support they get from Baabayan.

The culturally safe environment that these women have been provided with to connect in has enabled them to undertake activities to improve their lives—activities such as gaining their driver licences, developing new skills, reconnecting with education and participating in the workforce. I know that, thanks to Baabayan, the future is brighter for those Aboriginal women. I hope that the young women who participated in the healing weekend are the future women of Baabayan, and that this initiative continues to grow and evolve for as long as it is needed.

It is wonderful to say that our Government was able to support such a great initiative with financial help for the healing weekend. This is possible because we value and recognise the importance of culture and healing for Aboriginal people in New South Wales. Our Government, through Aboriginal Affairs, has a plan. As we all know, OCHRE stands for opportunity, choice, healing, responsibility and empowerment. OCHRE is the plan that allows us to establish partnerships for economic prosperity, support effective Aboriginal community governance, and strengthen cultural identity and language. As Minister for Aboriginal Affairs, I again personally wish the women who took part in the camp all the best and congratulate them on what they got out of that great weekend.

STREAMWATCH

Ms CATE FAEHRMANN (14:59): My question is directed to the Hon. Don Harwin, Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. Streamwatch volunteers have recently

been told that funding for this vital 30-year-old citizen science program, run by the Australian Museum and Sydney Water, will cease at the end of June 2019. Given the ongoing contribution that this program makes to keeping our waterways healthy, and that Sydney Water's contribution is just $100,000 per year, why will the Minister not commit to funding Streamwatch so that its volunteers can continue their important work beyond June 2019?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:00): I thank Ms Cate Faehrmann for her question. I am reminded that this is a matter on which I have been asked questions in budget estimates hearings and previously. I am happy to spend some time adding to the answers I have given before. Streamwatch is a citizen science initiative currently administered by the Australian Museum's Centre for Citizen Science, which manages six citizen science projects all underpinned by the Australian Museum Research Institute's Science Strategy—a program that has been running since 1990, is allied with Waterwatch programs across Australia, and is a member of the national Waterwatch Australia Network. The program has 225 volunteers across 53 Streamwatch groups in the Sydney Water catchment area.

The work of Streamwatch groups has resulted in the observation and identification of pollution events and invasive animals that may otherwise have gone undetected. This includes the detection of an invasive aquatic weed in the Wollongong region and a sewage leak being reported by the Larool Creek bushcare group to Sydney Water earlier this year. Streamwatch was selected to support the launch of the 2017 Inspiring Australia Citizens Science Grants. The initiative is funded by Sydney Water until June 2019. The Australian Museum has advised that, with significant improvement in waterway health over the past 30 years and Greater Sydney's predicted population growth over the next 20 years, it is timely to consider another organisation that can continue to operate the Streamwatch program from July 2019.

The Australian Museum has advised that it has held discussions with other not-for-profit scientific and environmental organisations about hosting Streamwatch to ensure the program continues to monitor Sydney's Waterways. Discussions are continuing and the museum is committed to identifying a new organisation to take over management of the Streamwatch program from July 2019. In this regard, the Australian Museum hosted a workshop last month that was attended by volunteer, and government and non-government agencies to discuss the continuation of the Streamwatch program and to help formulate plans for the future. I am confident that the Streamwatch program will continue to play a vital role in monitoring the quality of Greater Sydney's waterways. The issue is not forgotten, and there is work being done on it.

GO NSW EQUITY FUND

The Hon. JOHN GRAHAM (15:03): My question is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Yesterday in his answer to the House the Minister outlined eight steps that have been taken to sign off on the millions of dollars in public funds that have been invested in Australia's Oyster Coast. Given that step six consisted of a memo sent to the Deputy Premier and given that the ministerial brief required the Deputy Premier to personally approve this funding, how does that reconcile with the Government's official description of this as being "at arm's length"?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:04): I thank the honourable member for his question. This matter was addressed clearly yesterday by the Deputy Premier, remembering that it was his agency that undertook this transaction. Not only did he address it yesterday in the other place, but also he addressed this issue in detail during budget estimates hearings. I note the honourable member put a notice of motion on the *Notice Paper* this morning that quite clearly omitted the part of the estimates process where the Deputy Premier revisited that area and provided further information about his involvement with this matter. The matter has been addressed. I refer the member not only to my answer yesterday but also to *Hansard* and to the answers of the Deputy Premier, not just yesterday but during budget estimates hearings.

STATE INFRASTRUCTURE

The Hon. SHAYNE MALLARD (15:05): My question is addressed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. Will the Minister update the House on how the Government is delivering on major infrastructure projects across 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) (15:05): The Government is delivering more infrastructure than ever before. We had 16 years under Labor when this State was driven backwards by poor planning, mismanagement and a lack of investment. But in seven short years we have turned things around. All over New South Wales there are cranes in the sky and jobs on the ground. We have a record-setting infrastructure program, because we can manage our budget. Those

opposite could not run a bath, let alone a trillion-dollar economy. They could not manage their budget, and our State suffered. This Government began an infrastructure revolution, which is driving jobs growth, delivering vital projects and improving the lives of the people of New South Wales. Projects such as WestConnex, Sydney Metro, the Pacific Highway duplication, upgrades to the Princes Highway, and light rail in Parramatta, Sydney and Newcastle—just to name a few. Only last week we saw the breakthrough of—

The Hon. Peter Primrose: Parramatta Stadium.

The Hon. DON HARWIN: It is a great project. Wests Tigers are in there, the Waratahs are in there. I read a huge, long list of people who love the Parramatta Stadium who have already signed up. It is a great project. Only last week we saw the breakthrough of the final tunnel of NorthConnex—a nine-kilometre, twin-tunnel motorway linking the M1 to the M2. It is a great project. I can see the Hon. Taylor Martin endorsing it enthusiastically. It is a great breakthrough for the people of the Central Coast that will relieve the pressure on Pennant Hills Road by removing 5,000 trucks a day. That is very important for people who live in Normanhurst. This $3 billion project will bypass 21 sets of traffic lights and knock time off the commute for those living on the Central Coast.

That is crucial. Reducing the amount of time spent in traffic means that commuters can get home sooner, pick the kids up from school, spend more time with their loved ones or just restore their work-life balance. This is why we build the infrastructure that is transforming New South Wales. It matters to people's lives, and Labor does not get that. Every time those opposite cancelled a project, they hurt the people of New South Wales. They were wreckers, not builders. This Government is building a stronger, better future for the people of New South Wales. The biggest risk to that future is Luke Foley and those opposite. They would destroy what we have built, just like when they were last in office. They cancelled projects, they broke promises and they drove New South Wales into the ground.

All Labor did was announce projects that it never finished, or never even started. I am sure everyone remembers tapping on to Labor's west metro in 2007 with their new Tcard. I am sure that is something members opposite would like to forget. However, it promised both and delivered neither. Labor cannot be trusted to deliver infrastructure. It took this Government to fix Labor's mess. We delivered Opal and we delivered public transport—[*Time expired.*]

SYDNEY WATER AND NSW NATIONAL PARKS AND WILDLIFE SERVICE, SERVICE LEVEL AGREEMENT

Mr JUSTIN FIELD (15:09): I direct my question to the Minister for Resources, Minister for Energy and Utilities, Minister for the Arts, and Vice-President of the Executive Council. In the recent inquiry conducted by the Standing Committee on State Development into the Water NSW Amendment (Warragamba Dam) Bill 2018, the committee heard evidence that the service level agreement between Sydney Water and the NSW National Parks and Wildlife Service [NPWS], which secures funding to the NPWS of around $4 million to $6 million for land management programs in the Sydney catchment area, has not been signed for this financial year. Why has Sydney Water not signed the service level agreement and will it continue to fund NPWS operations on Sydney catchment land?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:10): I thank Mr Justin Field for that good question. I will endeavour to obtain an answer for the member before the end of question time.

MENINDEE LAKES RECONFIGURATION PROJECT

The Hon. DANIEL MOOKHEY (15:10): I direct my question to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. What is the Government's response to community concerns regarding the business case for the reconfiguration of the Menindee Lakes, including the concerns of Jacobs Engineering, an international technical services group commissioned by the Commonwealth Government, which concluded that the Minister's plan did not represent an organised, comprehensive, consistent or persuasive case for the project and was found seriously wanting?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:11): I thank the Hon. Daniel Mookhey for his question and the opportunity to provide him with information he probably does not have before him given that he came up with a question like that. What he should understand is that we are at a very early stage of the discussions, the design and the consultation process for the Menindee Lakes project. In fact, the final design of the project will not be known for some time because we must consult and examine all of the options. The final design of the project will be determined after we go through a series of processes. It is not a simple matter of having it approved by Canberra and signed by the other basin States. We must also go through a number of State-based approval processes. The

member should not jump to the conclusion that what is ready to be discussed with the community is the final project. We have only had to notify Canberra that we wanted to look at this project.

The Hon. Penny Sharpe: It is not a good start if there is already criticism about the way you are going about it.

The Hon. Ben Franklin: It is called the process.

The Hon. NIALL BLAIR: Yes, it is called the process. Members opposite do not understand that we must consult the community about what the final projects will be. We are also looking at a number of areas in that region, including the Lower Darling, and possible future options. In addition, we are looking at installing infrastructure in other parts of the system. We are about to ramp up the community consultation process and discussion of the detail about this water-saving project. That is what this Government does: it talks to the community. That is in stark contrast to what members opposite do.

It is interesting to get a question from a member of the Labor Party about water saving in the Murray-Darling Basin. Members opposite were willing to back in the biggest threat to the Murray-Darling Basin Plan, that is, the South Australian Labor Party is leaning on the Canberra Labor Party. Members opposite made not one peep on behalf of the communities that would suffer when the Canberra Labor Party and the South Australian Labor Party were willing to play politics with the Murray-Darling Basin Plan. It is disingenuous all of a sudden to start to care about these projects when they had an opportunity to speak up on behalf of New South Wales but said nothing. Members opposite did not condemn their colleagues in South Australia and Canberra. They sat on their hands either because they do not understand or because they endorse that position. They had the opportunity to vote in support—

The Hon. Walt Secord: What about water theft?

The Hon. NIALL BLAIR: Water theft?

The Hon. Walt Secord: You did nothing.

The Hon. NIALL BLAIR: You voted against the compliance and the—

The Hon. Walt Secord: She hired the water thief.

The Hon. Natalie Ward: Point of order: As new as I am in this place and coming to grips with the standing orders, it has been clear to me today that interjections are unparliamentary. I also cannot hear the Minister's answer to the question asked of him. Mr President, I ask that you call members opposite to order, particularly the Hon. Walt Secord.

The PRESIDENT: I will indicate a number of past—

The Hon. Walt Secord: Natalie, get me a copy of the—

The Hon. Natalie Ward: Point of order—

The PRESIDENT: I will deal with the first point of order.

The Hon. Walt Secord: I will just read the pecuniary interests declarations, Natalie, while I'm upstairs.

The PRESIDENT: That was a really big mistake. I call the Hon. Walt Secord to order for the third time. In accordance with Standing Order 192, I direct the Usher of the Black Rod to remove the member from the Chamber. The member is excluded from the Chamber until 8.00 p.m.

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

The Hon. Walt Secord: Natalie, I am going to read the pecuniary interests declaration.

The Hon. Natalie Ward: Please do. I am not threatened by you.

[*Business interrupted.*]

Rulings

INTERJECTIONS

The PRESIDENT (15:16:0): Order! I will indicate a number of past rulings of which all members should be aware. In December 2007, then President Primrose ruled:

> Members should allow Ministers to answer their questions without interruption.

In 2013, then President Harwin ruled:

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

In 1979, then President Johnson ruled:

> It is not in the interest of members to interject; neither is it in the interest of the member speaking to encourage such interjection.

During the past 45 minutes, all three past rulings have been continually contravened.

Questions Without Notice

MENINDEE LAKES RECONFIGURATION PROJECT

[*Business resumed*.]

The Hon. Shayne Mallard: Point of order: On his expulsion from the Chamber and while being escorted out by the Usher of the Black Rod, in my view the Hon. Walt Secord disrespected the House and the Chair by yelling at another member. It is not the first time he has done that on his way out of the Chamber. It is disrespectful to the Chair. Mr President, I ask you to consider my point of order.

The PRESIDENT: I will reserve my ruling on the point of order. I am aware that the Hon. Walt Secord made a comment, but I did not hear all the words he used. I will examine *Hansard* and come back on that point tomorrow.

The Hon. Peter Primrose: Mr President, are you prepared to take debate in relation to that?

The PRESIDENT: Absolutely. I have said that I will reserve my ruling until tomorrow, but I am happy to hear any argument.

The Hon. Peter Primrose: Thank you. Mr President, I will simply put some facts before you for consideration in your deliberations. Increasingly in this place, members are taking points of order on matters that are not before the Chamber. If members are engaged in debate and someone has taken a point of order, I can well understand that the standing orders should apply. However, although I have not raised my concerns, on a number of occasions it appears that comments between members, comments across the Chamber and sometimes heated comments are matters that I believe are of a private nature rather than matters that should technically come under the purview of the standing orders.

Clearly, if a member is doing something that brings the House into disrepute and if it is disturbing arrangements within the House then, of course, that comes under the standing orders. I would equally argue that it is very difficult for a member to defend himself or herself when it is a personal matter and the matter is not being recorded by Hansard. It is also then difficult for the President to review the matter. I simply ask that those matters be considered in the deliberations.

The PRESIDENT: I thank the Hon. Peter Primrose.

The Hon. Niall Blair: To the point of order: The member raised a pertinent point in relation to standing orders applying to debate. I ask that in the ruling on this matter consideration be given to the fact that while the Usher of the Black Rod is escorting a member out of the Chamber proceedings are suspended. Debate does not and should not occur. On this occasion the member continued to make a threat against another member across the Chamber. I ask that the matter be considered in the context that when the member was escorted out of the Chamber all members knew that debate was suspended but a further threat was made by the member as he exited the Chamber.

The Hon. Don Harwin: To the point of order: Given that the Hon. Peter Primrose has spoken to the point of order, I feel that I should also speak as he has raised an interesting point. Under some previous Presidents there was a view that when an interjection is made the Chair should not be asked to rule on it. In fact, President Fazio took the view that interjections were, while not outside the purview of the Chair, certainly not the central concern of the Chair. The problem is that we cannot conduct debate in the Chamber unless there is civility and unless standing orders are observed. A serious problem that I have observed under previous Presidents and which I observed during my time in the chair was the tendency of members to engage in what in sporting terms would be called gamesmanship. If the Chair dismisses consideration of comments such as interjections, as suggested by the Hon. Peter Primrose, it becomes very difficult for the Chair to maintain order in the House.

The Hon. Trevor Khan: To the point of order: I was intending to make a contribution but as we are in question time it would be unfair.

The Hon. Shaoquett Moselmane: To the point of order: As other members have spoken to the point of order, I make the comment that the President consider in his ruling that it was not a one-way conversation. There was a conversation between the two members across the Chamber.

The PRESIDENT: I will take all of the comments into consideration and give a ruling tomorrow.

The Hon. Natalie Ward: Point of order: The Hon. Walt Secord referred to me by my first name. I take offence at that conduct. Secondly, on his way out the member voiced a threat, to which I take offence. I ask that he be asked to withdraw that threat.

The PRESIDENT: That was part of the original point of order that was taken by the Hon. Shayne Mallard. I have reserved my ruling on that. I will take into account the comments of the Hon. Natalie Ward as part of my overall consideration. I intend to move on.

The Hon. Adam Searle: Point of order: It is a matter of record what the Hon. Walt Secord said but suggesting that reading a matter of public record such as a pecuniary interest declaration constitutes a threat is a ridiculous proposition.

The PRESIDENT: I will take that into consideration. I thank the Deputy Leader of the Opposition.

The Hon. Natalie Ward: To the point of order: It was not the content of the interjection, it was the manner in which the communication was made across the Chamber that I took offence at.

The PRESIDENT: I have the gist of the issues. I will not listen to any more points of order on this matter. The Minister has the call.

The Hon. NIALL BLAIR: As I was saying, there are a number of matters that will be taken into consideration and consulted on with the community when we look at the final scope of this project. There is a long way to go before the Government submits the final details to Canberra. We need to go through a number of different approvals at a State level as well. All will be consulted on with the community. There is a long way to go. I hope those opposite will finally get on board.

The Hon. DANIEL MOOKHEY (15:25): I ask a supplementary question. Will the Minister elucidate? When the Minister describes the plan as being in "early development", can he explain why the business case was provided to the Commonwealth to justify the Commonwealth's buyback of the $78 million Tandou cotton farm from Webster without tender?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:25): I thought the member was talking about the Menindee Lakes water savings project, which I have just been speaking about. Now he is talking about the Lower Darling purchase of the Tandou deal. That is a matter for the Commonwealth. That was a deal done by the Commonwealth with respect to the buyback. I have been talking about the interconnection between the Lower Darling and the Menindee Lakes project. The Government will continue to do further work on the Menindee Lakes project. The Government did provide a business case to Canberra to get through the early stages of the sustainable diversion limits adjustment program and with respect to the carryover money from Canberra for the projects.

As I was saying before, members opposite are now starting to become interested in what is happening in western New South Wales when it comes to water. They are starting to become interested now even though there have changes to the new compliance measures in New South Wales. Those compliance measures, which have been ticked off by the Commonwealth and by other States, were voted against by those opposite. When the members opposite speak to members of the community, do they remind them that they voted against an independent water regulator? Do they remind community members that that they voted against the no meter, no pump policy? Do they remind them that they put in jeopardy the toolkit measures and the $180 million worth of environmental works in the northern part of the system? Do they remind community members that they also wanted to vote down the increase in transparency or that they voted against the protection of environmental water? No they do not. They are selective in what they tell community members, but Government members will tell them.

REGIONAL WATER SECURITY

The Hon. BRONNIE TAYLOR (15:27): My question is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Will the Minister update the House on what work the New South Wales Government has recently done to improve water security in regional New South Wales?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:27): I am proud of the strong drought response by this Government, with funding of more than $1 billion to assist our food and fibre producers across the State. But this Government is always looking to the future, which is why we are also working hard to droughtproof as many communities as we can. Water is the lifeblood of our regions. It sustains industry, recreational activities and cultural uses. That message has come through loud and clear during my recent visits to regional communities.

Communities in Narromine and Warren depend on water flows down the Macquarie River for household use and irrigation. The Macquarie also offers visitors magnificent opportunities for swimming, canoeing and fishing, especially for silver perch and Murray cod. We can never underestimate the importance of these activities to our regional communities. Recently I joined the member for Dubbo, Troy Grant, and The Nationals candidate Dugald Saunders to visit the Gin Gin weir and announce the $1.2 million business case into infrastructure that will help secure the water supply for the residents and businesses that depend on it and create opportunities for recreational users.

This year, with the forecast predicting hot and dry conditions, nearly a third of the water available in the Macquarie system is expected to be lost through evaporation. Given that water users this year in the Macquarie might not be able to access their water held over from last year, let alone new season water, there are clear benefits to finding ways to reduce evaporation in the river. A mid-system storage facility would help smooth out the peaks and troughs of water supply and reduce the amount of water lost through evaporation. The business case we are funding will ensure that the proposed facility stacks up from an engineering, economic and environmental standpoint.

I have also visited the Tweed recently, where communities depend on a single system for water supply, which is at risk of intrusion from saltwater. When I was in the Tweed with Geoff Provest, I was pleased to announce $95,000 funding to investigate the viability of a pipeline from South East Queensland to the Tweed. The project allows local water utilities and councils to investigate and invest in modern infrastructure to provide safe, secure and reliable water supplies and sewerage services. This is vital for residents and businesses in the Tweed Valley. Including the latest grant, the Liberals and Nationals have funded a total of $475,000 committed to feasibility studies to secure the Tweed Valley water supply. The business cases for the Tweed Valley and on the Macquarie River are just two of the many long-term measures this Government is undertaking to make New South Wales more resilient to droughts.

But where is Labor on this issue? The Labor Party has been silent on the number one issue for the regions. Labor does not have a plan for the next drought. Hoping for rain is not a policy. It is this Government that is drought-proofing and securing the future of regional communities across New South Wales. It was fantastic to be at Gin Gin to announce this project where we could really see how well it was being received by the locals who turned up for the announcement on the day, particularly locals who are interested in the viability of their communities and also from some of the most unexpected sources.

One of the cameramen from PRIME7 in Dubbo, Rusty, reflected upon growing up near Gin Gin and the recreational activities that he used to undertake as a kid. We get a sense of what it means for a community to get access to these projects which make sure that we underpin not only the economic futures of communities but also their social futures. That is what we can do. When a government has its house in order it can invest in the things that matter to communities, and that is what this Government is looking for at Gin Gin.

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

KEPCO AUSTRALIA PTY LTD

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:32): Earlier in question time I was asked a question by Mr Jeremy Buckingham in relation wombat burrows and a mining development undertaken by Kepco. I am advised by the Office of Environment and Heritage that the Environment Protection Agency referred a complaint to the NSW National Parks and Wildlife Service on 6 September. The service conducted an inspection of the areas at the property detailed in the allegation and found no evidence of oil or oil residue around the wombat burrows. That is the advice that I have received.

SYDNEY WATER AND NSW NATIONAL PARKS AND WILDLIFE SERVICE LEVEL AGREEMENT

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:32): Earlier in question time Mr Justin Field asked me a question about an agreement between Sydney Water and the NSW National Parks and Wildlife Service. In fact, the agreement is between WaterNSW and the NSW National Parks and Wildlife Service. It has been approved for payment and agreed that it will be funded. It has not been paid yet but it is approved. That is the advice.

Bills

RESIDENTIAL TENANCIES AMENDMENT (REVIEW) BILL 2018

In Committee

Consideration resumed from an earlier hour.

Mr JUSTIN FIELD (15:35): I move The Greens amendment No. 4 on sheet C2018-122:

No. 4 **Rent increases**

Page 4, Schedule 1 [9], lines 34 and 35. Omit all words on those lines. Insert instead:

(1B) The rent payable by a tenant for residential premises may not be increased more than once in a period of 12 months.

The Government's bill seeks to limit rent increases to once per year but links it with the tenancy. This creates the risk of landlords offering shorter leases. They could then effectively increase the rent on that property multiple times in a year for each of the leases. I understand the intention of the Government, but I think it misses the potential for landlords to then move to shorter lease periods, keeping open the opportunity to increase the rent multiple times, potentially with new tenants. The Greens amendment attempts to close that loophole by linking the limit of rent increases to the property, so it is only once per year per property. It removes the incentive for landlords who might be unscrupulous in this space to try to limit the length of leases to keep that opportunity for rental increases open. This will clean that up: once per year per property. It does not matter how many tenants go through the property. I think that will strengthen the intention of the Government in its bill. I commend the amendment to the Chamber.

The Hon. CATHERINE CUSACK (15:37): The prohibition on increasing rent in a periodic tenancy more than once in a 12-month period is linked to the tenancy agreement rather than the property. This is because it is designed to provide certainty for the parties to a specific agreement as well as to inhibit retaliatory rent increases which may occur under a specific tenancy agreement. Linking the restriction on rent increases to the property is not considered appropriate as this would unduly limit flexibility and the ability of a landlord to increase rent if they undertake improvements to the property, which often happens between tenancies. Those speaking for this amendment argue that if the rent increase prohibition is not linked to the property then landlords will evict tenants in order to increase the rent for the new tenant. This ignores the fact that the cost of advertising a property and finding a new tenant is in itself quite costly. Landlords will not evict a good tenant in order to go through the costly process of finding a new, untested tenant who may not be as reliable or trustworthy as the one they are losing.

The CHAIR (The Hon. Trevor Khan): Mr Justin Field has moved The Greens amendment No. 4 on sheet C2018-122. The question is that the amendment be agreed to.

Amendment negatived.

Mr JUSTIN FIELD (15:38): I move The Greens amendment No. 5 on sheet C2018-122:

No. 5 **Rent increases**

Page 4, Schedule 1 [9]. Insert before line 36:

(1C) The rent payable by a tenant for residential premises may not be increased so that it is more than the indexed rent in a period of 12 months.

(1D) The indexed rent is to be calculated in accordance with the following formula:

$$A = \frac{R \times B}{C}$$

where:

A is the indexed rent.

R is the amount of the current rent.

B is the Sydney CPI number for March in the current financial year.

C is the Sydney CPI number for March in the financial year during which the rent was last increased.

(1E) In this section: ***Sydney CPI number*** means the Consumer Price Index (All Groups Index) for Sydney issued by the Australian Statistician. This amendment will seek to limit rent increases in line with the consumer price index [CPI] to address the reality that historically—I will keep that in mind, given the circumstances—rents have been increasing at a much more rapid rate than people can afford to pay. That is the case in many areas of Sydney. There is a clear need to reign in exorbitant rents and exorbitant rent increases, and remove the burden on tenants who constantly have to appeal or object to excessive rent increases. This amendment will make the system more transparent and fairer for renters. This is a very

common measure to use for price increases. The Government itself uses these limits for pay increases for a reason. Given that so many people's pay is often limited to consumer price index increases and given that so many other aspects of the economy are limited in this way, it makes sense to limit rent increases as well, particularly when we have seen very low wage gains in the Australian and New South Wales economies over recent years. Limiting rent increases to CPI and capping those rent increases will ensure transparency and fairness for renters. I commend the amendment to the Committee.

The Hon. CATHERINE CUSACK (15:40): The Government does not support the linking of rent increases to the consumer price index [CPI], which is, in effect, the introduction of rent control. The Government considers that rents are appropriately determined by market conditions and the costs to a landlord. Costs for landlords are not necessarily linked to CPI. CPI is a basket of goods such as milk and other items. It does not relate and must be able to be recouped. Further, when a landlord makes improvements to a property it is reasonable for them to recoup the costs of those improvements through increased rent. Adversely, this could leave a landlord in the position of having to evict a tenant in order to improve his property.

The Hon. PETER PRIMROSE (15:40): I made a number of comments on this matter when we were debating amendment No. 2. The Opposition appreciates the intent of the amendment but Labor is concerned about rent caps and how they could have a perverse outcome that is not favourable to renters in the private rental market. There is a substantial body of literature that points to an array of unintended consequences of rent control. For these reasons, we will not be supporting the amendment.

The Hon. DANIEL MOOKHEY (15:41): I will briefly add to what the Hon. Peter Primrose has said. First, it is curious that this amendment would bind all of New South Wales to the Sydney consumer price index [CPI]. I am surprised the Government did not make that point as well. Given that the explosive growth of renting is happening in regional New South Wales, it is awfully strange that we would use the Sydney CPI. It is a matter of technicality that could lead to some of the unintended consequences that the Hon. Peter Primrose made reference to.

The second point I make is slightly more substantial and it is that it is astonishing that this type of mechanism is being pursued because overwhelmingly even those on the political left have abandoned rent control mechanisms for a very long period of time because of what is happening in eastern New York and London at the moment, which is that rent controls have created tremendous pressure to evict tenants. Fine landlords are having to engage in some of the most brutal and anti-tenant tactics possible to get people out of premises to withdraw property from rent-controlled stock.

There is a reason why there has been a huge shift towards the consolidation of rental stock in social housing and there is reason why in these massive markets there has been a consolidation of it in affordable housing: It is far more the twenty-first century way in which housing can be made accessible and affordable for all. It is fascinating that at the moment in both London and New York there is an explosive return to the idea of State construction and the State-managed consolidation of rental stock as well as working in partnership with the affordable housing sector. Part of the reason why they are pursuing those mechanisms at the expense of those proposed in this amendment is that it is the way justice for renters is able to be delivered without exposing them to the risk of simply being evicted by a brutal landlord.

Mr JUSTIN FIELD (15:43): I will respond to the Government's response in the first instance. I would love an explanation of how the Government's approach to limiting rent increases to once per year is not a form of rent control while the approach proposed in this amendment is a form of rent control. There is a logical gap in the Government's argument. Putting that aside, I do not take any issue with what was raised by the Hon. Daniel Mookhey in his contribution, but this amendment tries to protect renters through limiting—not setting a measure of rental price increases—the maximum rental price increase. How does that take away from the reality—which is something that The Greens support—of the need to invest more in social housing stock? This amendment in no way seeks to do that and I reject any suggestion that this amendment is an approach to walk away from the urgent need for more social housing.

The CHAIR (The Hon. Trevor Khan): Mr Justin Field has moved The Greens amendment No. 5 on sheet C2018-122. The question is that the amendment be agreed to.

Amendment negatived.

Mr JUSTIN FIELD (15:44): By leave: I move The Greens amendments Nos 6 to 11 on sheet C2018-122 in globo:

No. 6 **Habitable premises**

Page 4, Schedule 1 [10]. Insert after line 40:

(a) are safe and secure, and

No. 7 **Habitable premises**

Page 5, Schedule 1 [10], line 1. Insert "and are free from mould, vermin infestation and biotoxins" after "ventilation".

No. 8 **Habitable premises**

Page 5, Schedule 1 [10]. Insert after line 1:

(d) have adequate insulation, and

No. 9 **Habitable premises**

Page 5, Schedule 1 [10], line 5. Insert ", waterproofing" after "plumbing".

No. 10 **Habitable premises**

Page 5, Schedule 1 [10]. Insert after line 9:

(g) contain a kitchen or food preparation area, and

No. 11 **Habitable premises**

Page 5, Schedule 1 [10], line 11. Omit "user.". Insert instead:

user, and

(i) provide for access to adequate laundry facilities.

These amendments seek to put some sensible and reasonable minimum standards into the Act, in addition to what the Government has proposed in the bill. A number of clauses in the bill relate to the requirement of minimum standards for habitable premises, and these amendments ensure that a couple of other specifics are added to ensure that tenancies and properties are safe and secure; free from mould, vermin infestations and bio-toxins; have adequate insulation and water proofing; contain a kitchen or food preparation area; and provide for access to adequate laundry facilities. These are all inherently reasonable requirements. In the briefing we received from the Government a number of weeks ago on the minimum standards that are proposed in this legislation it was not clear why some of these most basics requirements that we would expect to see in rental accommodation for everyone were not specified within the bill. In fact, the bill is quite limited.

The idea that a landlord could rent out a property that does not contain laundry facilities, a kitchen or food preparation area, or that does not have adequate waterproofing, is not good enough. We do not need to look very far to see that some of the issues around mould, vermin infestations, waterproofing and insulation are common complaints in the rental market. Renters often suffer from very high power bills because of the lack of adequate insulation in the property and the like. These amendments will strengthen the minimum standards that the Government has sought to introduce through this bill, putting into the legislation a number of critical requirements that The Greens think should be included as part of the minimum standards for rental accommodation in New South Wales. I commend the amendments to the Committee.

The Hon. CATHERINE CUSACK (15:46): Under section 52 (1) of the Act, landlords are required to provide residential premises in a reasonable state of cleanliness and in a state fit for habitation by the tenant. The bill introduces minimum standards that further clarify the meaning of "fit for habitation" and set clearer expectations for both landlords and tenants. They have been carefully chosen to ensure that all rental properties are safe, secure and do not endanger people's health. These standards are not an exhaustive list of what it means to be fit for habitation and the bill recognises that there may be other significant problems that may mean a specific property is considered unfit for habitation.

The Hon. PETER PRIMROSE (15:47): As is the case with most of The Greens amendments, the Opposition fully appreciates the intent of the amendments, but we are concerned that there may be unintended consequences if the amendments were put into legislation and that they could have negative impacts on the very people we would like to assist and help. At this stage, the Opposition cannot support these amendments and, indeed, a number of other amendments put forward by The Greens.

The CHAIR (The Hon. Trevor Khan): Mr Justin Field has moved The Greens amendments Nos 6 to 11 on sheet C2018-122 in globo. The question is that the amendments be agreed to.

Amendments negatived.

Mr JUSTIN FIELD (15:48): I move The Greens amendment No. 12 on sheet C2018-122:

No. 12 **Access to premises by landlord**

Page 5, Schedule 1 [12], lines 36–46. Omit all words on those lines. This amendment seeks to remove a provision in the bill that would allow a landlord in certain circumstances to access someone's home without consent. That speaks for itself. The Greens were not convinced by the arguments that were made in a briefing on this bill about the circumstances that would allow a landlord to access a home without consent. We understand that notice is required to be given but even without a response—and

> I am happy to have this cleared up—there are still circumstances where a landlord would be permitted entry. For example, the landlord may be able to take photographs of the property for the purposes of readvertising.

However, given privacy considerations, there are serious concerns as to how that would be implemented. Removing this provision will not change the ability of a landlord to seek permission to enter a property when it is unattended. We consider it is inappropriate and it may open the door for landlords—and potentially agents—to enter a property without going through the reasonable steps that one would expect when entering someone's home for the purposes described in the bill. The Greens commend the amendment to the Committee.

The Hon. CATHERINE CUSACK (15:49): The Government believes that the provision has been misunderstood and it does not support the amendment. The Act currently ensures that for a number of specific and limited circumstances landlords can have access to their property without the consent of the tenant, provided the required notice has been provided. The proposed amendment to section 55 of the Act ensures that a landlord is allowed to enter the property to take photographs or a visual recording of the property for the purposes of advertising the premises for sale or lease. The access is considered appropriate given that it is essential that a landlord can take photographs of their property for advertising purposes if they need to relet or sell their property.

The bill requires that such access is able to occur only if the tenant has been given reasonable notice and a reasonable opportunity to move any possessions that can easily be moved out of the frame or the photograph or the scope of the recording. The bill also introduces further important protections that limit what photographs or visual recordings can be published. This includes requiring the written consent of tenants before publication and clarifying that withholding consent due to circumstances of domestic violence would be reasonable.

The CHAIR (The Hon. Trevor Khan): Mr Justin Field has moved The Greens amendment No. 12 on sheet C2018-122. The question is that the amendment be agreed to.

Amendment negatived.

Mr JUSTIN FIELD (15:51): I move The Greens amendment No. 13 on sheet C2018-122:

No. 13 **Maintenance records**

Page 6, Schedule 1. Insert after line 28:

[14] Section 63 Landlord's general obligation

Insert after section 66 (3):

(3A) The landlord must keep, and retain for a period of not less than 3 years, a record of maintenance requests made by a tenant and of maintenance carried out by or on behalf of the landlord on the residential premises.

This amendment will ensure that current and prospective tenants know what maintenance requests have been made on a property and what maintenance has been carried out. It would require that those records be kept for a period of three years. This is particularly important as too often tenants report concerns that action is not taken by a landlord or an agent relating to maintenance issues they have raised. Time and again we have heard that maintenance is a key concern for people living in rental properties. We believe that there is a lack of transparency regarding how maintenance requests are made and logged. There is a constant blame shifting between agents and landlords as to who is responsible and how that relationship works in some instances. Quite often maintenance requests are made but it is unclear whether action has been taken in relation to them. This amendment seeks to enter into the landlord's general obligation, under section 63, by noting:

> That the landlord must keep, and retain for a period of not less than 3 years, a record of maintenance requests made by a tenant and of maintenance carried out by or on behalf of the landlord on the residential premises.

This transparency log would allow tenants to know what maintenance requests had been made on their property and whether they had been acted on, even if the request related to a time prior to their tenancy. This is a crucial element. I urge the Government and Opposition to consider supporting the idea of a simple log, which could be done in a similar way to a rent record. It is not a huge additional burden. One would have to assume that most people keep logs for other purposes such as taxation. With digital communications, keeping a log of maintenance requests via email and text messages would not be a difficult task.

There would be more transparency and accountability as to who is to blame for any failure to act on maintenance requests. That record would be important in instances where action is taken for an eviction and where a tenant might be concerned that raising maintenance issues has resulted in their eviction for no grounds. There is a lack of data in this area to establish whether there are retaliatory evictions and other issues regarding renters' rights in New South Wales that often relate to maintenance issues. Requiring landlords to keep a basic log is reasonable and most landlords already have digital records kept by their agents. I urge the Government and Opposition to support the amendment.

The Hon. CATHERINE CUSACK (15:54): The Government does not support The Greens amendment No. 13. Requiring landlords to keep and maintain a record of all maintenance requests and maintenance carried out—and the communications concerning that—would introduce unnecessary and burdensome regulations. Landlords are already obliged under the Act to provide and maintain residential premises in a reasonable state of repair and there are remedies for tenants if they fail to do so. Real estate agents who often act as the landlord's agent are already obliged under the Property, Stock and Business Agents Act 2012 to keep records relating to functions as an agent that would, in many instances, include the management of repairs.

The Hon. PETER PRIMROSE (15:55): The Opposition has carefully considered this amendment and supports it. The maintenance of records, in this case, is not unreasonable. Everyone in the discussion so far has acknowledged that it is something that most landlords and their agents already do to some extent. The recording of complaints and other interactions benefits all parties and would prove useful in cases that go to the tribunal to enable it to weigh up actual evidence rather than conflicting views. For those reasons, the Opposition supports The Greens amendment No. 13.

The CHAIR (The Hon. Trevor Khan): Mr Justin Field has moved The Greens amendment No. 13 on sheet C2018-122. The question is that the amendment be agreed to.

The Committee divided.

Ayes 17
Noes 20
Majority.....3

AYES

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

NOES

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
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.

Mr JUSTIN FIELD (16:04): I move The Greens amendment No. 14 on sheet C2018-122:

No. 14 **Minor alterations to residential tenancy agreements**

Page 10, Schedule 1. Insert after line 19:

[19] Section 66 Tenant must not make alterations to premises without consent

Insert ", including minor alterations to improve accessibility such as handrails in bathrooms" after "nature" in section 66 (2).

This amendment seeks to make an addition to what would be considered to be minor alterations. The bill allows for minor alterations to be made in rented premises that would not require approval from the landlord. The purpose of the amendment is to make accommodation more livable and more homely. The Greens seek to insert a new element that would specify that minor alterations would include additions that would improve accessibility, such as handrails in bathrooms.

The CHAIR (The Hon. Trevor Khan): Order! There is far too much noise in the Chamber.

Mr JUSTIN FIELD: People with disabilities and a number of organisations that support them have raised the serious barriers confronting people with disabilities when engaging with the private rental market. This

amendment seeks to provide that a tenant must not make alterations to premises without consent, but minor alterations, such as the installation of handrails in bathrooms to improve accessibility, may be made. If the amendment is agreed to, basic accessibility measures will be considered to be minor alterations and allowed without approval.

There is a real risk of people with disability being discriminated against because others do not believe in installing handrails and similar aids, which constitute making minor alterations, despite the fact that they can provide significant protection and improve the livability of premises. As we heard during debate in the Chamber today, an increasing number of older people are living in rental accommodation in New South Wales. The idea that someone would have to move into an aged care facility because they cannot undertake minor alterations to improve accessibility and mobility within their rental property is unacceptable. I commend the amendment to the Committee.

The Hon. CATHERINE CUSACK (16:06): The Government does not support the amendment. Clause 66 (2A) of the bill will allow the regulation to prescribe minor alterations for which it would be unreasonable for the landlord or the agent to refuse consent. This reform is being introduced to give residents the opportunity to make reasonable minor alterations to the rental premises to make it feel more like home. To balance the interest of tenants and landlords, the clause also allows the regulation to specify certainly alterations where the landlord's consent may be conditional on the alteration being carried out only by a qualified person. Further consultation will be undertaken to develop a list of prescribed minor alterations. It is appropriate that the possible inclusion of minor alterations to improve accessibility will be considered at that time.

The Hon. PETER PRIMROSE (16:07): The Opposition acknowledges that there is an array of minor improvements that should be considered, but believes that that is best done through the regulations that will accompany the Act when this bill is passed. Accordingly, the Opposition does not support this amendment.

Mr JUSTIN FIELD (16:07): Is it the intention of the Government to include in the regulations that works for accessibility devices will be included in the regulations, even if it is specified that they be installed only by a qualified person?

The Hon. CATHERINE CUSACK (16:08): The undertaking is that this area is being examined and there will be further review in the lead-up to preparing those regulations. All of this input will be taken into account.

The CHAIR (The Hon. Trevor Khan): Mr Justin Field has moved The Greens amendment No. 14 on sheet C2018-122. The question is that the amendment be agreed to.

Amendment negatived.

Mr JUSTIN FIELD (16:08): I move The Greens amendment No. 18 on sheet C2018-122:

No. 18 **Retaliatory evictions**

Page 16, Schedule 1. Insert after line 47:

[35] Section 115 Retaliatory evictions

Omit "may" from section 115 (1) and (2) wherever occurring. Insert instead "must".

[35] Section 115 (2)

Insert ", or any other reason the Tribunal considers relevant" after "following reasons".

[36] Section 115 (2A)

Insert after section 115 (2):

(2A) Despite making a finding under subsection (2), the Tribunal is not required to make an order under subsection (1) if the landlord establishes to the satisfaction of the Tribunal that the termination notice was not given in retaliation.

[37] Section 115A

Insert after section 115:

115A Limitation on no grounds termination

(1) A landlord must not give a termination notice to a tenant under section 85 within 12 months after the Tribunal has made an order under section 115 in relation to a termination notice given by the landlord to the tenant.

Maximum penalty: 20 penalty units.

(2) A termination notice that contravenes this section has no effect.

The CHAIR (The Hon. Trevor Khan): I am not discouraging you or trying to lengthen our day in any way, but you have not moved The Greens amendment No. 15. Is that intentional?

Mr JUSTIN FIELD: Yes. I will not be proceeding with The Greens amendment Nos 15 and 17.

The CHAIR (The Hon. Trevor Khan): Thank you.

Mr JUSTIN FIELD: It is crucial that tenants are not punished for exercising their rights. The Greens amendments seek to address the risk of that happening. The Greens amendment No. 15 is another way of trying to offer some protection to those who are punished by their landlord who imposes a no grounds eviction—an issue that has been very well canvassed in this Committee this afternoon—as a result of the tenant taking action in the NSW Civil and Administrative Tribunal. The Tenants' Union advises that the provisions about retaliatory evictions are of little use to tenants in their current form and that they need to be strengthened. These amendments seek to do this, and they are even more crucial as we have decided today not to end no grounds evictions. I commend the amendment to the House.

The Hon. CATHERINE CUSACK (16:09): The Government does not support this amendment. The amendment removes the tribunal's discretion to determine whether to declare that a termination notice has no effect or refuse to make a termination order if it is satisfied that the landlord's termination notice or application is retaliatory. The Government considers that it is appropriate for the tribunal to retain a discretion whether to prevent a landlord terminating in those circumstances. The tribunal is able to take into account all the circumstances of the case. In other provisions of the Act relating to terminations the tribunal retains discretion on the final orders made. The Government also does not support a blanket prohibition on a termination within 12 months after an attempted retaliatory eviction. Such a blanket prohibition does not take into account all the circumstances that may make the landlord's termination reasonable. If a tenant considers the termination to be retaliatory, they can apply to the tribunal for an order to prevent it taking place.

The Hon. PETER PRIMROSE (16:10): The Opposition is also concerned that there may be changing circumstances in the landlord-tenant relationship after the tribunal has made an order. Accordingly, the Opposition does not support The Greens amendment.

The CHAIR (The Hon. Trevor Khan): Mr Justin Field has moved The Greens amendment No. 18 on sheet C2018-122. The question is that the amendment be agreed to.

Amendment negatived.

Mr JUSTIN FIELD (16:11): I move The Greens amendment No. 20 on sheet C2018-122:

No. 20 **Review of Act**

Page 17, Schedule 1. Insert after line 27:

[40] Section 227 Review of Act

Omit "from the date of assent to this Act" from section 227 (2):

Insert instead "from the date of assent to the *Residential Tenancies Amendment (Review) Act 2018*".

This amendment seeks to insert another review of the Act. Given that substantial changes are being made—

The CHAIR (The Hon. Trevor Khan): You are not moving amendment No. 19?

Mr JUSTIN FIELD: Correct. Given the changes that have been made through this bill to the Act, and some of the amendments have been well canvassed in the public debate, and have been strongly supported by many of the stakeholder groups but have not been supported in the Parliament, The Greens would like a review of the Act. With the clear position put by the Opposition of in principle support for many of the amendments that we have moved today—which again are supported by the 90-odd groups in the community that have been advocating for renters' rights—we think it is appropriate that given the significant increase in renters in this State we put in place another review of the Act. The review will look at how the changes being made through this bill are working in practice and where the gaps that have been identified and tried to be addressed through these amendments will operate in the future. I commend the amendment to the House.

The Hon. CATHERINE CUSACK (16:12): The Government does not support the proposed amendment. The bill already includes a provision to review the most significant amendments proposed—the domestic violence reforms. The bill requires that the domestic violence related provisions be reviewed within three years of commencement, and to make a report publicly available no later than four years after commencement. This will allow the Government to evaluate the provisions and consider if any additional reforms are required to assist victims of domestic violence under the Act. More broadly, the Government will continue to

monitor the effectiveness of residential tenancy legislation, as well as engage closely with stakeholders to ensure that the tenancy laws in New South Wales deliver the best possible outcomes for both tenants and landlords.

The Hon. PETER PRIMROSE (16:13): The Labor Opposition does not support this amendment. Labor has already announced in relation to a number of matters that we moved today, in particular our unsuccessful amendments relating to no grounds evictions, that in government we would be seeking to insert those into the legislation. By definition that will require an early review and amendment of the Act.

The CHAIR (The Hon. Trevor Khan): Mr Justin Field has moved The Greens amendment No. 20 on sheet C2018-122. The question is that the amendment be agreed to.

The Committee divided.

Ayes 5
Noes 32
Majority.....27

AYES

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

NOES

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

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): I thank all members who participated in the discussion and commend the manner in which it was conducted. The discussion progressed more quickly than might otherwise have been the case. The question is that the Residential Tenancies Amendment (Review) Bill 2018 as read be agreed to.

Motion agreed to.

The Hon. CATHERINE CUSACK: I move:

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

Motion agreed to.

Adoption of Report

The Hon. CATHERINE CUSACK: On behalf of the Hon. Sarah Mitchell: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. CATHERINE CUSACK: On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a third time.

Motion agreed to.

Documents

TABLING OF PAPERS

The Hon. DON HARWIN: I table the following papers:

(1) Transport Administration Act 1988 and Passenger Transport Act 1990, report entitled "Ferry Safety Investigation Report: Steering Loss *Ocean Rider*, Sydney Harbour 5 May 2016".

(2) Transport Administration Act 1988 and Passenger Transport Act 1990, report entitled "Rail Safety Investigation Report: Disabled Xplorer Service NP23, Muswellbrook, 2 December 2016".

I move:

That the reports be printed.

Motion agreed to.

Bills

NATIONAL PARK ESTATE (RESERVATIONS) BILL 2018

Second Reading Speech

Mr SCOT MacDONALD (16:24): 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 ask the House to consider the National Park Estate (Reservations) Bill 2018. This bill will transfer over 4,500 hectares of State forest to the national park estate.

Commitment to conservation in New South Wales

The bill reaffirms the Government's commitment to biodiversity conservation in New South Wales including Australia's iconic koala.

The transfer of these areas to the New South Wales national park estate form part of a recent Government announcement that will see over 43,000 hectares of land managed for conservation outcomes.

Through this bill, we are proud to add new areas to New South Wales's conservation network that include: important koala habitat; "upland swamp" threatened ecological community in Upper Kangaroo Valley; significant areas of rainforest in the Upper Hunter, and sites of significant cultural heritage.

Details of areas being transferred under this bill

This bill proposes that the transfer of around 4505 hectares of unproductive State forest lands to the national park estate take place on 1 January 2019.

There are five separate transfers covered in this bill, which I will introduce in turn.

1. Addition to Willi Willi National Park

Approximately 2080 hectares of Carrai State Forest, north west of Kempsey, will be added to Willi Willi National Park

This land contains portions of high-quality koala habitat and delivers on an important commitment in the NSW Koala Strategy.

2. Addition to Budderoo National Park

The bill also proposes to add around 120 hectares of Yarrawa State Forest, near Robertson to Budderoo National Park.

The land contains important habitat for threatened species and includes endangered and threatened ecological communities

3. Addition to Curracubundi State Conservation Area

This bill also proposes to add around 1144 hectares of Mernot State Forest to Curracubundi State Conservation Area, including areas of rainforest in the Upper Hunter and unique habitat for plants and threatened species.

4. New Yango State Conservation Area

Around 647.5 hectares of Yango State Forest in the central region will become Yango State Conservation Area.

The area has been identified as containing significant cultural heritage and the whole landscape is important to the local Aboriginal community. In addition, the area provides important linkages to the Greater Blue Mountains Key Biodiversity Area.

5. Muldiva State Forest

Over 500 hectares of Muldiva State Forest, west of Dorrigo, will be vested in the Minister for the Environment under the National Parks and Wildlife Act 1974.

This land corridor provides important habitat for threatened species such as the koala, masked owl, Hastings river mouse, glossy black cockatoo and spotted tail quoll.

Impacts on timber supply/link to forestry industry roadmap

The Office of Environment and Heritage and Forestry Corporation of NSW have worked collaboratively to identity the areas suitable for transferring to the national park estate that would have minimal impact on the local community.

The areas to be transferred through this bill have significant biodiversity conservation benefits. However, their addition to the national park estate will not impact timber production and supply.

As I have outlined, that does not mean that they do not add significant benefits to the conservation network in New South Wales.

Concluding remarks

The National Park Estate (Reservations) Bill 2018 will enable the transfer of five important areas to the New South Wales national park estate.

I commend the bill to the House.

Second Reading Debate

The Hon. PENNY SHARPE (16:25): I speak on behalf of the Labor Opposition on the National Park Estate (Reservations) Bill 2018. The bill will transfer 4,505 hectares of State forest lands to the national park estate from 1 January 2019 in five separate transfers. The transfers include 2,080 hectares of Carrai State Forest north-west of Kempsey being added to the Willi Willi National Park, which adjoins the Castles Nature Reserve and the Oxley Wild Rivers National Park; 120 hectares of Yarrawa State Forest near Robertson will be added to Budderoo National Park, which includes intact vegetation on the Upper Kangaroo Valley plateau; 1,144 hectares of Mernot State Forest will be added to Curracabundi State Conservation Area, which will provide greater protection of rainforest in the Upper Hunter; and 647 hectares of Yango State Forest in the central region, which will become Yango State Conservation Area and will protect significant Aboriginal sites and habitat for the yellow-bellied glider and brush-tailed rock wallabies. Around 500 hectares of Muldiva State Forest, west of Dorrigo, will be vested in the Minister for the Environment under the National Parks and Wildlife Act 1974. That will help to protect the habitat of koalas, the Hastings River mouse, glossy black cockatoo and spotted-tail quolls.

The Opposition will not oppose this bill because it believes that all additions to the national park estate are welcome, particularly given how paltry and rare they have been under this Government. I paid close attention to the Minister for the Environment's second reading speech in the other place, and I will respond to some of her comments. She referred to this being another win for the environment delivered by the Government. Yes, it is a win, but it is a small win, and they are very few and far between. The Minister also talked about confirming the Government's commitment to biodiversity conservation. I cannot agree with her about that. If members were to look at the way in which biodiversity is being conserved in this State they would realise we are going backwards, not forwards. More plants and animals are now on the threatened species list, the Biodiversity Conservation Act has been amended and no support or care is being afforded to koalas on private property. I do not believe that what the Minister has said is correct.

The Minister also referred to reserving land in the national park estate being a cornerstone of our efforts to conserve public land for future generations. Yes, reserving land in the national park estate is the cornerstone of our efforts. However, there are three areas in which this Government is seriously failing in providing protection. First, we have debated the Water NSW Amendment (Warragamba Dam) Bill 2018, and I will not debate it again now. However, what is the point of having a World Heritage national park if we are prepared to drown it? What is the point of having the Kosciuszko National Park, an incredibly important national park that has plants and animals that are found nowhere else in the world, if we allow the member for Monaro to run wild by introducing his wild horses bill that yet again completely undermines any commitment to the National Parks and Wildlife Act? I cannot let these statements go unchallenged because they are simply untrue. I understand that the member for Murray intends to introduce a bill to abolish the Murray Valley National Park.

The Hon. Wes Fang: Hear, hear!

The Hon. PENNY SHARPE: The member says, "Hear, hear!" I look forward to that. We should talk about this Government's commitment to national parks, because frankly it does not exist. It was under the Askin Liberal Government and Minister for Lands Tom Lewis, the former Premier, that the National Parks and Wildlife Act established the National Parks and Wildlife Service [NPWS] in October 1967. The Act's aim was to reflect and to conserve the diverse landscapes and biodiversity across New South Wales. The passage of this Act was the result of a decades-long campaign by the conservation movement, which could see the urgent need for the protection of the unique and diverse ecological systems and biodiversity in this State. At its inception, the land managed under the Act covered just 1 per cent of the land in New South Wales—only 861,000 hectares.

The service was put in charge of the National Parks and Wildlife Act, the Fauna Protection Act, and the Wildflowers and Native Plants Protection Act. In 1967 it included the Royal National Park, Bouddi State Park, Dorrigo National Park, Brisbane Waters, New England National Park and of course Kosciusko State Park

established by Bill McKell. Kinchega National Park was the first park declared in the Western Division. The Act also protected Mootwingee historic site and Hill End historic site.

Over the decades, the parks and reserves system has grown to include and protect much of our coastal areas, particularly those that were in danger from sand mining. We have protected many of our fragile coastal lakes, the northern rainforests have been World Heritage listed, and many of the southern forests saved. The Blue Mountains has also been World Heritage listed. I note that most of these additions and protections have been supported in a bipartisan fashion—not held hostage to dodgy ideology. There has been a genuine commitment to looking after the lands on which we live.

I want to compare that to what has gone on with the Water NSW Amendment (Warragamba Dam) Bill. When the Blue Mountains National Park was declared World Heritage the other side of the House also supported the provisions to stop it from being flooded. How times have changed. There has also been increased reservation and conversation of western lands, and over time we have specifically recognised and protected wilderness areas. Increasingly, the importance of Aboriginal sites, Aboriginal culture and heritage, and Aboriginal input into the management of our parks and reserves has been recognised, although I note that the Government is yet to sort out a cultural heritage bill. I believe that it is wrong that cultural heritage is managed within our National Parks and Wildlife Service and not as a standalone feature of our legislative system in the way that we look after Aboriginal places.

The National Parks and Wildlife Service is also the custodian of much of the non-Indigenous history of Australia and New South Wales. Eac of the heritage sites contained within our parks estate is important in its own right. The staff of the National Parks and Wildlife Service are also one its greatest strengths. When individuals have come to work for the National Parks and Wildlife Service the focus has always been on service—service to the community and service to the flora and fauna under their care—and passion for protecting these very special places. It takes a lot of effort and expertise to manage a world-class national park service. Rangers, field officers, scientists, archaeologists, historians, customer service officers, managers, guides, volunteers and others have been part of that great story. I have been privileged to meet many wonderful past and present staff in the National Parks and Wildlife Service, and place on record on behalf of the Labor Opposition our deepest gratitude for their work.

The National Parks and Wildlife Service now manages over 870 protected areas, covering over seven million hectares and representing more than 9 per cent of the land area of the State. Over 52 million visits were made to our national parks in the past year, and the number keeps on growing. Every day, in every corner of this State there is work being done to protect threatened species, there is education of our community about the importance of these places and there are simply those who are spending time in nature, restoring health and wellbeing and connecting with the fragile land that humans rely upon to exist. This is being done despite the deep and unsustainable cuts wrought on the service by this Government.

Labor takes very seriously the role Labor governments have played in building the national parks estate. It is why we refuse to be silent when we see the neglect and sheer lack of commitment from the current Government towards the National Parks and Wildlife Service, and the environment generally. Deep funding cuts, the loss of experienced staff, the move towards temporary staffing and casualisation of the workforce, the failure to plan for and continue to build a comprehensive adequate representative reserve system and the push for ever greater commercialisation are all symptoms of a looming crisis in our national parks. This is in addition to the tearing up of native vegetation laws and the determined progress of rolling over national forest agreements without a proper scientific assessment.

Labor aspires to New South Wales having the best National Parks and Wildlife Service in the world. If Labor is elected in 2019 the new government will put in place a clear establishment plan to continue to reserve, protect and grow the national parks estate and we will find the funding within government to do so. We will be guided by a proper national parks establishment plan. Let us understand where we are at in New South Wales in terms of the creation of parks under this Government. After failing to create the 2008 national parks establishment plan the Government had us wait until last year, when the Minister did a draft directions statement—a fairly dodgy directions statement. But even the commitment to that has not been followed up; 12 months later it is still not finalised.

Labor will be guided by the following principles when establishing new parks. Labor will target under-represented ecosystems and habitats, particularly those most under threat from climate change, future development pressures or loss of natural river flows. We will focus on critical landscape corridors that facilitate the daily and seasonal movement of animals across the landscape and the intergenerational translocation of plants and animals in response to gradual environmental changes, such as climate change. We will focus on lands within important water catchments that protect important downstream aquatic ecosystems, such as high conservation value coastal lakes, wetlands, streams, estuaries and coastal near-shore marine environments. Labor will look at culturally important places with aesthetic, historic, scientific or social value, with particular focus on places of

cultural importance to Aboriginal people. We will focus on places of geological significance and areas important for effectively and efficiently managing existing reserves and that buffer reserves from surrounding land uses and climate change.

That is how the expansion of the national parks estate should take place. The Government should not just be looking around for areas of State forest that the Forestry Corporation no longer wants and bunging it across. That is essentially what this bill will allow. Labor will ensure that the National Parks and Wildlife Service will be given the status it deserves, and will not be buried in the Planning cluster. The National Parks and Wildlife Service will report directly to the environment Minister. In addition to their primary role in conserving and enhancing biodiversity, Labor wants our national parks to be the jewels in the crown for tourism—must-see destinations that bring people to enjoy the wonder of nature, the stories and care of country of our First Nations and the places that help tell the story of New South Wales.

The bill is a small step. To understand how small a step it is, just look at the figures. I will compare the Coalition's record on the national parks and reserves estate to what happened under the previous Labor Government. Since coming to office almost eight years ago the Coalition has increased the national parks and reserves estate by just 1 per cent or around 75,000 hectares in total. In the 16 years from 1995 to 2011, Labor increased the national parks and reserves estate by 75 per cent, adding 3.05 million hectares—equal to 3.8 per cent of all New South Wales land—to the estate. The Coalition's record represents adding on average just 9,978 hectares per year, compared to 190,450 hectares added per year when Labor was in office.

The Hon. Matthew Mason-Cox: On a large base.

The Hon. PENNY SHARPE: If the member wants to interrupt, I am happy to talk about that. Let us also talk about the Government's land-clearing laws.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): Order! It is disorderly to interject and it is disorderly to respond to interjections. The speaker will be heard in silence. I will call members to order if there are more interjections.

The Hon. PENNY SHARPE: I am happy to reflect on the land-clearing laws and what was occurring before under the native vegetation laws. The number of hectares being cleared was over 100,000 hectares. During the time when the native vegetation laws were in place the amount of land cleared was under 10,000. Even before the new laws are passed, given the lack of compliance and oversight by this Government, land clearing has already increased by around 700 per cent.

Mr Scot MacDonald: Point of order: I have listened to a lot of the speech. A lot of the speech has been on the fringes of the bill, but this is now getting away from the title of the bill and the content of the bill, which is about 4,500 hectares. It is nothing to do with land clearing.

The Hon. PENNY SHARPE: To the point of order: I know that those on the other side of the Chamber do not like it, but this is a second reading debate speech. The bill is about national parks and about whether they are international parks or state forests and the way we look after threatened species. I believe that it is completely in order.

Mr Scot MacDonald: To the point of order: The Opposition spokesperson for the environment seems confused about private land versus public land. The land-clearing laws are overwhelmingly about private land.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): The bill is for an Act to transfer certain State forest land to the national park estate and for other purposes. I ask the member to return to the purpose of the bill. Second reading debate speeches are given wide latitude, but I am sure the member is cognisant of the bill's purpose.

The Hon. PENNY SHARPE: Thank you, Mr Deputy President. I am happy to talk about the Coalition. It will take them more than 300 years to match Labor's record of expanding and enhancing New South Wales national parks estate. I also want to talk about the National Parks and Wildlife Service staff cuts. I was appalled that the Minister for the Environment in the other place had the gall to talk about how much she values the staff of the National Parks and Wildlife Service, given what has happened on her watch and over the past eight years. Permanent ranger positions in the National Parks and Wildlife Service have been cut from 245 permanent rangers in July 2011 to 181, and more have gone. Area manager positions have been cut by more than a third. The number of permanent field officers has also been reduced and is continuing to be reduced.

We have lost so much experience, so much goodwill, and so many fantastic people who were managing volunteers, looking after pests and weeds, and on the frontline in relation to firefighting. We have lost so many of them under this Government. The idea that the Government values them when almost a third of staff have had to take a pay cut as a result of the restructure is simply galling. Staff numbers have been cut and we know that more

than $100 million has been cut from the service in the past eight years. This is a service that has more land to manage and needs to manage it properly. It cannot do its job given this absolute lack of support.

This week it was interesting—although, from my point of view, not surprising—to read that the previous environment Minister had a plan and was working quite hard to determine how we could add additional hectares to the national park estate. It was something he was interested in and an issue that he progressed. But—oh, no—look what happened: Essentially, those in The Nationals put the brakes on it when they had their catastrophic result in the Orange by-election. They seem to be under the impression that people do not like national parks. The 52 million people who visit national parks every year probably would have something to say about that. It goes to show what a weak environment Minister we have and that the Premier is not committed to the environment in any way, shape or form when she can be stared down by a couple of members of The Nationals and is not prepared to move on national parks.

There are other proposals that we need to place on record in relation to national parks and the lack of interest and concern from this Government. I have talked already about the Blue Mountains National Park and the Warragamba Dam wall. No-one is suggesting that these are not serious issues that must be addressed in relation to the flood risk around Sydney, but the willingness of this Government to completely trample over a World Heritage listed national park is truly gobsmacking.

Mr Scot MacDonald: Point of order: The bill is very specifically about the transfer of 4,500 hectares of land. It has nothing to do with Warragamba; that bill has been before the House. I ask that you draw the Hon. Penny Sharpe back to the contents of the bill.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): I uphold the point of order. I ask the Hon. Penny Sharpe to return to the substance of the bill.

The Hon. PENNY SHARPE: If we turn to what the Minister said in her second reading speech we will find that she was given quite a lot of latitude in talking about national parks. It is a pity that members in this Chamber are not prepared to allow me to do the same. I want to talk about the wild horses in Kosciuszko National Park and the loss of them.

The Hon. Matthew Mason-Cox: Love those wild horses.

The Hon. PENNY SHARPE: If the member is happy for them to trample all over native threatened species I am happy to put that on record.

Mr Scot MacDonald: Point of order: I believe the Hon. Penny Sharpe is canvassing your ruling, which was very clear in regard to the content of the bill. If the member has run out of ideas, she should bring her contribution to a conclusion.

The Hon. Greg Donnelly: Point of order—

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): There is no point of order. I ask the Hon. Penny Sharpe to return to the substance of the bill.

The Hon. PENNY SHARPE: Let us also talk about the Royal National Park and the fact that the Government has canvassed driving the F6 motorway through the middle of it. It is one of our oldest parks and probably deserves to be looked at very closely for World Heritage listing. I note another disaster there. I place on record a particular issue about staff cuts and bushfire preparation. We have lost our most experienced bushfire staff, whether they be rangers or field officers. I do not believe it is responsible for me to speak in this debate without flagging Labor's serious concern about the loss of experience in this area. We are very lucky that we have had some rain in recent times, but we know how dry it is and we are heading into a serious bushfire season. We will rue the day we lost those very competent, experienced people. The Government has sought to do this by forcing savings on the agency, compelling it to get rid of its most senior staff with the most experience. When something goes wrong in the future and we review the incident, we will look back in hindsight and say we really should not have done that.

I make three final points in relation to the bill. First, I thank voluntary conservationists, especially those from the National Parks Association, the Total Environment Centre and the Colong Foundation. As shadow Minister for the Environment and Heritage, I have been incredibly lucky to spend a lot of time with people from these organisations all over the State. I have been incredibly privileged to be taken to some of our beautiful national parks and State forests, and shown what is going really well and what needs to be improved. I thank them for their passion. So much work goes into considering where we build the national park estate. I recognise and pay tribute to them. For example, a lot of their work has fed into Labor's recent announcement about a koala park for south-west Sydney. We could not have done that without the volunteers. I give a shout-out to Pat and Barry Durham, in particular, from Campbelltown, who I think have spotted every one of the 400 koalas that live

in that area. Without their many hours of voluntary work carefully mapping the location of koalas, we could not be so confident that creating a national park in this area will make such a difference to that population.

The second point I make is about bipartisanship. I started my contribution by speaking about the far-sighted work done by former Premier and Liberal member of Parliament Tom Lewis. When the former Premier died, I attended his State funeral. I was somewhat taken aback by the fact that, of all his achievements—and he had many; he was a pretty interesting man—the legacy that is considered his greatest by his family and by others who spoke at the funeral was the creation of the National Parks and Wildlife Service. Over time, we have been served well by people from all sides of politics who have been committed to and understood the National Parks and Wildlife Service. They have understood that it is not an ideological fight; it is about giving our land the best care and preserving it for future generations.

When I attended the State funeral of Neville Wran there was discussion—and his wife, Jill, reflected on this—about the fact that, of all the things he did as Premier, he always said one of the most important was saving the northern rainforests. We need to take a long-term view of these issues. I know some members in this place are definitely not fans of Bob Carr, but I also know that anyone who has thought about his contribution to the environment will accept that the additions made to the national park estate on his watch, his passion and his willingness to work through difficult issues—and there are difficult issues involved in establishing national parks—are an amazing legacy that we all benefit from, not only because they are beautiful places to visit or precious public assets but also because they are about how we live on this planet. It is about protecting our biodiversity and finding safe havens for animals and plants that have been here for far longer than we have and that were well cared for by First Nation people but now are fundamentally at risk.

I suppose I issue a plea to members opposite on this point. In the past I have been able to talk openly to members on the other side of the Chamber about protecting the environment. But there are fewer and fewer of them. I find there is now a hostile view towards national parks and environmentalism generally that did not exist previously. In the past, I had serious conversations with Tim Moore, Rob Stokes and Mark Speakman about how we deal with and progress often quite tricky issues. I make a plea for bipartisanship. Ideology takes us nowhere on this; we must have some fundamental agreement about how to proceed. We cannot continue to cut Environment budgets, believing them to be unimportant because they are not people centred—they are about animals and plants. They are about far more than that. Again, I express the hope that we can rebuild some bipartisanship in this space. We have also lost bipartisanship on climate change. Future generations will not thank us for this period.

Finally, The Greens have foreshadowed that they will move a series of amendments to add a bunch of areas to the national park estate. I will go into this in more detail during the Committee stage, but I indicate that Labor will not support the amendments. We are six months out from an election and I stand here as someone who hopes to one day have the privilege of being the environment Minister. I take the view that we would not support amendments like this if we were in government and we should not support amendments like this in opposition. Creating national parks is a serious business and it takes a lot of work. Simply moving amendments to create parks without having done the planning work is not an approach that Labor supports, however sympathetic we are to The Greens' suggestions. I will talk about that more in Committee. But I will not pretend that we will support those amendments because we will not. I am happy to support the bill. However, there is much more work to do.

Ms CATE FAEHRMANN (16:49): The bill before the House is a farce. It is nothing more than a facade for a Government desperate to hide its ideological anti-environment agenda and the failures of a Minister for the Environment who is asleep at the wheel. It is further confirmation that this Government's environment policy is being dictated by the dinosaurs in The Nationals, with the Shooters, Fishers and Farmers Party breathing down its neck. The truth is that the National Park Estate (Reservations) Bill 2018 is based on shameless, shameful lies. The Government says that the bill is about reserving and preserving koala habitat. That is a lie. We are reserving hardly any areas of genuine koala habitat today. The Carrai National Park, which the Government has labelled one of its new koala parks, does not have a single record of koalas being present. It has no areas identified by the Office of Environment and Heritage as koala hubs. It is outside the Government's identified mapped areas of regional koala significance.

The Yarrawa State Forest is also outside the mapped areas of regional koala significance, has no koala hubs and no koala records. The Mernot State Forest is outside mapped areas of regional koala significance, has no koala hubs and only one koala, recorded back in 2006. The Muldiva State Forest is outside mapped areas of regional koala significance, has no koala hubs and only one koala, recorded in 1997. The Yango State Forest has no koala hubs and no koala records. I repeat: We are reserving hardly any areas of genuine koala habitat today. I asked the Minister's office and departmental staff, both during a briefing on this bill and in emails, what evidence of koalas they could provide in each of the State forests being transferred and they have not provided an answer.

I asked how many hectares of medium to high koala habitat have been mapped in each of the State forests being transferred. There was no answer. I asked which of the State forests are inside the Office of Environment

and Heritage's identified mapped areas of regional koala significance. There was no answer. I asked when each of the State forests was last surveyed for koalas or koala habitat. Again, there was no answer. The Minister for the Environment also failed to answer any of those questions when she replied to the debate last night. Perhaps the Minister in this place can provide some clarity to Parliament. The Government also says the areas we are reserving today were chosen based on their conservation value. That is a lie too. The reality is that this Government has failed to protect vast areas that its own department has identified as having much more value both in terms of koala habitat and biodiversity conservation.

Of the koala hubs identified by the Office of Environment and Heritage [OEH], 86 per cent are not protected and are therefore vulnerable to logging, clearing and urban development. The Government's new koala reserves cover just 0.2 per cent of identified koala hubs. Why are we not reserving Kalateenee State Forest near Kempsey, for example, which the Department of Primary Industries [DPI] modelled as having 94 per cent medium to high koala habitat and the OEH identified as having 112 hectares of koala hubs? There is also the Yarratt State Forest near Taree, which has 100 per cent medium to high koala habitat and 346 hectares of OEH-identified koala hubs, and the Carwong State Forest near Casino, which has 65 per cent medium to high koala habitat and 224 hectares of OEH-identified koala hubs? I could go on.

Why did the Government not use the OEH assessment of the mapped areas of regional koala significance and koala hubs for assessing the areas to be protected? Why was this information ignored? What information was used? The Government's credibility is completely shot on this issue. That is why I foreshadow The Greens will move a series of amendments to fix this bill by adding a further 215,651 hectares of key State forests that have been identified by DPI Forestry as having significant medium to high koala habitat and where the OEH has identified koala hubs. This will protect at least 15,262 hectares of this important land. It includes the creation of the Great Koala National Park on the mid North Coast, a proposal that has been developed by the National Parks Association through its great work and that has been publicly supported by the New South Wales Labor Party since before the 2015 election.

The proposed Great Koala National Park involves reserving 176,680 hectares from 45 State forests, excluding areas of existing plantations, to 49 existing national parks and State conservation areas around the Coffs Harbour region. My colleague Dawn Walker, who has been campaigning tirelessly for this visionary proposal, will talk more about the details of this incredible opportunity to protect important koala habitat, place the mid North Coast on the map for tourists and generate vital local employment opportunities. If the Government and Opposition are serious about conservation and protecting koalas they will support these amendments. They will also ensure that additional funding is made available to the National Parks and Wildlife Service to manage these new areas to reverse some of the savage cuts we have seen in recent years.

They will also support affected forestry workers through a transition package similar to the $25 million package offered with the creation of the Murrah Flora Reserves on the South Coast in March 2016. It is clear that the areas we are reserving today are important and should be reserved and protected. The proposals offered in the bill are important additions and of course The Greens will support the bill. But they are shamefully tiny parcels of land and a far cry from what is so necessary to conserve biodiversity in New South Wales. They are a far cry from what is necessary to protect koalas.

Yesterday we read in the *Sydney Morning Herald* just how woefully inadequate the bill before us today is. In 2016, under the previous Minister, the Government had a plan to reserve as much as 75,000 hectares of State forests as national parks. What happened to that plan? What happened to that proposal by the then Minister for the Environment? National Party members of Parliament howled it down—that is what happened. The 75,000 hectares were whittled down to only 23,000 because the Liberals bowed to the dinosaurs in The Nationals and removed any areas in electorates held by National Party members. Even when the Liberals were handed a modest proposal to reserve a fraction of what is needed to complete our national parks system, they gave in to The Nationals—pathetic.

Now Minister Upton has put out a media release in response to the story accusing The Greens of making up the claim. Let me be clear: The Greens did not make this claim to Fairfax. We have to wonder whether there is a rat in the ranks. Regardless of where it came from, the claim matches the facts on the ground. The Government's abysmal environmental record over the past few years speaks for itself. We know that large, new areas of national parks are needed but are not being delivered. We know that there has been a 94 per cent reduction in annual additions to national parks since the Liberal-Nationals Government to office in 2011. We know that areas that have been protected have been given lower protections as "flora reserves" rather than national park status and that they remain in the hands of the Forestry Corporation. We know that vital habitat in The Nationals electorates across the State remains in the hands of the Forestry Corporation.

We know that The Nationals member for Murray has promised to introduce a bill to overturn the Murray Valley National Park and allow logging back into the globally significant river red gum forests of the Riverina.

We know that the Government has alarming plans to burn vast areas of our North Coast native forests for electricity. We know that the Government is planning to destroy 4,700 hectares of World Heritage Blue Mountains National Park by raising the Warragamba Dam wall. We know that deforestation and land clearing are on the rise after The Nationals forced the Liberals to rip up the Native Vegetation Act. We know that the Government is rushing to sign long-term timber contracts before the election, signing away vast areas of our precious native forests for decades. We know that The Nationals are changing logging rules to allow clear felling of areas up to 60 hectares—up from the current legal limit, which is one-quarter of a hectare. This is disgraceful.

We know the requirement for pre-logging surveys for 326 species of threatened plants and 23 species of native animals are being scrapped. This means there will no longer be a requirement to search for koalas prior to logging so these areas can be excluded to ensure the safety of koalas. We know that the Government is proposing to remap and rezone areas that are currently protected from logging because they are old-growth forests. We know that most areas protected for the past 20 years because of the presence of a threatened species will now be opened for logging. We know that the Government is proposing to allow big trees of up to 160 centimetres in diameter to be cut down. A 160-centimetre diameter tree is a tree with a five-metre circumference, and a five-metre-circumference tree would probably have been here before the First Fleet arrived in 1788.

We know that the Government has introduced a biodiversity offset policy that allows big mining companies and big property developers to clear precious, environmentally sensitive land more quickly and cheaply. We know that our National Parks and Wildlife Service has been gutted, with the departure of highly skilled and experienced rangers and ecologists after a series of restructures, demotions, redundancies and resignations, and that the new hires are being made at a lower pay level with fewer skill requirements. It is disgraceful what the Government is doing to our environment. The Liberal Party, led by The Nationals and held hostage by the Shooters, Fishers and Farmers Party, has an abysmal record on environmental protection. It has given the green light to a massive increase in deforestation, approved destructive new coalmines and, as the bill confirms, we can expect no significant additions to national parks under this Government.

Faced with climate change and an unprecedented loss of global biodiversity, we should be embracing an ambitious and visionary plan to expand our national parks—a plan that enables national parks to do what they are there to do: conserve biodiversity and wildlife, and protect incredibly beautiful natural areas for people to appreciate and enjoy. National parks are also there to protect nature for future generations so that they too get to enjoy and appreciate Australia's unique and precious native plants and animals. The first step should be to put an end to all native forest logging and transfer our remaining public native forests to the national park estate or reserve them as Indigenous protected areas. There are two million hectares of public land currently in the hands of the Forestry Corporation that are native forests and not under plantation.

We must rule out burning our forests for electricity. It is time for a new approach that recognises the environmental, social and economic benefits of healthy ecosystems, and the importance of protecting our natural heritage. Our national parks attract millions of visitors annually. Nature-based tourism brings an incredible $23 billion to the Australian economy every year. By contrast, the economic viability of industrial logging of our native forests is marginal at best and declining rapidly due to competition from sustainably managed plantation timber, the decline of the Japanese pulp and paper industry, and the declining availability of high quality saw logs. The forestry workforce has contracted by almost 15 per cent since 2006 and there are only about 216 jobs statewide that are reliant on native forest harvesting.

The end of native forest logging should be accompanied by a fair transition package for affected forestry workers, including assistance for education and retraining to work in the new parks management and ecotourism roles that will open up from an expanded national park estate. Protecting our national parks is not just about economic value, and in no way should it ever be. An enormous body of research demonstrates the physical, mental and spiritual health benefits for people of all ages of spending time in parks and natural spaces. We all know this. There is a reason that so many of us are keen to get out of our houses, our towns and our cities, and spend time in nature to de-stress and restore ourselves. Old-growth forests also play a significant role in mitigating the causes of climate change, acting as vital carbon sinks.

The Greens support calls from the National Parks Association for a $150 million per year addition to the existing parks budget because a significant new injection of funds is needed into our National Parks and Wildlife Service to manage these new additions. We need to improve the management of existing parks and increase educational and research opportunities. We also need to ensure that Aboriginal traditional owners are integral to the management and use of our national parks. Before this Parliament there are two visions for national parks in New South Wales. On the one hand, we have the Liberal-Nationals' pathetic proposal to add a tiny 4,500 hectares to our national parks—which does not even protect koalas and increases native forest logging—ignore expert advice on key areas that need protection, and gut the National Parks and Wildlife Service.

On the other hand we have The Greens amendments, which will add more than 200,000 hectares to our national park estate, conserving vital koala habitat, protecting the iconic Gardens of Stone National Park and stopping destructive coal projects. For the sake of our environment, our social and economic wellbeing, and for future generations, I hope members in this Chamber will choose the latter.

Ms DAWN WALKER (17:05): I speak in debate on the National Park Estate (Reservations) Bill 2018, through which those opposite are proposing to add 4,500 hectares to the national park estate. While we will be supporting the bill, we think it does not go far enough. That is because we are at a crossroads. Our flora and fauna are under increasing pressure and we are at risk of losing them. I grew up watching shows like *Wild Kingdom*, *The World Around Us* and David Attenborough. I used to marvel at the natural world that was projected into my living room—its remoteness, its beauty and its wildness. But there was always that kicker at the end. We were always warned that unless we act, we could lose this natural world. Yet, sadly, in many cases we have.

The World Wildlife Fund has reported that between 1970 and 2012 we lost 58 per cent of vertebrate animals on earth. In other words, in the past 40 years we have lost more than half the animals on this planet. It is estimated that there are only 360 individual Siberian tigers left in the world. Almost half of Borneo's orangutans have been killed or removed. Elephant numbers have dropped by 62 per cent in the past decade, with an average of one adult lost every 15 minutes. There are some species that we have lost forever. The clouded leopard of Taiwan is one of them, and earlier this year the last white male rhinoceros died in captivity. Only his daughter and granddaughter are left—the last white rhinoceroses on this planet. It is predicted that by 2020—which is less than 18 months away—the animal population will have dropped by 70 per cent. In her essay *The Extinction* Jane Lawson challenges us to imagine these statistics in relation to the human population. Imagine if we had lost two-thirds of our population since 1970? As Jane says:

> Imagine all those people gone. We would suspect that something had gone wrong and we might try and do something about it.

These are global examples. I never would have imagined that it could happen here in this State to our beloved koala, and yet that is where we are at. Make no mistake, our koalas are in crisis. The koala population in New South Wales is listed as vulnerable. Almost every koala population across New South Wales has fallen. On the North Coast koala numbers have halved in the past 20 years.

We are losing our koalas because urban expansion, rampant logging and relentless land clearing are leaving them without habitat. At the current rate, the World Wildlife Fund predicts that koalas could be extinct in New South Wales by 2050 unless there is "a significant reduction in tree clearing, mitigation of climate change and a major expansion of protected areas". We must act now to save them and what we need to do is quite simple. First, we need to identify where our koalas and key koala habitat are and, secondly, we need to protect these areas. It is quite simple. But instead of taking steps to protect our most vulnerable koala populations and habitats, the members across the Chamber have shown little real commitment to saving them. Their so-called NSW Koala Strategy shows us that.

Just a few weeks ago, the North Coast Environment Council and the National Parks Association obtained documents under freedom of information legislation that showed that the State reserves proposed by the Government's koala plan cover just 0.2 per cent of identified "koala hubs". The Government knows that these hubs are home to key colonies of koalas in our State and they know where those hubs are. So step one is complete: We know where our key koala populations are. However, this Government seems to be struggling with step two, which is protecting these populations and habitat from logging, land clearing and urban expansion. Instead, it is spending money protecting parcels of land that, in some cases, have no koala records at all.

In her second reading speech in the other place, the Minister for the Environment spent a lot of her time speaking about her commitment to saving koalas. But the facts are just not on her side. My colleague Cate Faehrmann spoke about the Carrai State Forest, which will become part of Willi Willi National Park under the provisions of this bill. According to the Minister for the Environment, "its reservation delivers on an important commitment in the Government's NSW Koala Strategy". The question is, how? This State forest has no koala records, no koala hubs and next to no high quality koala habitat. According to the Government's own data, this is not an area of regional koala significance. So how exactly will this State forest—with no koalas and next to no koala habitat—contribute to the preservation of the species? It is both frustrating and utterly illogical that this Government is ignoring the data that will save koalas. Time is not on our side.

Earlier I mentioned a report by the World Wildlife Fund, which predicts that koalas could be extinct by 2050 but they can be saved by "a major expansion of protected areas". That is why The Greens will be moving amendments to protect areas where we know there are significant koala populations and high quality koala habitat. That is why we will be introducing amendments to create a Great Koala National Park on the mid North Coast, where 20 per cent of our wild koalas live. We are committed to a major expansion of protected areas. We are committed to saving our koalas. We know that the community cares about our koalas. They reflect the unique

nature that we are lucky to have in Australia. They are synonymous with our country. It is shocking that this Liberal-Nationals Government continues to ignore the facts and its own data when it comes to saving this iconic species. I cannot understand why the Government wants to spend $45 million of taxpayers' money saving piecemeal bits of forest that are empty of koalas. With an election around the corner, it will be interesting to see if the community agrees with this ineffective and unscientific approach. This bill, unamended, will add to our national parks estate, but it does not go far enough. To save our koalas, to save our environment, we must do more.

The Hon. JOHN GRAHAM (17:13): I support the National Park Estate (Reservations) Bill 2018 and concur with many of the remarks of previous speakers. First, I want to mention the importance of the national park estate, which, in my view, is one of the most remarkable features of New South Wales and Sydney. I want to reflect briefly on those things that are unique to Sydney and New South Wales and that make our State a place to live that is different to many other places around the world. Our parks estate is a part of that uniqueness and provides remarkable places that are close and accessible. People who live in Sydney and in many places around the State within 30 minutes can be in the natural world, away from the screen and out of the home. It has been like that for a long time.

Secondly, another aspect that makes our State so different to other places that people might visit around the world is the incredible amount of coastal environment and coastal public space that we have managed to save in Sydney and up and down the coast of New South Wales. The decisions of former governments, on all sides of politics, have enabled those public spaces and our coastal environment to be saved. It should be borne in mind that this land is very precious and almost unique in comparison to other parts of the world. Thirdly, I refer, as have previous speakers in this debate, to our Aboriginal and First Nation heritage, and acknowledge that heritage for all the things we have learnt about this land and the places in which we live. Those three matters underpin the decision we will make today regarding the national park estate around Sydney and throughout New South Wales. That is the context for this debate.

There has been reference in the lead-up to this debate to the forest wars and the debates that have raged over decades about decisions that were made. I respect the views of people on both sides of that debate for their deep understanding of the natural world. I have found that both sides of the forest wars debate share a deep understanding of and real affection for nature. The real battle here is that in this urbanised country parts of our population—stuck in cities, at home, in front of a screen—might not experience our incredible natural world. Part of the challenge is to make sure that people get out amongst these very special places. I have been encouraged by the debate today and by some of the material that has been circulated, which set out a vision for our national park estate as a place where we preserve the environment and country as it has been for a long time and see our parks and our forests as a living place. I reject the view that this land is to be set aside and that people should be excluded from it. We want people to experience these places by riding bikes, hiking, participating in adventure sports and staying there. I believe 100 per cent that people should be encouraged to use this land, in the appropriate places and parts of the estate. These areas should be living places where our First Nation people and our most recent arrivals can meet and learn about the land. That is a remarkable vision for these places.

As I said, I have been encouraged from reading some of the material. I particularly mention the National Parks Association's Forest Rural Plan, which I was impressed with and encouraged to read. The association's direction is different to what it might have taken a decade ago but I see it as a very positive direction. This is a direction that includes a vision for parks and that actually engages with the public. It will expand the number of people who have an interest in our parks estate. Our parks are perceived to be places where ordinary working-class people, who do not have a lot of money, can enjoy that part of our State. I was encouraged to see the direction that plan took.

I state for the record some cautions. First, in setting out that optimistic plan and in stating views I have already expressed on the record, these matters are difficult for the political party in government. They are always heavily contested. There are always two strong views but also at least two sets of facts, which is the remarkable thing about governments that made these decisions in the past. These matters are always contested, and not just at a top level or an ideological level—although that has been the case—but on the basic facts and key details, often place by place and coop by coop. We have to be up-front about that. We cannot be naive about how difficult the decisions are to make. A great deal depends on those decisions.

It is important to acknowledge that when decisions are made on parks and the future of communities that a great deal is at stake for some of the workers and individuals in those communities. We have to be honest and acknowledge that for some of those communities these decisions are economic turning points. Workers in those communities may struggle to find alternative work if their current work is taken away from them. That is the reality and we must be clear about those difficulties. In the face of those difficulties, we should be guided by the science and adopt a careful approach as we work through those challenges in a process that involves consultation

that is genuinely respectful of the communities and workers affected. Among the set of views about the outcome, that is my caution, particularly to the National Parks Association [NPA].

A previous speaker in this debate set out two views on the Government's very paltry offer and The Greens proposed amendments, which charted in the minds of The Greens a much brighter world by dramatically expanding in a single swoop the park estate. I state for the record my respect for the advocacy of the Hon. Penny Sharpe, the Labor shadow Minister. I also record my respect for Ms Dawn Walker and Ms Cate Faehrmann, who I know are genuinely committed to national parks and have been long-term advocates for national parks. I offer an additional view. The Labor Opposition genuinely holds a different view, which is that we must be guided by the science. This is not the time to throw out the science or to move away from consultation. To ignore Labor's warning is to follow a very dangerous path.

The Labor Opposition does not accept that the Government's plan is based on science, for all the reasons that have been outlined during the debate. The science, as revealed in the *Sydney Morning Herald*, has been chucked out the window for the sake of politics. That is the criticism that has been made of the Government's plan, and I agree with that criticism. However, I think that fighting that lack of science with a set of legislative amendments—throwing the process and the science out the window—is not the right place to start. The only way these decisions get made and are sustainable in the long run, for all sides of politics, is to work with communities and through consultation while being guided by the science. That is Labor's genuine view.

Labor's shadow Minister will speak strongly in favour of some of the individual parks throughout the State where we would love to see progress. But fundamentally Labor is genuinely committed to the science, the process and the consultation. Labor's genuine belief comes out of respect for those communities and out of wanting to make additions to national parks in the long term. Labor wants to preserve the remarkable features of Sydney and other parts of New South Wales that we believe mark Australia as a country that is unlike any other. We want our citizens, as part of their ordinary lives, to be able to enjoy national parks as places in which to reflect on the world and our place in it. That is the path envisaged by Labor going forward in matters affecting national parks.

The Hon. LOU AMATO (17:24): In expressing my support for the National Parks Estate (Reservations) Bill 2018, I indicate that my contribution to the debate will be brief. The bill is significant as it transfers over 4,500 hectares of New South Wales State forests under the protection of the New South Wales national parks estate. The bill is important because many areas of State forest contain endangered or vulnerable species of flora and fauna and are subject to large-scale disturbances, such as forestry operations. The bill revokes the dedication of State forest lands under the Forestry Act 2012 and vests certain lands in the Minister for the Environment for the purposes of part 11 of the National Parks and Wildlife Act 1974.

Schedules 1, 2 and 3 to the bill identify lands to be revoked as dedicated State forest and reserved as national parks, or State conservation areas, or areas of land vested in the Minister for the Environment for the purposes of part 11 of the National Parks and Wildlife Act 1974. The bill defines the following areas of State forests to be revoked and transferred: 2,080 hectares, being part of the Carrai State forest No. 909, which will be reserved as an addition to the Willi Willi National Park; 120.6 hectares, being part of Yarrawa State forest No. 878, which will be reserved as an addition to the Budderoo National Park; 1,144 hectares, which is the whole of the Mernot State forest No. 1047, which will be reserved as an addition to the Curracabundi State conservation area; 647.5 hectares, being the whole of the Yango State forest No. 278, which will be reserved as a State conservation area; and 513 hectares, being the whole of Muldiva State forest No. 1049, which will be vested in the Minister for the Environment for the purposes of part 11 of the National Parks and Wildlife Act 1974.

Of most significance is the transfer of 2,080 hectares of State forest to the Willi Willi National Park, which will increase the current protected area from 29,870 hectares to 31,950 hectares. The Willi Willi National Park is part of an extensive mountain wilderness in the Great Dividing Range. Mount Banda Banda, which is the highest mountain in the park, rises to an elevation of 1,258 metres, according to Australian height datum. The cooler temperatures provided by Mount Banda Banda maintain ideal conditions for the formation of cool temperate rainforest, supporting stands of the spectacular Antarctic beech, or nothofagus moorei, which are considered to be some of the finest examples of the species in existence. The Antarctic beech is an important Gondwana relict of the rainforests of the Southern Hemisphere and occurs only in wet, fire-free regions at high elevations in eastern Australia.

Recent discoveries of fossilised trees dating back 260 million years on Antarctica suggest that the continent once contained large forested areas of which nothofagus moorei may be a direct descendant. The direct ancestral link seems highly likely because Captain Robert Falcon Scott discovered what appears to be fossilised leaves resembling Southern Hemisphere beech trees during February of 1912 on the Beardmore Glacier, which is less than 500 kilometres from the South Pole. If the yet unidentified tree fossils on Antarctica provide an ancestral link to New South Wales beech forests, further scientific study in nothofagus moorei biology may reveal how

non-deciduous Antarctic vegetation was able to survive the inability to photosynthesise during the winter months of complete darkness.

The Willi Willi National Park is of considerable environmental importance because the wilderness area provides conditions for three main types of rainforest—subtropical at lower elevations, warm temperate at intermediate elevations and cool temperate at higher altitudes. The park also contains wet and dry sclerophyll forest. Such a wide variety of forest habitats provides support for abundant mammalian, bird, reptilian and invertebrate biodiversity. The upper tributary of the Wilson River flows through the Willi Willi National Park where its pristine waters support critically endangered species, such as the spiny crayfish, euastacus clarkae. The park is also bordered by the Werrikimbe National Park, the Oxley Wild Rivers National Park and the Kumbatine National Park. Together, these national parks comprise some of the finest examples of pristine New South Wales wilderness areas. The further protection of 2,080 hectares will provide an additional buffer zone against unwanted disturbance such as nearby logging in State forests.

The Curracabundi State Conservation Area, which currently occupies 729 hectares, is rich in biodiversity. The transfer will increase the size of the Curracabundi to 1,873 hectares due to the bill transferring 1,144 hectares of Mernot State Forest to the conservation area. Within the Curracabundi wilderness 239 native vertebrate species, including 152 birds, 28 reptiles, 26 non-flying mammals, 19 bats and 14 frogs, have been catalogued. Interestingly, many endangered and vulnerable species have been identified in the area, such as Stephens' banded snake, the glossy black cockatoo, the speckled warbler, the varied sittella, the scarlet robin, the masked owl, the spotted-tailed quoll, the golden-tipped bat, the Parma wallaby, the little bent-wing bat, the eastern bent-wing bat, the yellow-bellied glider, the brush-tailed rock wallaby, the koala, the New Holland mouse and the greater broad-nosed bat.

The protection of a further 1,144 hectares will provide additional undisturbed habitat to ensure the protection and proliferation of many vulnerable species. The transfer of 120.6 hectares to Budderoo National Park—which is home to the Minnamurra Rainforest—is welcomed. The area is a popular tourist destination where boardwalks have been installed to allow access to people of all fitness levels, including wheelchair access. The conservation of the Yango State Forest will increase the non-disturbance buffer zone of the World Heritage listed Yengo National Park. Yengo National Park contains more than 13 per cent of the world's eucalyptus species. The transfer of 513 hectares of the whole of Muldiva State Forest will offer protection to the Nymboida River, which flows through a substantial part of the forest. The National Park Estate (Reservations) Bill 2018 is a significant plus for the environment. The bill increases the size of existing areas of low disturbance in areas of biological and geographical significance. Many endangered and vulnerable species of flora and fauna will be further safeguarded against habitat loss due to forestry operations. I commend the bill to the House.

The Hon. Dr PETER PHELPS (17:31): I could not let The Greens contribution go by without comment, specifically where the member suggested that there had been massive deforestation in New South Wales. I refer specifically to Australia's State of the Forests Reports from 1998, produced by the Federal Department of Agriculture, which showed that in 1998 there were 20.7 million hectares of native forest in New South Wales and 270,000 hectares of logging forest. In 2013, there were 22.2 million hectares of native forest and 392,000 hectares of plantation timber. The net increase on non-plantation timber—increase, not decrease—is 1.5 million hectares.

Mr SCOT MacDONALD (17:32): On behalf of the Hon. Don Harwin: In reply: I thank the members who contributed to debate on the National Park Estate (Reservations) Bill 2018: the Hon. Penny Sharpe, Ms Cate Faehrmann, Ms Dawn Walker, the Hon. John Graham, the Hon. Lou Amato, and the Hon. Dr Peter Phelps. The bill reaffirms the Government's commitment to biodiversity conservation across the State. As we have heard, the bill will transfer more than 4,500 hectares of State forest to the national park estate. The areas being transferred to the national park estate through this bill were chosen for their conservation and connectivity values only and based on evidence, not because of any other criteria members opposite may have insinuated.

These areas are also part of the bigger picture. The transfer of these areas to the New South Wales national park estate is part of a recent Government announcement that will see more than 43,000 hectares of land managed for conservation outcomes. This includes 24,000 hectares of new koala parks and reserves as part of the NSW Koala Strategy, 5,400 hectares of new additions to the national park estate, and 14,200 hectares of State forest to be dedicated as flora reserves and transferred to the care of the National Parks and Wildlife Service. These transfers continue the development of the comprehensive, adequate and representative reserve system the New South Wales Government is committed to.

In addition to these public land transfers, the New South Wales Government has also committed $20 million to purchase and permanently reserve land containing priority koala habitat. This is from a long history of Liberal-Nationals commitment to national parks. Indeed, the Liberal-Nationals set up the National Parks and Wildlife Service 51 years ago under the then member for Wollondilly and Minister for Lands and Mines, the

Hon. Tom Lewis. Since 2011 more than 75,000 hectares have been added to the national park estate. The New South Wales Government has a proud record of delivering for the environment. I commend the bill to the House.

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

Motion agreed to.

In Committee

The CHAIR (The Hon. Trevor Khan): There being no objection, the Committee will deal with the bill as a whole. I have one set of amendments from The Greens on sheet C2018-125D. They replace The Greens amendments on sheet C2018-125C, where there was a typographical error on page 5.

Ms CATE FAEHRMANN (17:36): By leave: I move The Greens amendments Nos 1, 2, 5, 6, 8 to 10, 14 to 16, 19, and 21 to 31 on sheet C2018-125D in globo:

No. 1 **Addition to Goonook Nature Reserve**

Page 3, clause 5, line 16. Insert ", **nature reserve**" after "**national park**".

No. 2 **Addition to Goonook Nature Reserve**

Page 3, clause 5, line 19. Insert ", nature reserve" after "national park".

No. 5 **Addition to Goonook Nature Reserve**

Page 7, Schedule 1, line 1. Insert "or nature reserve" after "national park".

No. 6 **Addition to Goonook Nature Reserve**

Page 7, Schedule 1. Insert after line 14:

3 Addition to Goonook Nature Reserve: Yarratt State Forest

The dedication of the land known as Yarratt State Forest is revoked and the land is reserved as a part of the Goonook Nature Reserve.

No. 8 **Addition to national park**

Page 7, Schedule 1. Insert after line 14:

3 Additions to Sandy Creek National Park

The dedication of the land known as the following State forests is revoked and the land is reserved as a part of the Sandy Creek National Park:

(a) Carwong State Forest,

(b) Royal Camp State Forest.

No. 9 **Addition to national park**

Page 7, Schedule 1. Insert after line 14:

3 Addition to Kumbatine National Park: Kalateenee State Forest

The dedication of the land known as Kalateenee State Forest is revoked and the land is reserved as a part of the Kumbatine National Park.

No. 10 **Addition to national park**

Page 7, Schedule 1. Insert after line 14:

3 Addition to Myall Lakes National Park: Wang Wauk State Forest

The dedication of the land known as Wang Wauk State Forest is revoked and the land is reserved as a part of the Kumbatine National Park, but not including any area that is zoned as a special management zone under the *Forestry Act 2012* as Forestry Management Zone 5.

No. 14 **Additional national park**

Page 7, Schedule 1. Insert after line 14:

3 Goran National Park

The dedication of the land known as Goran State Forest is revoked and the land is reserved as the Goran National Park.

No. 15 **Additional national park**

Page 7, Schedule 1. Insert after line 14:

3 Doona National Park

The dedication of the land known as Doona State Forest is revoked and the land is reserved as the Doona National Park.

No. 16 **Additional national park**

Page 7, Schedule 1. Insert after line 14:

3 Cumbil National Park

The dedication of the land known as Cumbil State Forest is revoked and the land is reserved as the Cumbil National Park.

No. 19 **Additional state conservation areas**

Page 8, Schedule 2. Insert after line 10:

3 Addition to Queens Lake State Conservation Area

The dedication of the land known as Cowarra State Forest is revoked and the land is reserved as a part of the Queens Lake State Conservation Area.

No. 21 **Addition to Goonook Nature Reserve**

Page 10, Schedule 4, clause 3, line 21. Insert ", **nature reserve**" after "**national park**".

No. 22 **Addition to Goonook Nature Reserve**

Page 10, Schedule 4, clause 3 (1), line 22. Insert ", nature reserve" after "national park".

No. 23 **Addition to Goonook Nature Reserve**

Page 10, Schedule 4, clause 3 (3), line 29. Insert ", nature reserve" after "national park".

No. 24 **Addition to Goonook Nature Reserve**

Page 10, Schedule 4, clause 3 (4), line 33. Insert ", nature reserve" after "national park".

No. 25 **Addition to Goonook Nature Reserve**

Page 10, Schedule 4, clause 4, line 35. Insert ", **nature reserve**" after "**national park**".

No. 26 **Addition to Goonook Nature Reserve**

Page 10, Schedule 4, clause 4 (a), line 40. Insert ", nature reserve" after "national park".

No. 27 **Addition to Goonook Nature Reserve**

Page 11, Schedule 4, clause 5, line 1. Insert ", **nature reserve**" after "**national park**".

No. 28 **Addition to Goonook Nature Reserve**

Page 11, Schedule 4, clause 5 (3), line 18. Insert ", nature reserve" after "national park".

No. 29 **Addition to Goonook Nature Reserve**

Page 11, Schedule 4, clause 5 (7) (a), line 36. Insert ", nature reserve" after "national park".

No. 30 **Addition to Goonook Nature Reserve**

Page 11, Schedule 4, clause 5 (7) (b), line 38. Insert ", nature reserve" after "national park".

No. 31 **Addition to Goonook Nature Reserve**

Page 11, Schedule 4, clause 5 (9) (a), line 44. Insert ", nature reserve" after "national park".

These amendments are in direct response to the Government's claim that this bill is about protecting koalas. As I said in my earlier contribution, today we are reserving hardly any areas of genuine koala habitat. It is clear that the Government did not use the Office of Environment and Heritage [OEH] assessment of the mapped areas of regional koala significance and koala hubs for assessing the areas to be protected, nor the Department of Primary Industries [DPI] modelling areas of medium-high koala habitat. As I asked in my contribution to the second reading debate, why was this information ignored? It is because decisions were made for political reasons and not on the basis of actually protecting koalas. The Government's NSW Koala Strategy demonstrated here today is a farce. Eighty-six per cent of koala hubs identified by the OEH are not protected and are therefore vulnerable to logging, clearing and urban development. The Government's new koala reserves cover just 0.2 per cent of the identified koala hubs.

These amendments will see the addition to the national park estate of 25,876 hectares of key areas of nine State forests that have been identified by DPI Forestry as medium-to-high koala habitat and where the OEH has identified koala hubs. This will protect at least 3,126 hectares of OEH-identified koala hubs. Of course, more work is needed to identify additional areas, including from Crown land, to ensure sufficient areas are protected, but these areas are an important start. As I have said before, The Greens are also calling on the Government to ensure the additional funding is made available to the NSW National Parks and Wildlife Service to manage these

new areas and assist the existing forestry workforce through a transition package similar to what was offered with the creation of the Murrah Flora Reserves.

The following areas will be reserved: Kumbatine National Park will incorporate the Kalateenee State Forest, near Kempsey in the catchment of the Macleay River, which is 1,346 hectares, 94 per cent medium to high koala habitat and has 112 hectares of OEH identified koala hubs; Queens Lake State Conservation Area will incorporate Cowarra State Forest, near Port Macquarie in the Hastings River catchment, which is 1,687 hectares, 99 per cent medium to high koala habitat and has 71 hectares of OEH-identified koala hubs; Goonook Nature Reserve will incorporate Yarratt State Forest, near Taree in the Manning catchment, which is 2,381 hectares, 100 per cent medium to high koala habitat and has 346 hectares of OEH-identified koala hubs; and Wang Wauk State Forest, near Buledelah, will incorporate Myall Lakes National Park, excluding the areas zoned Forestry Management Zone 5, which is 8,356 hectares, 58 per cent medium to high koala habitat and has 1,348 hectares of OEH-identified koala hubs.

Goran State Forest, near Gunnedah, will be converted to Goran National Park, which is 498 hectares and has 259 hectares of OEH-identified koala hubs; Doona State Forest, near Spring Ridge, will be converted to Doona National Park, which has 1,319 hectares and 198 hectares of OEH-identified koala hubs; and Cumbil State Forest, near Baradine, will be converted to Cumbil National Park, which has 7,483 hectares and 259 hectares of OEH-identified koala hubs.

Finally, the Sandy Creek National Park will be created at the headwaters of the Richmond River south-west of Casino with the conversion of Carwong State Forest, which is 603 hectares, 65 per cent medium to high koala habitat and has 224 hectares of OEH-identified koala hubs, and Royal Camp State Forest, which is 2,203 hectares, 40 per cent medium to high koala habitat and has 309 hectares of OEH-identified koala hubs. These two forests are exceptionally important for koala conservation in an area where populations are in decline and in danger of extinction. The proposal includes two endangered ecological communities and incorporates the known habitat of the critically endangered regent honeyeater, three endangered plants, one vulnerable plant, and 17 vulnerable animals. I commend the amendments to the Committee.

Mr SCOT MacDONALD (17:41): The Government does not support the amendments. The five areas identified for transfer have been selected for their conservation and connectivity values and as a result of careful consideration and evidence. This is part of a broader set of transfers across New South Wales. As has been noted, The Greens amendments have not been subjected to community consultation.

The Hon. PENNY SHARPE (17:42): I must say that is a disappointing response from the Government. I thought it would have had a little more to say. The Labor Opposition understands The Greens' frustration about the Government's failure to address additions to the national park estate. As I said briefly in my second reading contribution, the Opposition is not unsympathetic to looking at these areas. However, it does not support the approach being taken by The Greens in dealing with this bill. The establishment of national parks should be guided by a proper scientific national parks establishment plan. There was such a plan in 2008. It took until last year for the Government to come up with what it called a "directions statement".

I have argued that that is not an establishment plan. The Opposition wants to return to proper scientific analysis. Ignoring that process because of the Government's inadequacies cannot be supported. I acknowledge that Ms Cate Faehrmann has indicated where money might go. However, given this Government's record of cutting more than $100 million out of the National Parks and Wildlife Service and that the staff has been decimated, there are simply not enough people to manage it properly. The idea that even if we were to pass these amendments the Government would somehow pull money out of the sky and support it properly is wrong.

I have mentioned traditional owners in recent days in this place. We talk often about traditional owners or First Nations and our desire that they be properly consulted and that their land entitlements be dealt with appropriately. I do not know what the traditional owners think about these different State forests, and land claims in the area will certainly be impacted. I am not suggesting that Ms Cate Faehrmann is not sincere in her approach to this. However, the Warragamba Dam inquiry has brought home to me that if we do not talk to traditional owners appropriately we will do them and ourselves a great disservice. For that reason alone, I struggle to support these amendments.

The process of creating a national park is complex. The Labor Party has created a number of parks; in fact, it has probably created more than any other political party in New South Wales. It takes a great deal of time and effort. Groups such as the National Parks Association of NSW do a lot of the grunt work and present plans that can be tested and examined. Significant transition arrangements need to be negotiated, there needs to be consultation and funding must be provided. Those issues must be addressed well before legislation is put to a vote in this place. National parks establishment requires adequate and trained personnel and capital funding. It requires much more planning than The Greens seem to think is needed. They cannot be put in place overnight.

When the Labor Party was in government, it spent months, if not years, negotiating the minutiae of boundaries, operational processes and the hazards that must be mapped. If these parks are to be established by 1 January 2019, staff training should be underway now. It is not and this cannot be done. I want The Greens to think about this differently. The Greens and the Opposition have been appropriately concerned about the land management codes for tree clearing before the native vegetation mapping is finalised and released. On one hand, we should not say that these things should be in place before this legislation is passed but, on the other hand, simply to throw it out the window because we can. We take that very seriously.

This is a very disappointing bill. We know many more thousands of hectares should be protected and included in the national park estate. The Labor Party will definitely do that if it is elected next year. I also want to address the issue of koalas, which are incredibly important. They will be extinct in New South Wales by mid-century unless we take radical action. However, we should not believe the creation of national parks is simply about protecting koalas. It is about the whole kit and caboodle of biodiversity and the many other animals and plants. It is easy to talk to the community about koalas because we love them, they are iconic and we want to sound the bell loudly that they are in danger of extinction. However, the Opposition has a problem with these amendments because koalas are being used without the rigour that must be applied. Members on this side of the Chamber take that very seriously. We will take this issue to the election and will pursue it if we are lucky enough to be elected in March next year.

The CHAIR (The Hon. Trevor Khan): Ms Cate Faehrmann has moved The Greens amendments Nos 1, 2, 5, 6, 8 to 10, 14 to 16, 19, and 21 to 31 on sheet C2018-125D. The question is that the amendments be agreed to.

The Committee divided.

Ayes 6
Noes 31
Majority.....25

AYES

Buckingham, Mr J	Faehrmann, Ms C	Field, Mr J (teller)
Pearson, Mr M	Shoebridge, Mr D (teller)	Walker, Ms D

NOES

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

Amendments negatived.

The CHAIR (The Hon. Trevor Khan): I call on Mr Jeremy Buckingham to move his amendments.

Mr JEREMY BUCKINGHAM (17:57): By leave: I move The Greens amendments Nos 3, 4, 7, 12, 13 and 20 on sheet C2018-125D in globo:

No. 3 **Conversion of existing state conservation areas to national parks**

Page 3, Part 2. Insert after line 33:

7 Conversion of existing state conservation areas to national parks

The reservation under the *National Parks and Wildlife Act 1974* of land as, or as part of, a state conservation area as described in column 2 of the table in Schedule 4 is, on 1 January 2019, revoked and the land is reserved under that Act as, or as part of, the national park indicated opposite in column 1 to that table.

No. 4 **Conversion of existing state conservation areas to national parks**

Page 3, clause 7 (1), line 35. Omit "and 3". Insert instead ", 3 and 4".

No. 7 **Addition to national park**

Page 7, Schedule 1. Insert after line 14:

3 Addition to Goulburn River National Park: Bylong State Forest

The dedication of the land known as Bylong State Forest is revoked and the land is reserved as a part of the Goulburn River National Park.

No. 12 **Additional national park**

Page 7, Schedule 1. Insert after line 14:

3 Leard National Park

The dedication of the land known as Leard State Forest is revoked and the land is reserved as the Leard National Park.

No. 13 **Additional national park**

Page 7, Schedule 1. Insert after line 14:

3 Jilliby National Park

The dedication of the land known as Wyong State Forest is revoked and the land is reserved as the Jilliby National Park.

No. 20 **Conversion of existing state conservation areas to national parks**

Page 9. Insert after line 4:

Schedule 4 Conversion of state conservation areas to national parks

Reservation as national park	**Revocation of state conservation areas**
Jilliby National Park	Jilliby State Conservation Area
Leard National Park	Leard State Conservation Area

Unsurprisingly, the effect of these amendments is to stop coalmining in critical areas of the State by converting State Conservation Areas [SCAs] and State forests into national parks. In particular, it converts the Jilliby State Conservation Area to the Jilliby National Park, and adds the Wyong State Forest. The effect of the amendments is to stop the Wallarah 2 coalmine on the Central Coast by preventing the mining lease application from being granted over areas which are covered by the new national park. Amendment No. 7 also adds the Bylong State Forest to the Goulburn River National Park. This amendment will prevent the mining lease application being sought for the Bylong coalmine being granted for the areas which are covered by the new national park. The amendments will result in the conversion of the Leard State Forest and the Leard State Conservation Area to the Leard National Park, which is long overdue. This amendment will stop the expansion of the existing Maules Creek and Boggabri coalmines.

This series of amendments is aimed at protecting these beautiful and important areas of New South Wales from utterly unnecessary coalmining. They are important habitats in themselves but there is an urgent need for these areas to be brought into the national parks system to stop the plans to mine for coal in these areas. The Intergovernmental Panel on Climate Change [IPCC] special report on Global Warming of 1.5°C released in South Korea on 6 October outlined the significant difference between 1.5°C and 2°C of global warming, both of which are incredibly disastrous. All pathways to 1.5°C require a "steep reduction" in coal use to close to 0 per cent of electricity by 2050. This is the universal scientific consensus.

However, in the areas covered by these amendments and the rest of New South Wales there is 1,182 million tonnes of extra coalmining planned, which equates to another 5.4 gigatonnes of carbon dioxide emission. These amendments would protect these areas of New South Wales from coalmining and protect our atmosphere and climate from the emissions from the coal that would be mined. Many of these areas are currently State conservation areas. They are State conservation areas rather than national parks to protect the mineral resources underneath. That is the reason many of them were declared SCAs rather than national parks in the 1970s, 1980s and 1990s. In his second reading speech on the Brigalow and Nandewar Community Conservation Area Bill 2005, then Labor environment Minister Bob Debus said:

> Parts of the Brigalow and Nandewar regions have high minerals and gas potential. Significant exploration activity has already occurred and is expected to expand rapidly over the next 10 to 20 years.
>
> The Government's decision will preserve the full economic potential of the regions by ensuring the local coal and gas reserves can be accessed by the mining industry, including in reserve zone 3, which is the same as State conservation areas in the National Parks and Wildlife Act that permit exploration and extraction activities for gas and mining.

Times have changed. We are on the precipice of climate disaster. The Greens recognise that that was the view then. But what we have now seen, particularly in the Leard State Forest, is cataclysmic for the ecology that remains in one of the most important remnant habitats in New South Wales and Australia. The area has been decimated by land clearing, the groundwater is being polluted by irresponsible coalmining, and local farmers and communities are being affected by the incredible impacts of coalmining—dust, groundwater depletion, loss of habitat—all exacerbating a very difficult situation for a predominantly rural and farming community in northern New South Wales.

The Greens agree with the science that concludes that the vast majority of coal must stay in the ground if we are to avoid catastrophic climate change. Therefore, there is no reason to continue to protect the coal in these areas, but there are important reasons to stop the coal from being mined and protect these areas and our climate with national park status. The Liberal Party promised to stop the Wallarah 2 coalmine on the Central Coast before being elected to government in 2011. Who can forget the "No ifs, no buts" guarantee?

The Hon. Penny Sharpe: The T-shirts.

Mr JEREMY BUCKINGHAM: Yes, the T-shirts: "Water not coal". You get a set of steak knives with your Government. Well, it all turned out to be a farce. The mine is inexorably moving on. The people of the Central Coast are aghast that the Government has allowed it to occur. They do not want a coalmine. There is therefore no reason to mine coal in these areas. The Wallarah 2 coalmine would see 140 million tonnes of coal mined over its 28-year lifespan, which when burnt would produce 400 million tonnes of carbon dioxide, almost as much as Australia's current annual emissions. The proposed KEPCO coalmine in the Bylong Valley would also not only threaten some precious ecologies but also strategic agricultural land.

Any members who have been to the Bylong Valley would know it is one of the most beautiful places in the world. It is certainly one of the most beautiful places in New South Wales, with incredible sandstone escarpments adjacent to a significant national park estate and a beautiful place for agriculture. The community will be devastated by a multinational mining company coming in and turning the place upside down for thermal coal that the world does not need. It would mine 120 million tonnes of coal over 23 years, producing 343 million tonnes of carbon dioxide. The community is saying it wants the area protected and national park status is exactly the remedy there.

Finally, I refer to the Leard State Forest, which was declared a State conservation area by Bob Debus. Unfortunately, this shocking Government approved open-cut coalmining, which is rapidly eating into and fragmenting the remaining Leard Forest, an incredibly important habitat for the remaining koalas in that region. Maules Creek plans to mine 270 million tonnes of coal over its operations, while the Boggabri mine is mining 147 million tonnes over 20 years. This is clearly incompatible with mitigating climate change. These amendments would stop these approvals and the mines that are incompatible with Australia's commitment and obligations under the United Nations Paris Agreement, which has a stated aim of:

> Holding the increase in the global average temperature to well below 2°C above pre-industrial levels …

Therefore, these amendments would add some precious areas of ecology into the national parks system. Some areas have been devastated by poor land use practices over many years—in particular, in the north-west of the State, which has had the vast majority of flora and fauna removed and impacted by agriculture and other human activities. These amendments would not only protect the immediate environment, the water resources and the communities that are at risk from these coalmines and the degradation of their local environment, but would also deal with a major flaw in the planning assessment system. That flaw is its inability to deal with the cumulative impact of projects, particularly when it comes to greenhouse gas emissions. These amendments would protect these areas and draw a line in the sand on coalmining in some of these areas in which the community is overwhelmingly against an expansion of unnecessary coal. I commend the amendments to the Committee.

Mr SCOT MacDONALD (18:06): The Government does not support The Greens amendments Nos 3, 4, 7, 12, 13 and 20 on sheet C2018-125D. This bill addresses the transfer of 4,500 hectares of high conservation value land to the National Parks and Wildlife Service. It comes after careful, evidence-based consideration, including prioritising connectivity of ecological communities. It aligns with this Government's commitment to the comprehensive, adequate and representative reserve system. The Greens amendments bypass consideration of regional communities.

The Hon. PENNY SHARPE (18:07): Yet again I listened carefully to the contributions of The Greens and the Government, and I make the following points. The Government's argument about this bill being a massive increase and carefully balanced falls pretty short. However, Labor will also not be supporting these amendments, but for different reasons. I outlined most of them so I am not going to make a big contribution to these amendments, except to say that what is being suggested by Mr Jeremy Buckingham essentially throws out the entire system of how we assess and put together national parks, and I think we do that at our peril. There has been

no proper assessment of the values—I know that there are important conservation values, but I do not think I or the member have a clear understanding as to how that works elsewhere—there has been no community consultation and there have been no costings on that. That is a very serious matter and we should not be doing these things lightly. I worry that this undermines some community support.

I am not suggesting for a minute that we should not be dealing with climate change, and there are ways that we can do that. I note that if Labor is elected next year it will create a climate change Act and take this seriously in a way this Government has not. There are also other ways to do it. There has been no greater advocate for stopping Wallarah 2 than the member for Wyong, David Harris, who has twice had a bill in Parliament to try to stop it. That is a more appropriate way to deal with this particular proposal than to try to whack it into a national parks bill, essentially just saying, "The purpose of these amendments is to stop the coalmine," rather than building on the national parks estate and understanding the integrity of that.

I do not think that Mr Jeremy Buckingham is in any way insincere about this. I understand his concern about the urgency and the need to take action on this. However, Labor does not think this is a reasonable approach, nor is it the right approach to deal with the Wallarah 2 coalmine, Bylong or the Leard State Forest.

Mr JEREMY BUCKINGHAM (18:09): I will give a brief response to the Opposition's comments. In my previous contribution I outlined that there had been thorough consultation, particularly around the Leard State Forest, in previous times and that the only reason the area was not afforded national park status was, in the words of former Minister for the Environment Bob Debus the mining and gas assets there. There are multiple reasons that we declare areas as national parks. We know very well that the area around Sydney is well afforded protection in terms of its water catchment. The water supply of millions of people in this State is secured because those areas are national parks. We have national parks not only because an area has a high ecological value but also because it affords protection to areas for other uses and purposes.

It is reasonable to afford an area protection by declaring it a national park, and I do not think the three areas that I have proposed will create an enormous impost on the budget of New South Wales. What is the cost to the people of New South Wales if those areas are destroyed for all time by coalmines? What is the cost to the people of New South Wales if we lose the drinking water supply of the Central Coast? What is the cost to the people of New South Wales if we lost the Bylong Valley? What is the cost to the people of New South Wales if we lose what little is left of the Leard State Forest? It will be an enormous cost—a cost we cannot bear. What is the cost to our community if we burn hundreds of millions of tonnes of coal and destroy our climate for all time?

We are an international pariah when it comes to coalmines. We are the worst of the worst; we are the Saudi Arabia of coalmining. We are looked at and laughed at by the rest of the globe. We burn hundreds of millions of tonnes of coal. During its tenure this Government has approved the burning of more coal than any other government or jurisdiction in the history of this country. We are one of the worst places. This mechanism draws a line in the sand and says, "We will protect these areas from coalmining because they are an incredible ecological asset and because coalmining is a massive risk to our society."

The Hon. PENNY SHARPE (18:12): No-one here is denying that there are ecological values associated to all these forests. Labor is saying that there is a proper scientific assessment process to go through with establishment plans for the National Parks and Wildlife Service. The Greens have pulled out three mines because they realise that using the mechanism of the National Parks and Wildlife Act will stop the mining. I understand what The Greens are doing but it is not something that the Opposition can support. We think it fundamentally undermines the way in which national parks are created.

I hear what Mr Jeremy Buckingham said about the assessment that has been done around Leard State Forest, but that was quite a long time ago and things have changed significantly since then. We cannot proceed without community consultation and without understanding the costs involved. Again, I understand the costs of climate change, but they are not costs we are able to deal with. There are communities on the ground that would be massively impacted by these amendments, and I do not think that has been considered. That is not an approach that Labor is prepared to take, even though we understand the point that Mr Jeremy Buckingham is making.

The CHAIR (The Hon. Trevor Khan): Mr Jeremy Buckingham has moved The Greens amendments Nos 3, 4, 7, 12, 13 and 20 on sheet C2018-125D. The question is that the amendments be agreed to.

The Committee divided.

Ayes 6
Noes 29
Majority.....23

AYES

Buckingham, Mr J	Faehrmann, Ms C (teller)	Field, Mr J
Pearson, Mr M	Shoebridge, Mr D	Walker, Ms D (teller)

NOES

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

Amendments negatived.

Ms CATE FAEHRMANN (18:22): I move The Greens amendment No. 11 on sheet C2018-125D:

No. 11 **Addition to national park**

Page 7, Schedule 1. Insert after line 14:

3 Additions to Biamanga National Park

The dedication of the land known as the following State forests is revoked and the land is reserved as a part of the Biamanga National Park:

(a) Bermagui State Forest,

(b) Mumbulla State Forest,

(c) Murrah State Forest,

(d) Tanja State Forest.

In 2016 the New South Wales Government announced that the Tanja State Forest, Mumbulla State Forest, Murrah State Forest and the southern half of the Bermagui State Forest would become the Murrah Flora Reserves to protect the last remaining koalas in south-east New South Wales. This was welcomed by forestry campaigners and The Greens at the time as going some way to protecting those important forests. But it was always a half protection. The local member, Andrew Constance, explicitly told the *Bega District News* at the time of the reservation that the forests were converted to flora reserves that cannot be logged instead of national parks so that the option of harvesting them again could be considered in the future. There it is in black and white: The reason that the Government has not protected the last remaining koalas in south-east New South Wales in a national park is so it can keep the option of logging those areas in the future.

To address the Hon. Penny Sharpe's concerns relating to the need for assessment and science behind some of the national park reservations, this area has had the science applied and has met every condition that needs to be met in terms of national park protection but the Government wants to keep it open for logging. It is not being logged. No workers will be displaced. I cannot understand why the Labor Party will not support this amendment. Together, the Murrah Flora Reserves, including all of Bermagui State Forest, contain 3,439 hectares of koala hubs that must be protected in perpetuity if we are to conserve the forests in that part of the world and conserve the koalas.

The other issue this amendment rectifies is that the forests are already being managed by the National Parks and Wildlife Service but remain in the hands of the Forestry Corporation. It is good to see the Government admit that the National Parks and Wildlife Service is a better land manager than the Forestry Corporation, but this should be done under the National Parks and Wildlife Act and not by the confusing administrative arrangement that is occurring here. The National Parks and Wildlife Service should not have the liability and the cost burden of this land without owning the land. As I said before, there is no good reason that these forests are not already afforded national park status and the protections this offers. This was done simply to appease Andrew Constance because he could not bring himself to utter the words "national park". The member needed to keep this land open for logging. But the land is not being logged. This amendment allows Parliament to complete the job that the Government would not do and reserve this important area as national park.

Mr SCOT MacDONALD (18:25): The Government does not support The Greens amendment No. 11. These State forests remain productive, multipurpose forests providing a range of economic, environmental and social benefits.

The Hon. PENNY SHARPE (18:25): Of all the amendments I was most inclined to support, it is this one as I accept all the points that Ms Cate Faehrmann has made in relation to what has happened in this area. There has been assessment and it is known that fewer than 60 koalas are in the area. I have walked around Tanja State Forest and been to Biamanga National Park with local koala activists so I am quite familiar with this area. The issue for the Labor Party is that only the southern half of the Bermagui State Forest is within the flora reserve but this amendment relates to all of it, and therefore there are continuing problems. The Greens should take on board. If the Labor Party were to support one amendment it would be this one, but it still does not quite get there.

The CHAIR (The Hon. Trevor Khan): Ms Cate Faehrmann has moved The Greens amendment No. 11 on sheet C2018-125D. The question is that the amendment be agreed to.

The Committee divided.

Ayes 6
Noes 29
Majority.....23

AYES

Buckingham, Mr J (teller)	Faehrmann, Ms C	Field, Mr J
Pearson, Mr M	Shoebridge, Mr D (teller)	Walker, Ms D

NOES

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

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): I will now leave the chair. The Committee will resume at 8.00 p.m.

The CHAIR (The Hon. Trevor Khan): The Committee will now consider The Greens amendment No. 17.

Ms DAWN WALKER (20:00): I move The Greens amendment No. 17 on sheet C2018-125D:

No. 17 **Additional national park**

Page 7, Schedule 1. Insert after line 14:

3 Great Koala National Park

The dedication of the land known as the following State forests is revoked and the land is reserved as the Great Koala National Park, but not including any area that is zoned as a special management zone under the *Forestry Act 2012* as Forestry Management Zone 5 or 6:

Bagawa State Forest

Boambee State Forest

Boundary Creek State Forest

Buckra Bendinni State Forest

Chaelundi State Forest

Clouds Creek State Forest

Collombatti State Forest

Conglomerate State Forest

Diehappy State Forest

Ellis State Forest

Gladstone State Forest

Gundar State Forest

Hyland State Forest

Ingalba State Forest

Irishman State Forest

Kangaroo River State Forest

Little Newry State Forest

Lower Bucca State Forest

Marara State Forest

Marengo State Forest

Mistake State Forest

Moonpar State Forest

Muldiva State Forest

Nambucca State Forest

Nana Creek State Forest

Never Never State Forest

Newry State Forest

Nulla-Five Day State Forest

Oakes State Forest

Old Station State Forest

Orara East State Forest

Orara West State Forest

Pee Dee State Forest

Pine Creek State Forest

Roses Creek State Forest

Scotchman State Forest

Sheas Nob State Forest

Tamban State Forest

Tarkeeth State Forest

Thumb Creek State Forest

Tuckers Nob State Forest

Viewmont State Forest

Way Way State Forest

Wedding Bells State Forest

Wild Cattle Creek State Forest

This amendment will reserve 45 State forests in the Coffs Harbour hinterland and create a Great Koala National Park. This area is home to 20 per cent of New South Wales' wild koala population. Data from the Office of Environment and Heritage show that this area contains a high concentration of koala hubs, making it the most important areas of public land for koalas in New South Wales. By adding these State forests to existing national parks, we can establish a 300,000 hectare koala reserve, protecting these important populations from logging, land clearing and urban expansion in perpetuity. This area offers the best chance of a successful conservation effort, by protecting habitat at a landscape level, rather than using the current model of creating small, piecemeal reserves

as proposed by the Government's Koala Strategy. These disconnected patches of habitat—essentially koala zoos—will fail to preserve the genetic viability of koala populations and will not protect them from catastrophic events such as fire and disease.

In short, creating a Great Koala National Park is the best way to save our koalas. It also offers the opportunity to do much more. It is an opportunity to bring jobs and drive economic growth in the mid North Coast through ecotourism. We know that tourists love koalas. This has a real, tangible effect on our economy. In 2014 the Australian Koala Foundation published a report entitled "The Economic value of the Koala", which showed that koala-based tourism injected $3.2 billion into the economy. The koala is also responsible for generating approximately 30,000 tourism jobs.

It is clear that the opportunities that the Great Koala National Park presents are not just theoretical. When visiting Gladstone State Forest, one of the forests that would be preserved by this amendment, I visited the site of the proposed Great Koala National Park visitor centre. It is adjacent to the Pacific Highway, near Repton. Driving up there, I could see how easy it would be for families on a road trip to see the sign for the Great Koala National Park and make a stop. Creating an ecotourism attraction would, in turn, be a major employment generator, creating hundreds of new jobs for locals in the tourism, hospitality, accommodation and retail sectors.

I want to emphasise that creating a Great Koala National Park would not mean an end to many of the community activities that take place in these State forests. I understand that there are many groups, such as the mountain bikers in Pine Creek State Forest, who are environmentally sensitive in the way they use these forests. The Great Koala National Park will not lock these spaces away from the public but preserve them as forests and koala habitat.

Another concern that has been raised with me—indeed it was raised yesterday by the member for Oxley—is the future of the logging industry in this area. We will not leave families that rely on this industry high and dry. Transition and retraining packages for employees of the logging industry would be part of transitioning the region. As I have said previously, this proposal will create secure jobs for the future. In fact, a study conducted last year by economists in Victoria found that the proposal for the similar Great Forest National Park on the outskirts of Melbourne could generate up to 750 full-time jobs, attract an extra 400,000 visitors annually and add more than $70 million to the economy annually.

Just yesterday the news was dominated by the royal visit to Sydney. One of the key events was the Duke and Duchess meeting a koala. This is not the first time royals have gone out of their way to meet a koala. Yesterday's visit to Taronga Zoo is part of a long-held tradition. Whatever your views on the monarchy, the visit serves to illustrate the importance of koalas in Australia. They are both a beloved species and a widely recognised, international icon for our country. We cannot let them face the same fate as the Tasmanian tiger. By creating a Great Koala National Park, we can take an important step in protecting our koalas and create a wealth of job and economic opportunities. I urge all members to vote in favour of these amendments and to vote in favour of our koalas.

Mr SCOT MacDONALD (20:05): Establishing new koala reserves is an important action in protecting koala habitat, but increasing the koala population in New South Wales cannot simply be achieved by transferring land to the national parks system. The aim of the New South Wales Government's Koala Strategy is a whole-of-government approach that is built on koala habitat conservation, conservation through community action, safety and health of koala populations, building our knowledge and education. The Greens amendment is an assault on sustainable New South Wales state forest industries. It is a thoughtless attack on the timber industry and regional communities. These forests are overwhelmingly regrowth forests. They are sustainable. They are essential to our daily lives. They are important carbon sinks.

The CHAIR (The Hon. Trevor Khan): Order! The Greens members will cease interjecting.

Mr SCOT MacDONALD: They provide valuable environmental and ecological communities. The Government does not support the amendment.

The Hon. PENNY SHARPE (20:07): I have already outlined why Labor does not support The Greens amendments, but I want to put a couple of issues on the record in relation to this amendment. I heard the interjections from The Greens, "If you don't support this you are not supporting koalas." That is not true. The Great Koala National Park is an important initiative and something that Labor supports. It does, however, require a lot more work and a lot more thought before we can proceed. As I said before, the Opposition does not believe that this is the right way to proceed on this. I cannot, however, ignore the comments of the Parliamentary Secretary in relation to the Koala Strategy. Let us be clear: The Koala Strategy is a half-baked plan that does not go nearly far enough to save koalas. In 2008—if I recall the date properly—the koala recovery plan was a very detailed

scientific analysis of how to save this iconic species. The Government let that drift for years and years, and most recently introduced the Koala Strategy.

There are some aspects of the Koala Strategy that no-one will be unhappy about. There is support for koala carers and support for research. I was recently at Wollondilly, and I am familiar with the work that the local council is doing there. It is excellent work in respect of tracking koalas in that part of the State. But let us be honest about the koala reserves. As outlined by other speakers in this debate, in many koala reserves no koalas have been sighted for more than 20 years, or at all. If we want to prioritise saving koalas, surely we should prioritise looking after high conservation value land where koalas actually live. It is just not right to suggest that the New South Wales Koala Strategy will go anywhere near far enough to save this species.

Koala conservation is critical. We are not joking when we talk about the importance of koalas and the reality that on current projections they will be extinct in this State by the middle of the century. The decisions that we make now will decide the fate of koalas. There are enough things happening to koalas that we struggle to deal with. We know that climate change is a real issue and that they are on the move, and we need to deal with that. We know that there are issues in relation to climate change and access to feed trees, and we are only just starting to understand the impact that that is having on them. We understand that urbanisation, even on the edges of towns where they are living, is becoming an incredible problem—that includes people's dogs eating koalas. These are serious matters about which we need to do everything we can.

I was recently in Campbelltown. I spent a lot of time talking to koala carers. I put a shout-out to them in this debate for the incredible work they do. They also have the terrible job of scraping dead koalas off the road. We need to do more when we look into fencing and those kinds of issues. If anyone thinks the Koala Strategy is the only adequate response to save koalas in New South Wales, frankly, that is just not the case. As I outlined earlier, Labor has a view about the Great Koala National Park and how that would proceed. Labor does not support the approach being taken by The Greens.

Ms CATE FAEHRMANN (20:10): In response to what the Hon. Penny Sharpe has said in her contribution on Ms Dawn Walker's amendment with respect to the Great Koala National Park, of course we understand that for any national park created the Government—whether Labor after the next election or the Coalition, not that we have seen much from it—would engage in thorough community consultation, science and everything else required to create a Great Koala National Park. Labor has committed to the environment movement that it supports a Great Koala National Park. That commitment has been made publicly. What this is about is getting a commitment. The Greens are moving this amendment. Labor can support it. If Labor gets into government it can undertake everything it should. This is a proposal that has been supported and put up by the National Parks Association and investigated by incredible groups on the ground such as the North East Forest Alliance and other community groups.

A lot of work has been put into this. Labor has publicly said that it supports the Great Koala National Park. Labor is not going to have to put this in place tomorrow, of course, but it can put this on the record and reassure those community groups who put a lot of faith in Labor. Before Labor gets into government, those groups have put all their faith in Labor that it will do all this stuff. This is the chance for Labor to put its words into actions and then, if it gets into government, do the work necessary. Maybe there will be a few adjustments of boundaries here and there, maybe there is a bit of this and that, but Labor could put on the record that it would support a Great Koala National Park.

The Hon. PENNY SHARPE (20:12): I have to respond to that. I refer to my previous comments. This bill is about what this Government is going to do and this amendment puts a time frame of 1 January next year. Labor is not going to support that; Labor is not going to be in government then. As I said, Labor does not support the approach that The Greens are taking. I am not even going to try to argue the legacy that shows Labor's support for national parks as I think it is pretty clear. Creating national parks is a serious matter. It requires a lot of detailed work. It requires a lot of consultation with the community. It requires an understanding of the fact that jobs are affected and we need to deal with this properly. Labor is going to do this properly.

Ms Cate Faehrmann was not here when there was a similar argument about the forestry bill, as other members might recall. The Greens basically tried to shut down the forestry industry overnight—in the middle of the night—through an amendment to the legislation. It is absolutely with their right to take that approach, but that is not Labor's approach and nor will it ever be. Labor members seriously seek the support of the community and we will be judged on that in what we take to the election and the commitments we make about that. We also take seriously the community consultation and the discussions that we have with communities. We do not believe that you advance the cause of the Great Koala National Park by whacking in an amendment in this way without having and being serious about the consultation. That is not something that we support.

The CHAIR (The Hon. Trevor Khan): Ms Dawn Walker has moved The Greens amendment No. 17 on sheet C2018-125D. The question is that the amendment be agreed to.

The Committee divided.

Ayes 6
Noes 28
Majority.....22

AYES

Buckingham, Mr J	Faehrmann, Ms C (teller)	Field, Mr J (teller)
Pearson, Mr M	Shoebridge, Mr D	Walker, Ms D

NOES

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

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): I acknowledge and welcome to the gallery the family members of Mr Scot MacDonald, who have come to see him in action tonight.

Ms CATE FAEHRMANN (20:22): I move The Greens amendment No. 18 on sheet C2018-125D:

No. 18 **Additional state conservation areas**

Page 8, Schedule 2. Insert after line 10:

3 Addition to Gardens of Stone State Conservation Area

The dedication of the land known as the following State forests is revoked and the land is reserved as a part of the Gardens of Stone State Conservation Area:

(a) Ben Bullen State Forest,

(b) Newnes State Forest,

(c) Wolgan State Forest.

The Gardens of Stone are unique. On the edge of the Blue Mountains near Lithgow the landscape resembles a series of lost villages and ancient temples. There are intimate sandstone pinnacles bounded by forests and spectacular escarpments with Aboriginal rock art, canyons and waterfalls.

The CHAIR (The Hon. Trevor Khan): Order! Ms Cate Faehrmann has the call. It is decidedly rude of Mr Justin Field to have his back turned and to be having a chat while she is speaking.

Ms CATE FAEHRMANN: Only a couple of weeks ago, I had the pleasure of being in the area of Newnes Plateau. I went for a bush walk up to the top and stared out over the Wollemi National Park, Newnes Plateau and the Gardens of Stone. It is an absolutely beautiful part of the world and it is incredible that much of it is not protected as the Blue Mountains World Heritage site is. It is about time this area was protected. This amendment seeks to protect the Gardens of Stone by consolidating three existing State forests—Newnes, Ben Bullen and Wolgan—into a 39,000 hectare Gardens of Stone State conservation area adjacent to the existing Blue Mountains National Park. This is a modest proposal that should be supported by everyone in this place.

The amendment would create a world-class conservation and ecotourism reserve in an area in need of rapid economic diversification for the benefit of Lithgow's workers, economy, community and environment. Of course, this vision will never be complete while underground coalmining is still allowed in this area. The Greens support an end to coalmining in the Lithgow region. This interim step is supported by the community and

conservationists and makes transitional use of the existing infrastructure in the area, such as the established road access, to develop appropriate recreation facilities to build a vibrant tourist economy in Lithgow. Achieving these environmental, tourism and local community benefits relies on the economy of scale that comes from reserving the whole proposal area and committing to the required landscape management as a coherent package.

The goal here is to create a globally renowned ecological tourism icon, with Lithgow serving as the gateway city, kick-starting a local economic in accommodation, restaurants and cafes, tourism ventures, entertainment, transport and conservation management. Lithgow is readily accessible from Sydney, but has an underdeveloped tourism industry well below the New South Wales regional average as a percentage of the total economy. Properly supported, this new protected area can surely attract to Lithgow a much larger proportion of the five million visitors a year that visit the Blue Mountains National Park. The Gardens of Stone National Park probably surpasses the Blue Mountains World Heritage area in respect of beauty. Let us give people a reason to make the trek all the way over the ranges, rather than just stopping in Katoomba.

The distinctiveness of the pagoda landscapes is easily promoted and could give the region global publicity and recognition. According to modelling done by the Colong Foundation for Wilderness, if only 5 per cent of visitors to the Blue Mountains extended their visit, it would result in an annual potential injection of $420 million into the local Lithgow economy. If Lithgow were to attract just a quarter of the likely potential new visitors, it would easily double its $90 million tourist industry. We know that coal will not last forever and we know that Lithgow needs to diversify. The need for economic diversification is well understood in Lithgow. At a community forum last year the Mayor of Lithgow, Stephen Lesslie, said, "Ten years ago "after coal" would never have been heard in Lithgow but now we are talking about it. We are aware that we have to do this. We are aware that we have to move on." At the same meeting he remarked, "There has been no contact from the State and Federal Ministers. They should be talking to us about what is happening in our community and working out where the possibilities are together."

This amendment is an opportunity to create the foundations for a community economic development package, with economic and environmental benefits based on a vision articulated by the community, providing a clear and just transition for the community away from coal dependence. Given the dire warnings from the United Nations Intergovernmental Panel on Climate Change, which my colleague Mr Jeremy Buckingham has referred to time and again in this place over the past few days, the shift away from coal is urgent and inevitable. The viability of towns such as Lithgow with histories of mining dependence rely on commonsense proposals such as this one being supported by all of the members in this place.

Mr SCOT MacDONALD (20:27): The Government does not support The Greens amendment No. 18. The purpose of the bill is to fulfil and reaffirm the Government's commitment to transfer more than 43,000 hectares of land to be managed for higher conservation outcomes. The five areas identified for transfer have been selected for their conservation connectivity values. They have been selected as the result of careful consideration of the evidence. This is part of a broader set of transfers across New South Wales.

The Hon. PENNY SHARPE (20:28): The Gardens of Stone are an incredible place that I have had the privilege of being shown around by conservationists from the Colong Foundation. I tip my hat to Keith Muir and the work he has been doing on this. His passion for the Gardens of Stone and to see better protection for this site has been decades in the making and I pay tribute to the work he has done. When I first became the shadow Minister for the Environment, the member for Blue Mountains organised for her, a bunch of people from Colong and I to go through the Newnes Plateau, look at the swamps, look at the pollution in the Wollangambe as a result of the coal fines that had found their way to the bottom of the river and to climb—as Ms Cate Faehrmann said she has done—up to the top to look at the pagodas and the Gardens of Stone.

The Labor Party is very supportive of better protection for the Colong Foundation. This issue has been hotly contested in the local community and we cannot have this debate without understanding that. I know there has been some excellent work done by the Colong Foundation, and others, and it has been talking to traditional owners, unions and the local council. It has started an important dialogue not only on how to ensure the pagodas in the areas within the new plateau are better protected for the future, but also on opening up opportunities in Lithgow. The Labor Party is not unsympathetic to what The Greens are trying to do, but as I have reiterated, it does not believe that this is the way this matter should be progressed through the bill at this time. The Gardens of Stone National Park is very important. There are opportunities look after it better, and not just the pagodas and the rock formations. Those swamps are supposed to be federally protected—

The Hon. Dr Peter Phelps: Swamps? You mean "wetlands"?

The Hon. PENNY SHARPE: No, upland swamps. I have seen them. I have also been there and seen the dragonflies that are there.

The Hon. Dr Peter Phelps: Is it politically correct to call them swamps?

The Hon. PENNY SHARPE: I would recommend that the member have a look. It might be worth his time. He might enjoy it. Obviously I have gotten members upset about that. It is clear that we can do better on protection. The way The Greens are choosing to do it for the bill, though, is not something that Labor can support.

Mr JEREMY BUCKINGHAM (20:30): I make a brief contribution in my capacity as The Greens spokesperson on energy and resources, and also as a former resident of the Central West who enjoyed travelling through one of the most beautiful parts of Australia. I believe it is time that this House took the opportunity to deliver on the 1932 vision of Myles Dunphy for the Greater Blue Mountains National Park by converting the Wolgan and Ben Bullen state forests into the Gardens of Stone National Park. The area is critically threatened. There are a number of underground coalmines in the region, but they have incredible impacts on the surface through subsidence, slumping and infrastructure. If you go into the Ben Bullen State Forest, as I often have, you see roads, pipelines, compressor stations and all of the infrastructure that supports underground coalmining in one of the world's most beautiful areas. The Wolgan Valley is one of the most beautiful places in the world.

Newnes is another area of which I remind honourable members. Honourable members should look at the salutary lesson of Newnes and the shale oil development in that valley. It was the world's largest shale oil development. The community went in and built a shale oil industry with 10,000 people and 15 pubs, and it collapsed overnight. The community was left wondering what to do next. I visited Lithgow with the member for Melbourne, Adam Bandt, in 2017 and met with unions, community representatives and traditional owners. Fifth generation coalminers in that town were saying they wanted a transition plan. They recognised that underground coalmining is a dirty, dangerous and sometimes thankless job which has an end date. They have seen the collieries come and go. We should look to the example of the United Kingdom.

The CHAIR (The Hon. Trevor Khan): Order! The member said he was going to be brief and I cannot cut him off in that regard, but I can invite him to be relevant to the amendment. We are not talking about transitions from coalmines. It is a bit of a stretch from the amendment that is before the Committee.

Mr JEREMY BUCKINGHAM: These areas are subject to coalmining. As the community, the Hon. Penny Sharpe and Ms Cate Faehrmann recognise, the transition would be facilitated by converting these areas that are immediately adjacent to Lithgow. This is the area that surrounds Lithgow. This is the escarpment around Lithgow. This is where the Zig Zag Railway goes and those collieries have been. I note the interjection of the Hon. Rick Colless during the debate and the contribution of Ms Cate Faehrmann who said that this area—

The Hon. Niall Blair: Point of order: The member is now steering away from the substance of the amendment. The member is going into other areas. There are interjections, which are not helping with the discussion in relation to the amendment at hand. I ask that the speaker be brought back to the amendment and be relevant.

The CHAIR (The Hon. Trevor Khan): The interjections are unhelpful. Interjections from former Whips are even more unhelpful. I invite Mr Jeremy Buckingham to stick to the amendment rather than the wider subject that he is ventilating at the present time.

Mr JEREMY BUCKINGHAM: I will conclude by saying that the community would welcome a government that supported converting this area into a national park. I lived in that region. The community has seen the close of the power station. They would appreciate that this amendment brings economic development and it should be supported. We should deliver on the vision of those people who saw the beauty of that region. We should recognise the risk that exists and act now to support the people of Lithgow, to protect that environment and finally deliver on the vision of the Gardens of Stone National Park, because it is truly one of the great wonders of Australia.

The CHAIR (The Hon. Trevor Khan): Ms Cate Faehrmann has moved The Greens amendment No. 18 on sheet C2018-125D. The question is that the amendment be agreed to.

The Committee divided.

Ayes 6
Noes 29
Majority.....23

AYES

Buckingham, Mr J (teller)	Faehrmann, Ms C	Field, Mr J
Pearson, Mr M	Shoebridge, Mr D	Walker, Ms D (teller)

NOES

Ajaka, Mr	Amato, Mr L	Blair, Mr
Brown, Mr R	Clarke, Mr D	Colless, Mr R
Cusack, Ms C	Donnelly, Mr G	Fang, Mr W (teller)
Farlow, Mr S	Franklin, Mr B	Graham, Mr J
Houssos, Mrs C	MacDonald, Mr S	Maclaren-Jones, Mrs (teller)
Mallard, Mr S	Martin, Mr T	Mitchell, Mrs
Mookhey, Mr D	Moselmane, Mr S	Nile, Revd Mr
Phelps, Dr P	Primrose, Mr P	Sharpe, Ms P
Taylor, Mrs	Veitch, Mr M	Voltz, Ms L
Ward, Mrs N	Wong, Mr E	

Amendment negatived.

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

Motion agreed to.

Mr SCOT MacDONALD: I acknowledge the Minister for the Environment as being present for the whole debate on the bill. I thank the Minister for looking carefully at it. I move:

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

Motion agreed to.

Adoption of Report

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

That the report be adopted.

Motion agreed to.

Third Reading

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

That this bill be now read a third time.

Motion agreed to.

WORKERS COMPENSATION LEGISLATION AMENDMENT BILL 2018

COMMUNITY GAMING BILL 2018

Returned

The PRESIDENT: I report receipt of a message from the Legislative Assembly returning the abovementioned bills without amendment.

CIVIL LIABILITY AMENDMENT (ORGANISATIONAL CHILD ABUSE LIABILITY) BILL 2018

Second Reading Speech

The Hon. SCOTT FARLOW (20:47): On behalf of the Hon. Don Harwin: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Civil Liability Amendment (Organisational Child Abuse Liability) Bill 2018. The bill completes the New South Wales Government's response to the civil litigation recommendations made by the Royal Commission into Institutional Responses to Child Sexual Abuse. The bill enacts three significant reforms to remove legal barriers identified by the royal commission and provide clear pathways to justice for survivors of child abuse in institutional settings. The Royal Commission into Institutional Responses to Child Sexual Abuse has had a profound impact on our society. Over the five years of its inquiry we learned about the thousands of children who have been sexually abused by members of institutions. The New South Wales Government has demonstrated that it is determined to learn from the findings of the royal commission and the stories of the survivors who came forward. In fact New South Wales has been a leader amongst States and Territories, acting swiftly on the recommendations made by the royal commission.

On 23 June 2018 the Government formally responded to the royal commission, accepting the overwhelming majority of its recommendations. The Government's response covers changes already implemented and new reforms. These include measures right across Government to keep children safe, hold perpetrators to account, and provide justice and support to survivors. The New South Wales Government has committed to provide annual progress reports to Parliament starting in December 2018. Many of the critical reforms the New South Wales Government is delivering sit within the Justice portfolio. This includes the criminal justice reforms, participation in the National Redress Scheme and changes to civil litigation laws.

The PRESIDENT: The Hon. Scott Farlow may incorporate his second reading speech, if he wishes to do so.

The Hon. SCOTT FARLOW: Unfortunately, there are some changes from the lower House second reading speech. In response to the royal commission's criminal justice recommendations, the New South Wales Government has implemented one of the State's largest reform packages. The legislation passed both Houses of Parliament in June this year. Three key reforms commenced operation on 31 August, and the reminder of the Act is expected to commence by the end of 2018. The reforms will strengthen and extend the criminal law in New South Wales so that it better meets the needs of survivors of child sexual abuse and improves the way in which perpetrators are held to account.

In March this year New South Wales was one of the first States to announce that it would opt into a National Redress Scheme for survivors of institutional child sexual abuse. The Government consistently has supported the establishment of a single national scheme that is comprehensive, sustainable and best meets the needs of survivors. New South Wales is proud to have taken the lead as the first State to pass legislation referring powers to the Commonwealth Government to establish the National Redress Scheme. The National Redress Scheme commenced on 1 July. It includes a monetary payment of up to $150,000, access to counselling and psychological support, and a direct personal response from the participating institution or institutions.

The commencement of the scheme represents a major milestone with government and non- government organisations coming together to recognise and to take action to address the harm and suffering caused by institutional child sexual abuse in this country. The redress scheme applies only to past abuse as recommended by the royal commission, which found that civil litigation simply is not an effective means by which all survivors obtain adequate redress. This is due to society's failure to protect children across a number of generations. The royal commission also concluded that reforms to civil litigation are a more effective means of providing justice to survivors in the future.

In the redress and civil litigation report, the royal commission explained that, having heard from survivors and support groups about the many difficulties that people have faced in seeking damages for child abuse through litigation, the very nature and impact of institutional child sexual abuse can work against the survivors' ability to seek damages through existing avenues. Many people told the royal commission that without a strong legal position, they had to go cap in hand to institutions and accept what was offered, no matter how inadequate. Another key factor is the years and decades it can take for survivors to disclose child sexual abuse. Survivors who attended private sessions through the royal commission took, on average, 23.9 years to disclose.

The royal commission made 15 recommendations for reform to improve the capacity of civil litigation systems to provide justice to survivors. It noted that, if adopted, the reforms may contribute to a substantial change in the power balance between institutions and survivors. The New South Wales Government acted early, implementing a number of the royal commission's civil litigation recommendations in 2016. The Government removed limitation periods within which survivors had to launch civil compensation claims. This means that survivors of child sexual abuse can claim damages, regardless of when the abuse occurred. The Government also implemented guiding principles to ensure that a more caring and compassionate approach is taken across the New South Wales Government when responding to civil claims for child sexual abuse.

The three reforms to be enacted by this bill respond to the remaining royal commission civil litigation recommendations. First, the bill imposes a statutory duty on organisations that exercise care, supervision or authority over children to prevent child abuse being perpetrated by individuals associated with the organisation. As recommended by the royal commission, the onus of proof is reversed so that the organisation must establish that it took reasonable precautions to prevent abuse. Secondly, the bill codifies the common law approach to vicarious liability of organisations for child abuse perpetrated by employees. It extends this vicarious liability to include child abuse perpetrated by non-employees whose relationship with the organisation is akin to employment. This implements the intent of the royal commission's recommendation to impose a non-delegable duty on certain institutions. Thirdly, the bill implements the royal commission's recommendation to enable survivors to identify a proper defendant to sue.

These reforms have been developed through an extensive consultation process with stakeholders, including service providers, survivor groups, churches, the insurance industry and the legal profession. Broadly speaking, the purpose of the reforms is to provide better access to justice for survivors. More specifically, for child abuse that happens after the laws commence, the statutory liabilities will provide fair and certain avenues for survivors to pursue civil compensation. The duty of organisations to prevent child abuse will hold organisations accountable by articulating what the community expects of them, which is to do everything they can to prevent child abuse from happening in the first place.

Currently under the common law, vicarious liability of organisations is limited to child abuse perpetrated by employees. An organisation is not vicariously liable for the actions of a contractor or volunteer, even if, for all intents and purposes, that person is like an employee. This creates an inequitable situation where survivors of abuse in institutions run by non-employees, like religious officers, are denied a cause of action in vicarious liability. The bill levels the playing field to ensure that all survivors have access to a civil remedy through vicarious liability and provides a deterrent to all institutions, where appropriate.

Finally, the royal commission highlighted that one of the main challenges faced by survivors has been identifying a proper defendant to sue. This is because many religious organisations are unincorporated organisations with no legal personality, which means that they cannot be sued. This is more commonly known as the Ellis defence, which, upon enactment of this bill, will be consigned to the history books. The proper defendant reform in the bill applies prospectively and retrospectively. This is important because it means that no matter when the abuse occurred, survivors will now be able to sue a proper defendant with sufficient assets to satisfy a claim.

I now turn to the detail of the bill. The bill amends the Civil Liability Act 2002 to insert a new part 1B, (Child Abuse—liability of organisations). Division 1 of part 1B covers preliminary matters. New section 6A contains a number of key concepts for the operation of the reforms, including the definition of "organisation", which forms part of the later definition of "unincorporated organisation". The bill states:

> … **organisation** means any organisation, whether incorporated or not, and includes a public sector body but does not include the State.

This definition is flexible to accommodate the many varieties of organisations to which the reforms apply. Under division 2 of the bill, an organisation with responsibility for a child must take reasonable precautions to prevent an individual associated with the organisation abusing a child in connection with the organisation's responsibility for the child. New section 6F establishes that duty as the foundation of a negligence action. An organisation is responsible for a child if the organisation, or any part of it, exercises care, supervision or authority over the child. New section 6F (3) provides that an organisation is presumed to have breached the duty if the plaintiff establishes that an individual associated with the organisation perpetrated the child abuse in connection with the organisation's responsibility for the child. This presumption does not apply if the organisation establishes that it took reasonable precautions to prevent the child abuse. The reasonable precautions test makes it clear that this statutory duty is fault-based, not a strict liability.

Importantly the organisations must prove that reasonable precautions were taken to prevent the child abuse in question, not child abuse generally. The organisation's general abuse prevention practices are a relevant factor, but courts must have regard to the circumstances of each case in order to ensure that organisations proactively consider ways in which perpetrators can misuse their position and commit child abuse in the specific context of that organisation. The royal commission recommended a shift in the onus of proving reasonable precautions to organisations because they are better placed to prove the steps they took to prevent the abuse. New section 6F (4) states that in assessing whether an organisation took reasonable precautions, the court may consider the nature of the organisation, the resources reasonably available to it, the relationship between the organisation and the child, whether the organisation has delegated organisational responsibility for the child, the role in the organisation of the individual who perpetrated the child abuse, the level of control the organisation had over the individual who perpetrated the abuse, whether the organisation complied with applicable child safety standards, and other matters prescribed by regulations or considered relevant by the court.

The reasonableness of the precautions will be measured against the facts of the case, the nature of the organisation itself, and child safety standards applicable at the time. This is a particularly important point in instances when an organisation has delegated the exercise of care, supervision or authority over a child to another organisation. New section 6D (b) provides that both organisations are responsible for the child. Proposed section 6E (3) states that an individual associated with an organisation to which those functions have been delegated is also taken to be an individual associated with the delegating organisation. The purpose of these provisions is to make clear that these responsibilities do not fall away simply because delegation has occurred. However, the precautions the organisations are reasonably expected to take to prevent the child abuse are likely to be very

different and commensurate with their respective roles and relationship to both the child and the individual who perpetrated the abuse.

An example of this is if a government agency with parental responsibility for the child delegates the exercise of care, supervision or authority over a child to a non-government organisation, an employee of which perpetrates the abuse. In this situation the government agency would need to establish it had taken reasonable precautions in delegating the responsibilities to the non-government agency. This would include complying with all relevant legislation and regulations to ensure that the non-government agency is appropriately accredited to fulfil its responsibilities. The non-government organisation would need to establish it had taken reasonable precautions in line with its responsibility for the child and with relevant child safety standards. This would include, for example, appropriate safeguards and checks when recruiting and managing employees.

The statutory duty applies to "child abuse", which is defined in new section 6F (5) as "sexual abuse or physical abuse" of a child. This does not include an act that was lawful at the time it took place. The term "child abuse" should be interpreted beneficially. This requires courts to determine whether abuse has occurred with regard to the circumstances of each case and to apply the ordinary meaning of the terms "sexual abuse" and "physical abuse". I note that the royal commission defined "sexual abuse" of a child as "any act which exposes a child to, or involves a child in, sexual processes beyond his or her understanding or contrary to accepted community standards".

Although other forms of abuse are not within the definition, a plaintiff may still seek damages for, say, psychological or emotional harm suffered as a result of the sexual or physical abuse. The extent of such emotional and psychological harms may well be very significant in quantifying a damages award for a successful claim of physical or sexual abuse. The statutory duty is prospective only, meaning it applies to child abuse that occurs after the commencement of the legislation. Division 3 codifies the common law of vicarious liability for child abuse perpetrated by employees and extends it to those who are akin to employees. As with the statutory duty, division 3 is prospective only and applies to child abuse as defined, being sexual abuse or physical abuse excluding lawful acts.

Division 3 has an interesting history that bears some brief description. The royal commission recommended legislation to "impose a non delegable duty on certain institutions for institutional child abuse despite it being the deliberate criminal act of a person associated with the institution". No State or Territory has done this. That recommendation was made in 2015. At the time the law of vicarious liability and non-delegable duties was unclear, as the royal commission noted. A year after the royal commission recommendation, the law of vicarious liability for child abuse was clarified by the High Court in *Prince Alfred College Incorporated v ADC* [2016] HCA 37. That case concerned child sexual abuse perpetrated by a housemaster employed by the child's school. The High Court outlined the correct approach to be taken to the question of an organisation's vicarious liability for child abuse perpetrated by an employee.

That 2016 High Court decision provided a legally stable basis on which to implement the intent of the royal commission's non delegable duty recommendation. The High Court's approach in Prince Alfred College is codified in new section 6H of the bill. New section 6H makes an organisation "vicariously liable for child abuse perpetrated against a child by an employee of the organisation if the apparent performance by the employee of a role in which the organisation placed the employee supplies the occasion for the perpetration of the child abuse by the employee, and the employee takes advantage of that occasion to perpetrate the child abuse on the child".

In determining that test, the court must consider whether the role in which the employer placed the employee gave the employee authority, power or control over the child, trust of the child or the ability to achieve intimacy with the child. The purpose of the codification, given that the common law has already developed to this point, is to extend this test to those who are akin to employees, as has already occurred in several overseas jurisdictions. The reason for this is that the royal commission learned that in many cases abuse may be perpetrated against children by those who, strictly speaking, are not employees within the existing law of vicarious liability. In faith-based organisations this could include members of the clergy or similar, and in all organisations it could include volunteers or contractors, who are often involved in the child services sector. New section 6G closes this loophole by applying the existing common law in Prince Alfred College to those who are "akin to an employee".

New section 6G (2) states that "An individual is akin to an employee of an organisation if the individual carries out activities as an integral part of the activities carried on by the organisation and does so for the benefit of the organisation." An individual is not akin to an employee if his or her activities are carried out for a recognisably independent business of the individual or of another person or organisation. That test comes from the decision of the United Kingdom Supreme Court in *Cox v Ministry of Justice* [2016] UKSC 10, also decided in 2016 after the royal commission made its recommendations. The extension does not include foster and kinship carers, who were specifically excluded by the royal commission from the scope of this reform in recognition of the fact that they are too far removed from the care, supervision and control of the relevant institution to justify

imposing liability. The vicarious liability codification does not affect the Australian common law of vicarious liability. To avoid doubt, new section 6H (3) makes that clear.

The prospective liabilities in divisions 2 and 3 both relate to child sexual abuse and to child physical abuse in an organisational context. There is potential overlap of the liabilities but each stands alone in the bill, as they currently do in common law. The statutory duty applies to a broader range of individuals but is fault based, embodying a reasonable precautions test by which an organisation may displace the presumed breach of its statutory duty. The vicarious liability is confined to those in employment or employment-like relationships, but it is a strict liability. If the facts allow, a plaintiff may bring an action under both in relation to a single set of facts. That is already the case under the current law of negligence and vicarious liability. Under ordinary common law principles, a plaintiff will not be double compensated for the harm despite it providing plural civil causes of action. To avoid doubt, new section 6B (2) will make it clear that an award of damages under either division 2 or division 3 in respect of the same abuse must be taken into account in any award made under the other division.

The proper defendant reforms contained in division 4 respond to the legal obstacle that is referred to as the "Ellis defence". John Ellis was an altar boy in the Roman Catholic parish at Bass Hill between the ages of 13 and 17 during the 1970s. His claim related to frequent sexual abuse at the hands of an assistant priest, Father Duggan, and proceedings were commenced against that priest, the archbishop of the Sydney diocese and the trustees of the Roman Catholic Church Trust for the Archdiocese of Sydney. The priest died before the case was heard. The New South Wales Court of Appeal held that the archbishop could not be held liable for acts of his predecessors and that the trustees were too remote to be liable for the abuse because they did not have the power to appoint, manage, discipline or remove priests under the trust's establishing statute. This meant that there were no proper defendants to the proceedings.

Division 4 eliminates the Ellis defence. It does so by requiring unincorporated organisations to appoint a proper defendant with legal personality and sufficient assets to satisfy judgement and by allowing courts to do so if they do not. In so doing, survivors of historical abuse in unincorporated organisations are finally enabled to pursue civil claims. The Ellis defence has been rightly criticised for the unfair result it produced, and this bill is intended to overcome it. The proposition in Ellis that an unincorporated organisation cannot be sued in its own name under the common law is overturned by new sections 6K (1) and 6O (c) and (d). The proposition in Ellis that trustees are too remote to be liable for the abuse is overturned by new sections 6N and 6O (a) and (b). The proposition in Ellis that an organisation like a church with fluctuating membership has insufficient existence to be held responsible for abuse within it by individuals who would otherwise satisfy the tests proposed in new sections 6E and 6G is overturned by new section 6K (2) and the definitions of "unincorporated organisation" and "function".

The corporate status of these institutions is irrelevant to the suffering of survivors and must be irrelevant to their quest for justice. This is beneficial legislation and will be interpreted as such by the courts, even if that requires them to crystallise an abstract concept of an unincorporated organisation with fluctuating membership. The interpretation of the word "organisation" is key. As I have said, organisation is flexibly defined because of the wide variety of organisations to which it must apply. It is intended to ensure maximum coverage without applying to private settings, such as families. The term flows through both liabilities as well as the proper defendant provisions. For example, the organisation named in proceedings will affect which individuals are associated with the organisation for the purposes of the statutory duty in division 2, and whether that organisation took reasonable precautions.

For division 3, it will affect who is an employee or akin to an employee of the organisation and whether that organisation put the perpetrator in the role enabling abuse of the child. For division 4, it will determine who are management members and which trusts are associated such that the assets of those trusts may ultimately be applied against a damages award or settlement. Within a religious organisation, for example, this bill means that plaintiffs now have a choice of whether to sue the parish, the diocese, the particular order or the church as a whole in which they were abused. Plaintiffs' counsel will carefully consider these matters before selecting a defendant to name in initiating proceedings. The generality of the term "organisation" therefore allows flexibility to deal with the many organisational structures and factual circumstances that may arise, but also should result in the most appropriate level within an organisation being sued.

New section 6K allows a plaintiff to commence or continue child abuse proceedings against an unincorporated organisation. An unincorporated organisation's functions may be exercised by a management member, and courts have broad powers to make orders and directions, including directing a management member to exercise a function of the unincorporated organisation under the division. The purpose of this new section is to prevent unincorporated organisations defeating the purpose of the proper defendant mechanism by simply refusing to respond to proceedings or to comply with orders of the court in reliance on their inability to be sued. Particularly

in relation to the period prior to the appointment of a proper defendant, the courts need sufficient powers to compel unincorporated organisations to participate in proceedings.

New section 6J defines "child abuse proceedings" as meaning both common law proceedings and proceedings under the amended legislation that arise from abuse against a child. That definition is not limited to actions claiming physical or sexual abuse, which ensures the proper defendant provisions of division 4 apply beyond the liabilities in divisions 2 and 3 to any other future or historical common law actions in respect of child abuse. Under new section 6L, an unincorporated organisation may appoint a proper defendant at any time with the proper defendant's consent. This enables unincorporated organisations to be proactive in establishing, funding and proffering proper defendants.

New section 6M sets out the suitability criteria for a proper defendant, whether appointed by the unincorporated organisation or by the court, being the ability to be sued and having sufficient assets. In limited circumstances, a court may appoint a proper defendant to child abuse proceedings. Under new section 6N, if the unincorporated organisation has not appointed a suitable proper defendant after 120 days from the service of initiating proceedings, or if a proper defendant becomes unsuitable, perhaps for lack of assets, the plaintiff may ask the court to appoint a proper defendant. The unincorporated organisation then has 28 days to identify to the court any associated trusts and their financial capacity. The court may appoint as a proper defendant the trustees of one or more associated trusts.

New subsection 6N (3) sets out a control test for determining whether a trust is an associated trust of an unincorporated organisation. Control concepts are used in corporations and taxations law to associate one entity with another. One or more of the factors listed must apply in order for a trust to be deemed associated. This includes, for example, the power to appoint or remove the trustees, the power to control the distribution of the property of the trust and the power to determine the outcome of decisions about the trust's operations. To be clear, if an unincorporated organisation does the right thing and appoints a proper defendant that has legal capacity to be sued and sufficient assets to meet judgement, the court has no cause and no power to appoint trustees of associated trusts of a defendant organisation. That mechanism is enacted as an option of last resort, and indeed may never be used. Any unincorporated organisation that wishes to avoid the involvement of its associated trusts in litigation has a clear pathway and an incentive to organise its affairs accordingly.

New section 6O sets out the relationship between the unincorporated organisation and the proper defendant in the proceedings and their respective roles and responsibilities. The proper defendant is not a separate second defendant to the action. The proper defendant stands in the shoes of the unincorporated organisation itself, and the unincorporated organisation remains involved in the proceedings. Importantly, a court may make substantive findings against an unincorporated organisation as if it had legal personality. It is important for survivors that responsibility be squarely attributed to the organisation in which they were abused.

New section 6P allows the trustees of an associated trust to consent to be appointed as a proper defendant, to supply information about the trust including financial capacity and to apply trust property to satisfy the liability in child abuse proceedings. The new section protects the trustees from liability for breach of trust for taking these actions and displaces the Corporations Act 2001 of the Commonwealth so that a trustee who is a director cannot be in breach of duties under the Corporations Act for complying with new section 6P.

To conclude, the completion of the New South Wales Government's response to the royal commission's civil litigation recommendations is an historic milestone in the long path that survivors are walking towards justice. The bill removes the remaining legal barriers to justice for survivors of past abuse and sets the standard for better protections for children now and in the future. The bill is a key part of the Government's comprehensive response to the royal commission, accepting the overwhelming moral imperative to do all we can to keep our children safe. I commend the bill to the House.

Second Reading Debate

The Hon. DANIEL MOOKHEY (21:13): I lead for the Opposition in debate on the Civil Liability Amendment (Organisational Child Abuse Liability) Bill 2018. The Opposition does not oppose the bill. The bill is presented by the Attorney General as the completion of the Government's response to the civil litigation recommendations of the Royal Commission into Institutional Responses to Child Sexual Abuse. There are three main objects expressed in the bill, all of which amend the Civil Liability Act. One is to create a duty on organisations to prevent child abuse and to create a legal presumption that an organisation has breached the duty if a child for whom it has responsibility is subjected to child abuse by an individual associated with the organisation. This is known as a reverse onus provision, and it comes into effect with the Act—that is, it is not retrospective.

The second object is to make an organisation vicariously liable for child abuse committed by employees and persons akin to employees. This provision also is not made retrospective and comes into effect with the Act. The third object is to permit plaintiffs to bring civil child abuse proceedings against unincorporated organisations that may be liable for the abuse. This finds a solution to the notorious Ellis defence, which essentially held that legally the Catholic Church did not exist—despite what Constantine and people for more than a millennium and a half thought. I remember that when I first read the judgements in Ellis I understood the legal point, but was astonished at what it meant in practical terms. Potential defendants, as I understand it, have as a matter of policy not pleaded that defence for some time. However, this should be resolved as a matter of law and not left to policy or court decisions. I note that the principles and potential use apply to any unincorporated association, from tennis clubs to political parties, and not only to those in the religious domain. This provision is retrospective. This is one occasion on which retrospective provisions seem entirely appropriate.

The Attorney General in his second reading speech referred to his Government's record in this policy area and presented it as completely unproblematic. The Opposition does not share that view. In May 2018 the Opposition indicated in the second reading debate on the National Redress Scheme for Institutional Child Sexual Abuse (Commonwealth Powers) Bill 2018 that the Government's position on the National Redress Scheme is at variance with the royal commission recommendations. Most obviously, recommendation No. 19 provided for a maximum payment of $200,000, while the scheme championed by this Government offers one-quarter less than that. The basis stated for the lower figure preferred by the Government was to maintain the financial viability of various institutions. That is a wholly inadequate basis upon which to design such a scheme. Presumably, it was also intended to reduce the liability faced by State institutions.

This is directly relevant to the bill before the House and not only by way of background, because the less likely a survivor is to pursue a matter under the National Redress Scheme the more likely they are to pursue a common law claim under the civil liability legislation. I also note the other divergences between the royal commission report and the bill concerning eligibility for the scheme about which the Opposition previously addressed the House. The Attorney General in his second reading speech claimed that the Government acted early in response to the civil litigation recommendations of the royal commission. For example, it removed the limitation period to allow civil claims for damages. Yes, it did introduce that legislation. However, four years ago, in November 2015, it voted down the limitation provision in the Opposition's private member's bill in this place—albeit by only 39 votes to 36.

At that time the Government argued that it was premature to amend the limitation provision until the National Redress Scheme was implemented. That was a nonsense argument, as were so many proposed by the then Attorney General. The Government was forced kicking and screaming to introduce its bill well before the National Redress Scheme was implemented. When the Opposition introduced its private member's bill on the limitation period, the Victorian Government had already legislated—well before this Government. A similar situation exists with the reverse onus provisions in this bill. These types of provisions were introduced by the Victorian Attorney-General to his State Parliament two years ago in the Wrongs Amendment (Organisational Child Abuse) Bill. This Government continually plays catch-up with the Victorian Government—and, indeed, with the Opposition in this place.

Twelve months ago the Opposition introduced a private member's bill—the Civil Liability Amendment (Institutional Child Abuse) Bill 2017—which dealt with the reverse onus recommendation of the royal commission. Members will note the similarity of the title of the Opposition's bill and the bill before the House. There is a saying about imitation being the sincerest form of flattery. It takes years for the Government to catch up with the Opposition. When the Opposition introduced its bill on institutional child abuse it said it was a disgrace that the Government had not already acted. That was true then, and now it holds even more power because it took the Government an extra 12 months to introduce this bill.

Insofar as this Government has a legislative agenda, looking for action on that agenda is like watching grass grow. The first two elements of the bill relate to the civil liability of institutions for child abuse. The liability of an individual perpetrator is clear. The liability of an institution under the present law, as the royal commission pointed out, is considerably less clear. The question is: When is an institution liable for the action of an individual? When is the institution vicariously liable? Clear legal rules for such liability had not emerged in Australia. Page 54 of the relevant royal commission report points out that what was then the leading Australian High Court case—*NSW v Lepore*, decided in 2003—left the relevant law in "a somewhat uncertain state".

The royal commission pointed out that the United Kingdom and Canada had clearer and broader rules about the liability of organisations for the actions of individuals. Likewise, the royal commission's consultative process saw many submissions arguing for the clarification and expansion of circumstances in which institutions would be held liable for child sexual abuse. That was also the attitude of the Victorian parliamentary committee that delivered the report entitled "Betrayal of trust". The position has changed somewhat and become clearer since

the royal commission report as result of a High Court decision *Prince Alfred College Incorporated v ADC* [2016] HCA 37.

This bill deals with the recommendation in two ways. The first is to codify the common law position on vicarious liability and to expand it. The second is to regard institutions as liable unless they discharge an onus of proving they have taken reasonable steps to avoid the abuse. This imposes civil liability upon organisations even if it was an individual rather than an organisation that committed the abuse. That means that if a perpetrator is deceased, cannot be found or is impecunious, a verdict can still be satisfied. It is also extremely significant in delivering justice to survivors. As the royal commission reported, "Legal duties are important for prescribing the standard that the community requires of institutions."

Technically, the bill is about the recovery of damages. In substance, it is about what we expect of institutions and organisations. It is hardly unreasonable that the community would expect an organisation to do all it reasonably can to prevent child abuse. If it does not do all it reasonably can, then this bill will hold it civilly liable. Another virtue of this approach is that its introduction is likely to promote good governance in the institutions concerned. The royal commission recommended that these changes be prospective and not retrospective. This bill adopts that position, which I think is entirely reasonable. The royal commission also proposed as another approach the imposition of strict liability on institutions. That is not the approach of this bill, nor was it the approach of the Victorian Parliament, nor of the Opposition's private member's bill, so obviously the Opposition does not dissent from that now.

In principle, the approach taken in this bill is a better one. Moreover, a strict liability approach removes some of the incentive for organisations to improve governance levels and take reasonable steps to avoid child sexual abuse. If it does not matter whether the organisation takes reasonable steps to reduce child sexual abuse, then there is less reason for it to do so. The reverse onus provisions are in new section 6F of the Civil Liability Act in the new part 1B, which requires that:

> (2) An organisation that has responsibility for a child must take reasonable precautions to prevent an individual associated with the organisation from perpetrating child abuse of the child in connection with the organisation's responsibility for the child.
>
> (3) ... the organisation is presumed to have breached its duty if the plaintiff establishes that an individual associated with the organisation perpetrated the child abuse in connection with the organisation's responsibility for the child unless the organisation establishes that it took reasonable precautions to prevent the child abuse.

New section 6F (4) lists some of the items that a court may take into account to determine reasonable precautions. As with the vicarious liability provisions, child abuse means:

> … sexual abuse or physical abuse of the child but does not include any act that is lawful at the time that it takes place.

Organisations that are included are described in new section 6D as those that exercise care, supervision or authority over the child. This is not the royal commission's exact wording—which is neither surprising nor inappropriate—but it achieves the purpose. New section 6E specifies those who are associated with an institution. Appropriately, this is widely defined and obviously includes volunteers. It also includes members of religions, organisations and authorised carers. Those categories can be expanded by regulation. New division 3 deals with the vicarious liability of organisations. The operative provision is new section 6H, which states:

> (1) An organisation is vicariously liable for child abuse perpetrated against a child by an employee of the organisation if:
>
> (a) the apparent performance by the employee of a role in which the organisation placed the employee supplies the occasion for the perpetration of the child abuse by the employee, and
>
> (b) the employee takes advantage of that occasion to perpetrate the child abuse on the child.

New section 6G provides that an employee includes an individual who is akin to an employee. Such a person, in turn, is defined as an individual who:

> ... carries out activities as an integral part of the activities carried on by the organisation and does so for the benefit of the organisation.

Division 4 of the new part 1B deals with proceedings against unincorporated associations. As a matter of general common law, proceedings cannot be instituted against unincorporated bodies. They do not exist; they have no legal personality. Proceedings have to be against individuals, corporations or government or statutory bodies. If it is not a corporation or a government or statutory body or the individual is deceased, there is no-one to sue. If they are alive but impecunious, there is no-one to recover against.

I note in passing that the Electoral Funding Bill 2018 debated in May in this place dealt with an analogous problem, specifically allowing prosecutions against unincorporated associations. The bill now allows proceedings against unincorporated associations. The court can order one or more management members of an unincorporated association to exercise a specified function of the organisation. If it is a public sector body, the State is taken to be appointed as the proper defendant. The unincorporated association may, with that body's consent, appoint a

proper defendant for the organisation. If the unincorporated association fails for 120 days to appoint a proper defendant, the court may appoint trustees of a trust as defendants if they are suitable to be appointed. The trusts that are relevant here are an associated trust of the organisation or a trust that was formerly an associated trust.

New section 6N (3) provides the criteria by which a trust is judged to be an associated trust of an organisation. This is particularly significant in practical terms. Much of the land on which places of worship and schools are located are held by trusts. This is hardly surprising granted the frequency with which Parliament has passed property trust Acts for a range of denominations. A quick look at the Allocation of the Administration of Acts regulation reveals a dozen or so pieces of legislation of this sort allocated currently to the Attorney General. Self-evidently, such trusts have property that can satisfy a judgement. The proper defendant nominated by the unincorporated association or appointed by the court incurs the liability for the claim in the proceedings on behalf of the organisation that the organisation would have incurred if the organisation had legal personality. New section 6P (2) provides that the liability of a trustee is limited to the value of the trust property. The royal commission recommendation 94 in its redress and civil litigation report read as follows:

> 94. State and territory governments should introduce legislation to provide that, where a survivor wishes to commence proceedings for damages in respect of institutional child sexual abuse where the institution is alleged to be an institution with which a property trust is associated, then unless the institution nominates a proper defendant to sue that has sufficient assets to meet any liability arising from the proceedings:
>
> a. the property trust is a proper defendant to the litigation
>
> b. any liability of the institution with which the property trust is associated that arises from proceedings can be met from the assets of the trust. I note that the experience of Mr John Ellis was a case study in the consideration of the royal commission. The royal commission noted that many institutions now nominate proper defendants but quite correctly believed that survivors should have more certainty when seeking to commence litigation. The royal commission recommendation followed in this bill allows potential defendants to nominate a body most suitable to them to meet the liability of a particular claim. The Government did not pursue the other option that was raised of a nominal defendant for reasons that are entirely sensible. However, I note that if a particular institution wishes to establish its own nominal defendant then there is no reason for it not to do so. This bill allows for that. The issue is to make sure that there is sufficient assets for judgements to be able to be recovered. I reiterate that the Opposition does not oppose the bill.

Mr DAVID SHOEBRIDGE (21:29): On behalf of The Greens I speak to the Civil Liability Amendment (Organisational Child Abuse Liability) Bill 2018, and I wish we had been doing this years ago. For all the time that I have been in Parliament my office has had a campaign on what we have tagged "Justice for Victims". In 2012 we joined with survivors, many of them survivors of institutional child abuse, and called for a royal commission into the sexual abuse of children in those institutions. In 2012 we called for the repeal of the Ellis defence, which allows the Catholic Church to avoid being sued by victims. In that year as well we argued for updated sentencing practice for historical child sexual offences and the removal of time limits on taking civil actions for child sexual abuse. In 2014 we brought to this Chamber the first ever legislation to repeal the Ellis defence but failed to get the support of the Chamber or the Parliament.

The Greens have worked with an extraordinary number of survivors of abuse—extraordinarily brave and courageous individuals—their families and their advocates. Our office has used freedom of information laws to uncover the New South Wales police participation in a secret church body where a police officer literally shredded evidence of abuse that went to the police. We worked with journalists and survivors to expose case after case of cover-ups within institutions of deep and appalling crimes of child sexual abuse. We raised it in Parliament repeatedly. We presented those bills, we called for conscience votes and we lobbied for support. It was hard work, with many frustrations and tears and the constant difficulty of building the political will to take action.

I credit the work of the staff in my office—Kym Chapple, Chandi Bates and Mark Riboldi, who all worked on this campaign. But by the end of today we can say that all of those things we have been campaigning for will have eventually happened. These obstacles to justice will have been removed and tonight this bill goes through the New South Wales Parliament and removes the Ellis defence. It is not a Greens bill, but that does not matter to us. It is four years too late, and that does matter. But what ultimately matters more than any of that is tonight it will be done.

The bill has three key features. The first is it creates a duty on organisations to prevent child abuse and to create a legal presumption that an organisation has breached its duty if a child for whom it has responsibility is subjected to child abuse by an individual associated with the organisation. It also makes an organisation vicariously liable for child abuse committed by employees and persons akin to employees and it permits plaintiffs to bring civil child abuse proceedings against unincorporated organisations that may be liable for the abuse. I will deal with each of those matters in a little more detail.

What is the proposed statutory duty to prevent child abuse? Before I deal with the detail, I will note that each of these reforms was championed by the royal commission. I pause at this moment to acknowledge the

extraordinary work of the royal commission. Many of us in our political careers and our careers before politics would have seen royal commissions that were deeply partisan events designed by a government to do a job on its political opponents, to run a particular line, to tear apart an organisation or an opponent that stood in its way politically.

But this royal commission, the Royal Commission into Institutional Responses to Child Sexual Abuse, trod a very different path. The senior commissioner, Justice McClellan, dealt with the utmost respect with those institutions being examined by him and his commission. He gave them every right to present their evidence and have their case heard, but once their evidence was presented and once it was compared to the evidence of survivors and victims of abuse and their advocates and those two things were weighed up in the mind of the royal commission and in the mind of the public the case for reform was compelling.

It is a moral imperative for all of us as members of Parliament to legislate the recommendations of the royal commission. This bill implements three of those key recommendations. I commend the work of the royal commission. I commend the way in which it went about its work. I would commend the way it went about its work to other royal commissions so that instead of abusing their powers to do a job on someone's political opponent they use their powers to hold powerful institutions to account in a way that I would not have conceived possible when I first started campaigning in this space in 2011.

At the time we produced our first resource on justice for victims and to remove the Ellis defence. We distributed a copy of it to the principals of each Catholic school in New South Wales. It met with vociferous opposition from then Cardinal Pell, who thought that he had by dint of his office as the Catholic Cardinal the capacity to squash the stories of survivors. That is what he and his institution had done for decades before that. He thought he would just capture the same political voices and leaders that had been captured so often to protect institutions and continued to allow for the systemic abuse of survivors, but on this occasion he was wrong.

I remember his immediate response to us, producing the pamphlet and presenting it to each of the principals of Catholic schools in New South Wales. He produced his own very similar pamphlet, although of course with quite different content. It was very similarly produced and had on the front of it "Sexual Abuse". I distinctly remember him presenting it at a press conference, holding it up and trying to defend his church's culpability. If anyone can remember it, that press conference was a train wreck for Cardinal Pell because the world had changed and finally survivors were being credited and put in a position superior to that of the institutions that for so long had abused them. I remember the moment distinctly. That moment was then captured by the then Prime Minister Julia Gillard, we then got the royal commission, and now we are implementing the outcome. Sometimes change takes a long time, but now it has come we can celebrate it.

Creating the statutory duty to prevent child abuse, division 2 of the bill operates prospectively, that is, it operates only from the time the bill is assented to. It imposes a duty of care on any organisation that exercises care, supervision or authority over children to take reasonable precautions to prevent an individual associated with the organisation perpetrating child abuse in connection with the organisation's responsibility for the child. That phrase is very much a lawyer's picnic, but what it does is provide a clear, express statutory duty that is not found in the common law. It then says that the organisation is presumed to have breached that duty, so there is an active presumption; it does not have to be proven if child abuse is established.

Then if the institution wants to defend the case, instead of plaintiff having to prove that there was a breach, the organisation must establish that it took reasonable precautions to prevent the child abuse. The bill has a series of factors to be taken into account by a court in determining if an organisation took reasonable precautions. It includes the nature of the organisation, the perpetrator's role and compliance with applicable standards. That is a significant reform and will create a far more just legal framework for survivors of abuse to hold institutions to account.

The second major change is in relation to the vicarious liability of organisations. Division 3 of the bill again operates prospectively—that means operating forward—and codifies the common law approach to vicarious liability of an organisation for any child abuse perpetrated by employees and extends it to include individuals akin to employees. An individual is expressed to be akin to an employee if he or she carries out activities as an integral part of the activities carried out by the organisation and does so for the benefit of the organisation. When we sought public comment on our bill in 2014 to remove the Ellis defence, one of the repeated responses we received from lawyers and advocates was that the bill should be expanded to allow the Catholic Church to be held accountable when there was a close connection between the abuse and the church. We accepted the validity of that argument then.

That change was recommended to carry the narrow interpretation of vicarious liability under the common law in Australia. In both Canada and the United Kingdom, the courts have expanded the scope of "vicarious liability" to include cases where a wrongdoer has such a close connection with an organisation that it is considered

just to hold that organisation liable for the wrongdoing. That was the approach we adopted in our 2014 bill and I am glad to see that after the recommendation of the royal commission it is now adopted in this bill.

The third and final reform that this bill creates is to overcome the Ellis defence by putting in place what is called a "proper defendant". Division 4 of the bill enables child abuse proceedings to be brought against an unincorporated association, which can nominate a proper defendant to stand in its shoes. If the unincorporated association does not nominate a proper defendant with sufficient assets to satisfy the claim, the court can appoint the trustees of an associated trust as a proper defendant. The bill allows assets of the trust to be used to satisfy the claim. This reform quite appropriately operates both prospectively into the future and retrospectively to cover past wrongdoings.

Why do we need this? The key institution—it is not the only one but it is the one that this reform is primarily focused on—is the Catholic Church. Many people quite rightly believe that the Catholic Church is an extraordinarily wealthy organisation, with one of the largest land holdings in the country and with associated entities. A review by the *Business Review Weekly* in 2005 said that if the church was a corporation it would have been one of the top five corporations in this country in terms of turnover. To an extent that is true. The Catholic Church is an extraordinarily wealthy institution. However, the property that is owned by the Catholic Church in this State is held in a series of property trusts established under law created by this Parliament. The law dates back to 1936 and at the time it was designed to assist the church in keeping track of its land ownership by having statutory trustees appointed, rather than the church having to keep redoing its land titles when natural persons who were appointed as trustees died, which they have a habit of doing, particularly in the time frame of the church.

The law had a purpose in 1936, but it has been systematically and routinely abused by the church since that time. In law, the entity known to the general population as the "Catholic Church" is called an "unincorporated association" with no independent legal identity. That means that the Catholic Church in New South Wales, in the eyes of the law at least, does not exist and cannot be sued. This legal structure has had extremely important and extremely adverse ongoing consequences for victims of abuse. The structure was used in a 2007 decision of the New South Wales Court of Appeal and affirmed on appeal to the High Court when John Ellis sought compensation for sexual abuse that he suffered as a child at the hands of an assistant priest at Bass Hill parish between 1974 and 1979.

I pause at this moment. One of the extremely brave, undefeatable survivors that I have worked with is John Ellis. He took on the church and it did everything it could to crush him. He is still standing and is now a successful solicitor. The experience he had with the church gave him drive and passion. He has a successful legal practice and he can take credit for having brought many meritorious cases against the church that once so rudely dealt with him. In 2007 Mr Ellis could not sue the deceased assistant priest. He could not sue a dead person, nor could he sue the church. Mr Ellis therefore sued the current church leadership in the form of the then Cardinal Pell and the property trust that held all of the church's assets.

In court, the church never disputed the fact that Mr Ellis had been appallingly sexually abused and did not dispute the fact that he had suffered significant damage. Instead, the church persuaded the court that the then leader of the Catholic Church—Cardinal Pell—could not be held responsible for breaches of care by former members of the unincorporated association that is the Catholic Church. Cardinal Pell got let off. The church also argued, and the court agreed, that the property trust could not be sued by victims of abuse as the trust was solely responsible for property matters and therefore not liable for any sexual abuse by members or officials of the church. It was a bizarre situation where if young John Ellis had been injured by a falling rafter from the church hall he would have been compensated by the church trust but because he was deliberately, consciously, illegally and repeatedly abused by an assistant priest the trust was said to have no legal liability.

Mr Ellis' case was dismissed. Not only that but at the direction of Cardinal Pell, to his eternal shame, the church then chased John Ellis for legal costs and had a legal costs order in the order of $750,000 against a man who they effectively admitted they had routinely and repeatedly sexually abused. I cannot imagine a more unfair, unjust and abusive outcome. Since that time, victims of the church simply refer to this case as the Ellis defence and it has been cited repeatedly, particularly in cases brought against the Sydney diocese.

This bill requires that if proceedings are brought against an unincorporated association that the unincorporated association must nominate a proper defendant. A proper defendant is only declared as such if the entity is able to be sued in the State, which would negate the Catholic Church, or if the trust has sufficient assets in the State to satisfy any judgement order that may arise out of child abuse proceedings against the unincorporated organisation. In other words, it must put somebody as a defendant that can pay the damage. If the unincorporated association does not nominate a suitable proper defendant at the end of 120 days after proceedings have been commenced, the court can appoint a proper defendant. In the case of an unincorporated association, that includes an associated trust of the organisation. There is a definition of "associated trust" which would have undoubtedly picked up the trust in John Ellis' case—the trust that was left off.

The Greens support the bill. As I said at the beginning of my contribution, I wish it had come much earlier. It should not take such a struggle for survivors of abuse to have their elected representatives give them a fair go against the institutions that abused them. I commend the Attorney General for introducing this bill and for working it through the machinations of government so that we can tick off on this important reform before this Parliament rises. This is essential work. It comes far too late. I finish by commending not the politicians and not even the royal commission but the survivors and the victims. They are the ones that have stood up after the abuse and they are the ones that have had the most compelling voices for reform. Tonight they get a victory. It is about time.

Reverend the Hon. FRED NILE (21:48): I am pleased to speak on behalf of the Christian Democratic Party to strongly support the Civil Liability Amendment (Organisational Child Abuse Liability) Bill 2018. I thank the Attorney General, Mark Speakman, for the diligence he has shown in pursuing this issue and providing us with this legislation. It is not the first piece of legislation that he has introduced that deals with the issue of child abuse in institutions but it is the final bill in the series. The bill will amend the Civil Liability Act 2002 to establish a statutory duty for organisations to prevent child abuse, to codify and extend vicarious liability of organisations for child abuse perpetrated by employees and similar staff and to allow plaintiffs to sue unincorporated associations for child abuse, ensuring there is a proper defendant and sufficient assets to satisfy a claim.

I too congratulate the Royal Commission into Institutional Responses for Child Sexual Abuse on its excellent work and for the positive things it did. Sadly, it uncovered a huge amount of child abuse that had been perpetrated in many organisations—churches, and not just the Catholic Church, youth organisations, the Boy Scouts, boarding schools, Catholic schools, State schools and so on. It is one of the shames on our society that the abuse was occurring and not being dealt with promptly when it was identified and recognised.

There is one big question behind this legislation and that is whether the priests who abused children were paedophiles before they became priests or after becoming priests they became paedophiles. My investigations indicate in many cases, if not all, that the individuals had a tendency towards paedophilia before they became a priest. Individuals with those tendencies realised that if they wanted access to children, the easiest way to achieve that was to become associated with an organisation where there are children—as a priest, a school teacher, a Boy Scout leader. They worked out that they could have access to children in institutions where the children trusted them and where they could exercise their evil desires to abuse those children.

I know of cases where the local priest would become close with parents and would say to them, "I am happy to visit you and your child and I am happy to go to the bedroom and pray with the child." In all innocence, the parents would not have the slightest suspicion that this man was abusing their child in the bedroom. It was discovered later and proved to be true. I have discussed with church leaders that there has to be stricter controls, not just in the church but in all organisations where children are involved, on how to identify a paedophile who conceals his problem. It may not be simple but I believe through intensive psychological testing of candidates for the priesthood or for Boy Scout leaderships that experts could identify tendencies in a person and recommend that they not be approved to enter the church or the youth organisation. How to achieve that may be a sensitive issue. Obviously, an individual would strongly object to being labelled when there is no evidence of abuse of children but there could be evidence of a tendency for that person to move in that direction. As I said, I congratulate the Royal Commission into Institutional Responses to Child Sexual Abuse on its work. The sad part is the number of cases of child abuse that were uncovered. It is a shame on our society.

The reforms in the bill before the House have been developed through extensive stakeholder consultation and complete the Government's implementation of these recommendations. It is not the first response by the Government but it may be the final one, as other reforms have been introduced. The reforms in the legislation are to provide better access to justice for the survivors of child abuse. The two statutory liabilities to provide fairer and more certain avenues for survivors to pursue civil compensation for child abuse occur after the laws commence. Organisations will have an incentive to do everything they can to prevent abuse from happening in the first place. The "proper defendant" reform prevents organisations such as churches from relying on the so-called Ellis defence, which was that they had no structure that could be sued. That has been addressed with this legislation. Whenever the abuse occurred, survivors will now be able to sue a proper defendant with sufficient assets to satisfy a claim in place of an unincorporated organisation.

Through my involvement with churches in all States, I have noticed this year many of the bishops, whether Anglican or Catholic, complaining that they have had to sell churches in their dioceses to meet the claims. So be it. I would hope that they have looked at their bank accounts and assets before selling churches. As has been shown on television, many people who helped to build and have attended those churches are broken-hearted when a bishop decides to sell their church. When the members say that they do not want their church sold, the bishop tells them that they have no say in it because money is needed to meet the claims. The question should be asked, is that the only option open to that denomination?

Organisations will have an incentive to do everything they can to prevent the abuse from happening in the first place, and that is the emphasis of my speech. I have worked hard to try to control pornography and child pornography. People could not comprehend that there was child pornography and said it did not exist. I proved that it did exist and laws were introduced to prevent it. That was under Neville Wran's reign as Premier. Even though he was a civil libertarian, he agreed with me that that was one area of pornography where legislation was required.

The bill contains a statutory duty to prevent child abuse, which is a positive measure. We are looking not just at the past but to the future. Division 3 of the bill prospectively codifies the common law approach to vicarious liability of an organisation for child abuse perpetrated by employees and extends it to include individuals akin to employees. An individual is akin to an employee if he or she carries out activities as an integral part of the activities carried on by the organisation and does so for the benefit of the organisation. Division 4 enables child abuse proceedings to be brought against an unincorporated association, which can nominate a proper defendant to stand in its place. If the unincorporated association does not nominate a proper defendant with sufficient assets to satisfy the claim, the court can then appoint the trustees of an associated trust as a proper defendant. The bill allows assets of the trust to be used to satisfy the claims where there has been sexual abuse. The proper defendant report is both retrospective and prospective. As I reiterated, I am pleased to congratulate the Attorney General Mark Speakman for the work he has done in this area. This is probably the final stage of the legislation dealing with this issue. I thank him and his staff for their work.

The Hon. NATALIE WARD (21:59): I speak in support of the Civil Liability Amendment (Organisational Child Abuse) Bill 2018 and I apologise to my colleagues, as I had not planned to do so but feel a compulsion to do so at this late hour, having lived and breathed the Ellis case. I feel that this is a monumental moment in this Chamber where we are righting wrongs and I appreciate the indulgence of my colleagues to comment briefly on the bill. I thank Mr David Shoebridge for his articulation of the issues this evening but also for his ongoing and longstanding advocacy in this space, when it was not popular, common or well-known—

The PRESIDENT: According to sessional orders, proceedings are interrupted to permit the Minister to move the adjournment motion if desired.

The House continued to sit.

The Hon. NATALIE WARD: I acknowledge the work done by Mr David Shoebridge when it was not popular or well-known and to articulate the challenges, particularly of survivors. It is not about us parliamentarians. It is not about the lawyers and, frankly, it is not about the legislation. It is about those people who do survive because so many of them did not survive. So many of them are not here to see this wrong righted and it is for those people and the survivors who have been brave enough to deal with the previous process that we stand here tonight.

I mean no offence to those of faith—I am a person of faith—but it is clear there is an institution here that had a great wrong and hence the name of the royal commission was "Institutional Responses to Child Sexual Abuse". It was in relation to the institutions that individuals were up against for the worst of crimes that that royal commission occurred. Mr David Shoebridge and my colleagues have paid attribute to all of them. The royal commission members did an outstanding job in conducting a thorough, fair, sensitive and trauma-informed process to ensure that survivors, their support people and their lawyers, and institutions were able to freely, fairly and in a forthright way present what had happened to them.

I commend the royal commission, as have many before me, on the excellent work it has done and for forging a path for us to follow with its recommendations. However, it was those people before the royal commission who did the hard yards, when it was not popular and when there was a lot of money and a lot of institutional strength behind delaying, obfuscating, intimidating and ensuring that survivors had a very difficult path to prosecute their claims. I pay particular attention and thanks to the Hon. Mark Speakman, the Attorney General, who has ensured that this legislation, as part of a series, has righted the wrongs of so many other cases and, in particular, the Ellis defence. It will ensure that, in legislation, we embody the rights of survivors to pursue claims against those who have wronged them. As a mother, it is particularly disturbing that these crimes—and they are crimes—occur to the most vulnerable and those we should pay the most respect to, our children.

I acknowledge Colonel Dr Andrew Morrison, RFD, SC, who was senior counsel on the Ellis case. He ran that case throughout its duration with honour, grace, dignity and at no cost. There are many disparaging things said about lawyers—I am the first to agree with many of those—but you will not find a more honourable person than Andrew Morrison.

Mr David Shoebridge: And he quietly campaigned to fix the law afterwards.

The Hon. NATALIE WARD: Indeed, I acknowledge the interjection of Mr David Shoebridge. He is quite right. As a young solicitor, in practice with my husband, I ran a number of child sexual abuse claims. I will not talk about those for long but what I will say that a very clear memory for me is when John Ellis came to us. He was a partner in a large commercial firm who came to us for help. We took on his case, and with his wife Nicola by his side, we were together throughout his journey over a number of years. What stands out to me is his grace and intelligence, their dignity together and, as part of that journey, us working together as a team in what was the most dreadful of litigation cases that I have ever run.

I remember wheeling my six-week-old daughter in a pram into the office so we could run the litigation in the Supreme Court. The matter was very dear to our hearts and a family affair—and I pay tribute to members of our family and friends who helped us out during that difficult time when it was never in doubt that we would continue his case and that we would ever give up. Through the journey in the initial proceedings the court found, and the church agreed, that the abuse had occurred and John Ellis had been abused repeatedly. The church, to its disgrace—I mean no offence to people of faith—had its "Towards Healing" process which agreed that the abuse had occurred but nonetheless took the decision to appeal the matter and to defend its claim. Despite repeated attempts on our part to reach a settlement arrangement, the church absolutely refused at every opportunity to end the matter and to allow John Ellis some peace. Perhaps, in hindsight, I should say "Thank goodness", because we saw its true colours.

I was at court on the day we got the decision from the High Court that our application for special leave to appeal to the High Court had been rejected. I do not like to lose but this was nothing less than devastating for us and for John and Nicola Ellis and it is a memory I will never forget. It motivates me and it motivated me to speak on this today. I have never seen a braver person than John Ellis on that day. To be told: "There is no such entity as the Catholic Church. You cannot sue us. Yes, the abuse occurred. Yes, we will cross-examine you for three days straight about that abuse in the Supreme Court. Yes, we are an entity that runs schools, we are an insurer, we own land but you cannot sue us" was outrageous. But John Ellis stood there as a man of faith and dignity, with Nicola by his side, as he took the decision of the High Court, as a lawyer would, in respect.

I would like—and I ask the indulgence of my colleagues in the House—to pay tribute to my husband, David Begg, who as a solicitor has enormous integrity and who at no moment hesitated with these proceedings. He decided, after the initial pushback from the church, to name George Pell personally. He would not be defeated or intimidated. He was not concerned about costs or time but was concerned about doing the right thing and he took the decision to name George Pell personally, despite protestations from a number of people—I may or may not have been amongst them. I will always admire his bravery, determination, tenacity and his ethics as a lawyer, and it is lawyers who I would like to briefly pay tribute to.

It is not about lawyers but there are good people doing good things and who, for many years, have advocated changes, run claims and assisted and supported survivors throughout—John and Nicola Ellis are amongst them. To those good solicitors on both sides, in particular Alex Kohn who acts for institutions, I say it takes good people on both sides to come to a resolution. I believe that this bill comes to and gives resolution. Yes, it is too late: far, far, far too late, and there is no justice in that. But having the ability to name a proper defendant would have saved years of heartache and would have saved many lives if it had been done earlier. The point of this bill is that an unincorporated association may appoint a proper defendant. If they choose not to, the court may do so for them. That is right and proper.

I pay tribute to the hundreds of survivors whose affidavits I and other lawyers have taken for their bravery in telling us their stories and trusting us with their stories. I pay tribute to all of those who acted and who have spoken on their behalf, sat by their sides, and walked their journeys with them. I also pay tribute to those who went through unnecessary litigation and in many cases, including criminal proceedings, lost. In John Ellis' case, he not only lost but also had costs awarded against him, as Mr David Shoebridge pointed out. That caused great devastation, which is a product of our legal system.

I commend this bill to the House. It is a great justice being done to right so many wrongs. I am grateful to those who have taken the time to be involved in it to create a duty on organisations that will prevent child abuse from occurring. I emphasise the words "prevent child abuse". Child abuse is not something we should be fixing up afterwards; it is something that simply should not occur. This bill creates a legal presumption that an organisation that has breached its duty in relation to a child for which it has responsibility, and subjected a child to abuse by an individual associated with that organisation, should be liable. An organisation should not be able to say, "You can't sue us." I thank the House and my colleagues for their indulgence. I commend the bill to the House.

The Hon. SCOTT FARLOW (22:11): On behalf of the Hon. Don Harwin: In reply: I thank members who contributed to the debate: in particular the Hon. Daniel Mookhey, Mr David Shoebridge, Reverend the Hon. Fred Nile, and, most importantly, the Hon. Natalie Ward. I note the personal involvement of the Hon. Natalie

Ward and Mr David Shoebridge in bringing about legislation such as the bill before the House. In the interest of saving time, I will not make a substantial reply but instead will turn members' attention to the reply given by the Attorney General in the Legislative Assembly, particularly with respect to the National Redress Scheme, and refer members to the Victorian legislation and the differences between that and the New South Wales legislation; in particular, the timing.

I note in particular that the Victorian legislation's response—primarily the Wrongs Amendment (Organisational Child Abuse) Act 2017—followed the Victorian Government's own royal commission into the matter. I point out also the advantages of the bill before the House over a bill introduced by Mr David Shoebridge in 2014, the Roman Catholic Church Trust Property Amendment (Justice for Victims) Bill 2014, and the bill introduced by the member for Liverpool, the Civil Liability Amendment (Institutional Child Abuse) Bill 2017. Having said that, I commend the bill to the House.

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

Motion agreed to.

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.

CRIMES (ADMINISTRATION OF SENTENCES) LEGISLATION AMENDMENT BILL 2018

First Reading

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Scott Farlow, on behalf of the Hon. Niall Blair.

Second Reading Speech

The Hon. SCOTT FARLOW (22:16): On behalf of the Hon. Niall Blair: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Crimes (Administration of Sentences) Legislation Amendment Bill 2018. The bill amends the Crimes (Administration of Sentences) Act 1999 and the Children (Detention Centres) Act 1987 to improve security in correctional centres and juvenile justice centres by prohibiting drones from being flown above places of detention; prohibiting Corrective Services employees engaging in sexual and intimate relationships with sentenced and unsentenced inmates and offenders; and providing clarity on when correctional officers may use reasonable force against visitors.

In recent years, technological advancements have made remotely piloted aircraft increasingly affordable to everyday consumers. Those aircraft, which are commonly referred to as drones, already have had significant impacts on modern life by making aerial photography attainable for amateur enthusiasts and by being used for purposes ranging from search and rescue missions to helping to combat elephant poaching in Africa, which may be of interest to some members of this House. However, like so many advances in technology, drones have not just been embraced by individuals with artistic or altruistic motivations.

The last five years have seen the use of drones to create a new threat to the security of correctional facilities around the world. In England and Wales there have been media reports of organised crime rings using drones to smuggle drugs, phones, weapons, and SIM cards into numerous prisons. There also have been incidents in Australian prisons, including a drone that was captured on closed-circuit television [CCTV] at the Lithgow Correctional Centre in October 2017 and which may have been used to smuggle steroids into the prison, as well as four high-security prisons in Queensland that went into lockdown in July 2018 after drones were spotted flying overhead. Victoria has introduced legislation to tackle the emerging problem of drones around correctional facilities. It is clear that drones represent a threat to the security of prisons, and this bill introduces new offences prohibiting the possession and operation of drones in and around prisons and juvenile detention centres.

The bill also makes amendments to the Crimes (Administration of Sentences) Act 1999 to clarify the situations in which force may be used by correctional officers against visitors of a correctional centre, and the extent of the force that may be used. Part 13A of that Act specifies a number of offences relating to places of detention that may be committed by both inmates and visitors and the powers available to correctional officers to enforce apprehension for those offences, including search and arrest powers. The bill does not seek to expand current powers, but to clarify how and when existing powers may be used.

Section 253L of the Act already permits the use of force against both inmates and visitors as is reasonably necessary for correctional officers to exercise their functions under part 13A. However, while the regulations under the Act provide additional guidance for staff on the use of force against inmates, no such guidance is provided in relation to visitors, which leaves ambiguity as to what is and is not permitted. For example, the circumstances in which restraints, such as handcuffs, may reasonably be used against visitors are unclear. By creating more certainty in these areas, the bill will provide safeguards for visitors, and ensure that Corrective Services staff are able to exercise their powers with greater confidence that they are acting within the bounds of what is permitted.

The bill introduces an offence for Corrective Services employees and employees of privately managed prisons to engage in sexual conduct or an intimate relationship with an inmate or a person who is subject to a community-based order if the conduct or relationship causes a risk to the safety or security of a correctional facility or to good order and discipline within a correctional facility, or compromises the proper administration of a sentence or a community-based order. The vast majority of correctional officers and staff discharge their duties with integrity and diligence. I stand with those prison officers and correctional staff who are appalled by the recent reports of alleged inappropriate relationships with inmates, and express my gratitude and the Government's gratitude for the work they do in one of the most challenging professions in New South Wales. This offence demonstrates the Government's commitment to respond to community concerns about the small minority of staff within the correctional system who engage in inappropriate relationships with offenders and take action to deter and punish such behaviour.

The offence will carry a maximum penalty of 20 penalty units, or imprisonment for two years, or both. The term "correctional employee" will be defined to apply to all members of staff of Corrective Services NSW and to employees who work in privately operated prisons. The term "intimate relationship" will cover relationships between two or more persons involving sexual conduct or other physical expressions of affection, or the exchange of written or other communications of a sexual or intimate nature, or both, including relationships between spouses and de facto partners. A correctional employee will not commit an offence under this provision if the employee did not know, while the employee engaged in sexual conduct or an intimate relationship with an inmate or person subject to a community-based order, that the other person was an inmate or subject to the order.

In addition to the new offence targeting intimate relationships and sexual conduct between correctional employees and offenders, the Government has established Taskforce Themis, led by a retired assistant commissioner of the NSW Police Force, Mark Murdoch, to assess and report on the circumstances of a number of inappropriate relationships between Corrective Services employees and offenders dating back to 2007. The task force will also review and report on the investigation and management of these relationships by Corrective Services NSW.

Finally, the bill makes a minor amendment to section 181 of the Crimes (Administration of Sentences) Act 1999 to insert a reference to reintegration home detention orders that was inadvertently omitted from that provision when the Crimes (Sentencing Procedure) Amendment (Sentencing Procedure) Act 2017 came into force on 24 September 2018. This particular amendment will apply retrospectively from 24 September 2018 and provide that any warrant issued by the Parole Authority in relation to the revocation of a reintegration home detention order will be retrospectively validated.

I now turn to the detail of the bill. Schedule 1, item [3] to the bill creates three new offences in the Crimes (Administration of Sentences) Act 1999 relating to the possession and operation of remotely piloted aircraft. First, under section 253FA it will be an offence for someone in a correctional centre or any residential facility or transitional centre prescribed by the regulations to have in their possession a remotely piloted aircraft. "Remotely piloted aircraft" is deliberately defined broadly, and means any unmanned airborne craft, including a part of a remotely piloted aircraft and the remote control for a remotely piloted aircraft.

Secondly, under section 253FB (1) a person must not be in possession of a remotely piloted aircraft within prohibited airspace. "Prohibited airspace" is defined as the airspace above any detention premises, and above the land in the immediate vicinity of any detention premises, at or below 400 feet above ground level. This definition is intended to extend to people who are in possession of a remotely piloted aircraft at ground level in the immediate vicinity of detention premises. It will be a defence to this offence if the defendant establishes that the possession was not for the purpose of threatening the good order or security of detention premises. This will encompass recreational use by minors and children.

Finally, under section 253FB (3) it will be an offence to operate, without lawful excuse, a remotely piloted aircraft that is within prohibited airspace in a manner that threatens or is likely to threaten the good order or security of detention premises. The maximum penalty for all three offences is 20 penalty units, two years imprisonment, or both. Schedule 2 inserts equivalent provisions relating to remotely piloted aircraft into the Children (Detention Centres) Act 1987, ensuring that the security of juvenile detention centres will be similarly

protected against risks arising from remotely piloted aircraft. Schedules 3 and 4 insert provisions into the Crimes (Administration of Sentences) Regulation 2014 and the Children (Detention Centres) Regulation 2015 to prescribe the circumstances where possession or operation of a remotely piloted aircraft at, above or in the immediate vicinity of detention premises is not an offence. Schedule 3 also inserts a provision into the Crimes (Administration of Sentences) Regulation 2014 to prescribe certain residential facilities and transitional centres to be detention premises for the purposes of the remotely piloted aircraft offence provisions.

Schedule 1, item [7] inserts new sections 253MA and 253MB into the Crimes (Administration of Sentences) Act 1999. Section 253MA will clarify that a correctional officer may use force to deal with a visitor for the following purposes: to protect the correctional officer or another person from attack or harm or imminent attack or harm, if there are no other immediate or apparent means to protect the correctional officer or other person; to prevent damage to the place of detention or property within the place of detention; to prevent an unlawful attempt to enter the place of detention by force or to free an inmate; to remove the visitor from the place of detention if the officer is authorised to do so under the regulation for the purpose of exercising a power under part 13A.

The nature and extent of force that may be used are to be dictated by the circumstances, and must not exceed the force that is reasonably necessary for protection, or to maintain the good order and security of a place of detention, having regard to the personal safety of correctional officers and others. A correctional officer will be permitted to use handcuffs or other equipment prescribed by the regulations for the purpose of restraining a visitor, but only if it is reasonably necessary in the circumstances. Schedule 3, item [1] amends the Crimes (Administration of Sentences) Regulation 2014 to prescribe flexicuffs as equipment that may be used for this purpose.

Under section 2531 of the Act, correctional officers are granted powers to conduct searches for the purpose of enforcing the offences under part 13A. The bill amends the Act to remove the ability for searches to be conducted by a non-correctional member of staff, on advice from Corrective Services NSW that, in practice, the provision is never used. The amendments will commence at the date of assent. I put on record both my appreciation and the Government's appreciation, particularly to the staff at Corrective Services NSW, the Department of Justice's Justice Strategy and Policy team, and of course the Minister for Correction's own staff, who worked tirelessly on these legislative amendments. I commend the bill to the House.

Debate adjourned.

COMBAT SPORTS AMENDMENT BILL 2018

First Reading

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Scott Farlow, on behalf of the Hon. Don Harwin.

Second Reading Speech

The Hon. SCOTT FARLOW (22:28): On behalf of the Hon. Don Harwin: I move:

That this bill be now read a second time.

The Combat Sports Amendment Bill 2018 amends the Combat Sports Act 2013 to make improvements to the regulation of combat sports in New South Wales. Earlier this year, the Minister for Sport asked the Combat Sports Authority to undertake a comprehensive review of the Act. The Minister requested that the authority particularly examine recommendations of the Deputy State Coroner following the inquest into the tragic death in 2015 of professional boxer David Browne. To inform its review, the authority released a consultation paper and undertook widespread public consultation across New South Wales. It also established a medical advisory committee made up of doctors and industry representatives to provide advice to the authority on the Deputy State Coroner's recommendations from a medical expert perspective. The Government thanks the authority for its comprehensive and detailed review of the Act.

The authority identified legislative changes that can be made immediately to improve the regulation of combat sports in New South Wales. Those legislative changes supported by the Government are the subject of the Combat Sports Amendment Act 2018, which I will now address in detail. The Government supports the development of the combat sports industry. The many sports that make up this industry have high community participation rates and also provide opportunities for social cohesion and support, especially for disadvantaged young people. That is why the bill provides a new object of the Act to promote the development of the combat sports industry. The Government is also of the view that the development and growth of the industry requires a continuing commitment by it to further promote the health and safety of combat sports combatants.

A number of provisions in this bill will make significant improvements to the promotion of combatant health and safety. The bill introduces provisions that give trainers and seconds the power to direct a referee, who must follow that direction, to stop a contest if they have any concerns about the health and safety of the combatant. It also provides that the referee, trainer or second before the contest may agree to the manner, including by way of signal, that a request to stop the contest will be made. This is important because it will provide the opportunity for all parties to understand and to agree how the trainers or seconds can tell the referee that a contest should be stopped. The authority believes the combatant's trainer or second know their combatant better than anyone else. They need to be able to have the power in law to make sure that a contest is stopped if they are in any way worried about the safety of their combatant.

The Government also intends to make regulation changes that address and respond to a number of specific recommendations of the Deputy State Coroner. Referees and medical practitioners will be required to attend a pre-contest briefing with the promoter of the contest and the combat sport inspector so that they understand the rules that apply to the contest and elements of the Injured Combatant Evacuation Plan submitted to the authority by the promoter. The Injured Combatant Evacuation Plan, which the promoter will need to submit to the authority not less than five days before the contest, is designed to ensure that there is a plan in case of a serious injury to a combatant.

The plan will include the following to be consistent with the Deputy State Coroner's recommendations: the street address of the venue and the route by which paramedics can access the ring from the street with a stretcher and medical equipment and evacuate a patient safely; the identity of the person who will call emergency services in the event of an injury; and the information about the patient that must be conveyed, including the state of consciousness, bleeding, breathing and any apparent head injury. The Combat Sports Authority will prescribe in its rules the minimum medical equipment that the promoter must ensure is present at each contest. These will be, at a minimum, airway support, an oxy-viva mask and oxygen.

The bill also amends the Act to reduce red tape and administrative burdens for industry and government and introduces changes that reflect current practice and procedures, many of which have been sought by industry and other key stakeholders. These include provisions dealing with renewal of registration and removal of the 21 day cooling-off period for applicants seeking first-time registration in a professional combatant class. The removal of the cooling-off period will enable people to register closer to the date of a contest and also allow promoters and matchmakers to put combatants immediately on a fight card. The Combat Sports Authority consultation paper noted that some have suggested that this cooling-off period was an unnecessary barrier to the planning of combat sports contests, and the same view was expressed during public consultation. The authority and the Government agree that the provision serves no obvious policy purpose. Industry has requested this change for some time and is supportive of the change.

The bill also amends the definition of a professional combat sport contest to clarify that a contest involving a combatant who has previously been registered as a professional in a style of combat sport but who has subsequently been permitted to register as an amateur in that style is not a professional combat sport contest. This is because section 16 of the Act makes it clear that it is possible for a combatant who has competed in a professional combat sport contest to become registered as an amateur provided they can satisfy the authority that they have never competed for a monetary or valuable reward. In such a case, any registration they currently hold as a professional will be cancelled.

The authority has identified at least one person caught up in the interaction between section 5 (1) and section 16 of the Act. Therefore, schedule 1 (3) to the bill clarifies when a combat sport contest is a professional combat sport contest. Under sections 15 and 28 of the Act, registrations of combatants, industry participants and promoters expire after three years. There are no renewal provisions in the Act, which requires registered persons to provide all necessary paperwork and pay the full application fee in order to reapply after three years. This creates significant regulatory burden for the authority and the industry. During public consultation, respondents suggested that renewal provisions should be included in the Act to streamline the reapplication process. The bill therefore introduces renewal provisions for combatants and industry participants and promoters. This is the first step in developing renewal requirements that will reduce regulatory burden on the industry.

The bill also improves the provisions dealing with the powers of the authority, combat sport inspectors and police officers to give directions to promoters, industry participants, combatants and other persons regarding the holding or participation in a combat sport contest. Under new section 62 (1), the authority or a combat sport inspector can direct a person not to hold a combat sport contest at or after a weigh-in where, in their opinion, there is likely to be a contravention of the Act, regulation or rules if the contest is held. Similarly, new section 62 (2) permits a police officer to direct a person not to hold a combat sport contest if satisfied that there is a risk to public health or safety or a risk of substantial damage to property if the contest is held.

Under new section 62 (3), a person who gives a direction under this section may also direct a person not to act as an industry participant in relation to the combat sport contest, or participate as a combatant in the contest. This is problematic because a direction under new section 62 (3) may be given only after issuing a direction under new section 62 (1) or new section 62 (2). There may be circumstances in which the person to whom a direction not to hold a contest must be given, such as the promoter, may be difficult to locate. Schedule 1 (21) to the bill provides that a direction not to act as an industry participant in relation to a combat sport contest or not to participate as a combatant in a combat sport contest may be given to a person by the authority, a combat sport inspector or a police officer regardless of whether the authority, inspector or police officer also gives a direction not to hold a combat sport contest.

The bill also contains a number of provisions that will assist the NSW Police Force with its involvement in the regulation of combat sports in New South Wales. The Act provides that the authority must refuse to grant a permit if the Commissioner for Police advises that there is a risk to public health or safety or a risk of substantial damage to property if the contest were held. The NSW Police Force has advised the authority that in its view there will always be some type of risk and, as a result, all applications could be refused. Schedule 1 (15) to the bill provides the NSW Police Force with greater flexibility by lifting the threshold from risk to serious risk. The bill also, importantly, provides better protection of criminal intelligence or other criminal information provided to the authority by the NSW Police Force about an applicant for registration as a combatant, an industry participant or promoter, or about a combatant, industry participant or promoter.

I assure the House that this bill is not the end of the Government's reform to combat sports in New South Wales. The authority has identified a number of important areas for potential future reform that require more industry consultation and consideration before the Government makes a final decision. These areas include consideration of the remaining Deputy State Coroner's recommendations. The Government does not want to rush further regulatory reforms without having taken into consideration the potential impact on the combat sports industry and the wider community. It also wants to make sure that any further regulatory change is in the public interest and the benefits to the community outweigh any costs.

This bill is the start of a process of reform that I am confident will vastly improve the promotion of health and safety of combat sports combatants and ensure that government regulation achieves the appropriate balance between the protection of combatants and the continued growth and viability of combat sports in New South Wales. I commend the bill to the House.

Debate adjourned.

CONVEYANCING LEGISLATION AMENDMENT BILL 2018

First Reading

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. David Clarke, on behalf of the Hon. Don Harwin.

Second Reading Speech

The Hon. DAVID CLARKE (22:39): On behalf of the Hon. Don Harwin: I move:

That this bill be now read a second time.

I am pleased to introduce the Conveyancing Legislation Amendment Bill 2018. This bill introduces much-needed protections for consumers who buy residential property off the plan. As well, the bill removes perceived barriers to electronic land transactions, smoothing the way for financial institutions and conveyancing professionals who want to offer fully electronic land transactions to their digital-savvy customers. For those of us less familiar with the property market, an off-the-plan contract is an agreement to sell a parcel of land or a strata unit that does not exist at the time the contract is signed. These contracts have played a crucial role in the success of the construction industry. Having committed purchasers willing to buy the end product before development begins allows developers to secure funding at more affordable rates, often being the difference between success and failure of a project. Without off-the-plan contracts, development would not be viable and our State would miss out on the economic benefits that are associated with a healthy housing market.

Off-the-plan contracts are also attractive to buyers. They give purchasers the opportunity to buy a new dwelling tailored to their specifications, and provide time for the purchaser to save before being required to pay the final price. But off-the-plan contracts also come with a degree of risk. Purchasers are not buying an asset that can be seen and inspected; instead, they are buying an idea that relies on the terms of the contract and the goodwill and expertise of the developer to complete. In 2015 the Government introduced urgent legislation to stop the misuse of one key aspect of off-the-plan contracts—the sunset clause. At that time, the property market was rising rapidly. With it came reports of disreputable developers manipulating the sunset date to bring contracts to an end

so that the property could be resold at a much higher, windfall price. Purchasers saw their dreams of home ownership evaporate. There was general agreement—both by purchasers, who felt powerless to defend their rights, and by the majority of trustworthy developers, who did not want the reputation of their industry tarnished by rogues—that this practice should be stopped by legislation,

When the sunset clause legislation was introduced the Government promised to look at off-the-plan contracts more broadly to see whether further regulation of industry practices was needed. The Office of the Registrar General published a discussion paper during 2017 that canvassed a range of issues and called for public comment. The responses were clear: Industry practices should be standardised. Purchasers needed remedies that did not depend on expensive litigation when the final product presented for sale was not what was promised when the contract was signed. The statistics were also revealing. In the 2006-07 financial year, 2,148 off-the-plan contracts were signed, representing 1.25 per cent of all residential property sales. Ten years later, there were 29,022 off-the-plan sales, representing around 11.5 per cent of the residential sales market. Regulation was not keeping up with changing industry practices.

Other Australian States have vendor disclosure regimes aimed specifically at off-the-plan property sales. In particular, Queensland and Western Australia have had comprehensive disclosure requirements for developers for many years. New South Wales has a robust vendor disclosure regime for already constructed residential property. Information must be given about the land in its current state. For most property sales, this information allows purchasers to exchange quickly with confidence. But for off-the-plan sales this information is not sufficient. There is no legislative requirement for the vendor to disclose even minimum information about planned proposals where the development has not been constructed.

The challenge was to provide legislation that gave greater protection for purchasers but retained sufficient flexibility for developers so they could innovate and continue to take the risk on development. This bill provides that balance. The bill introduces a vendor disclosure regime that will require a minimum level of information to be given to a purchaser before the contract is signed. Along with disclosure comes a new statutory right allowing a purchaser to rescind the contract if there are consequential changes to the property that will materially prejudice the purchaser. The bill also deals with cooling-off rights, makes amendments to the existing sunset legislation to overcome a loophole and places restrictions on how the deposit is to be held.

Most of the reforms are included in a new division 10 of the Conveyancing Act 1900, dealing specifically with off-the-plan contracts. Division 10 will only apply to the sale of residential property but will be applicable regardless of whether the property sold is vacant land or a unit in a strata development. The main component of the regime is a disclosure statement that is required by new section 66ZM to be attached to an off-the-plan contract before it is signed by the purchaser. This provision applies in addition to the existing vendor disclosure laws required by section 52A of the Act. The disclosure statement must be available for inspection with the contract before the property can be advertised for sale. Attached to the disclosure statement will be a set of prescribed documents that must include a copy of the draft plan.

Other required documents will be prescribed by regulations that will be introduced as an amendment to the Conveying (Sale of Land) Regulation 2017 so that they sit alongside the existing vendor disclosure requirements. The precise nature of these documents will be finalised after further consultation with stakeholders but will likely include proposed by-laws for strata and community properties and a schedule of finishes, where building work is to be provided as part of the contract. In many respects, the disclosure statement and the material attached to it will not differ greatly from the documents and information already provided by most developers. In essence, the new obligation reflects best practice, prescribing a minimum standard of information that all developers will need to meet. It will cause them to think more deeply in the early stages of a project about things, like by-laws, that may not be so important to the developer but will greatly interest potential buyers looking for a future home.

Another important change will be made to the cooling-off period, extending the period to 10 days for off-the-plan contracts. The current legislation gives purchasers a five business day cooling-off period that commences on the day the contract is exchanged. This period allows the purchaser to fully examine the contract and finalise finance, secure in the knowledge that they have a binding agreement for sale. For off-the-plan contracts the five day cooling-off period is not enough, particularly where properties are marketed for sale at launch days, without the opportunity for the contract to be examined beforehand. Purchasers need time to examine usually lengthy contracts and become familiar with the commitments they are making about a property that they cannot physically inspect.

Not all developers are comfortable with the extension of the cooling-off period. Marketing of a project is a key factor of its success. Developers need to know that they have binding contracts with purchasers to allow a project to proceed. In recognition of this, the legislation provides a mechanism enabling the cooling-off period to be waived if the purchaser has been given time to review the contract before exchange, and a solicitor signs a

section 66W certificate stating that the contract has been explained to the purchaser. During the construction process the developer may need to change their plans, often due to factors outside their control or changes in circumstances. Not all of these changes will affect the purchasers but, if there is a change to a material particular, new section 66ZN requires the vendor to serve a notice of changes. The notice can be served at any stage throughout the life of a project but must be served on the purchaser at least 21 days before completion.

A material particular is defined by new section 66ZL to include those changes that will adversely affect the use or enjoyment of the subject lot. This could include significant changes to the draft plan, the by-laws or easements that will, or are likely to, adversely affect the use or enjoyment of the lot. The regulations can give further guidance about what a material particular is and, significantly, can also prescribe matters that are not deemed to be material. New section 66Z0 gives the purchaser a statutory right to rescind, which must be exercised within 14 days of the notice of changes being given. This right arises if two conditions are satisfied: first, the purchasers show that they would not have entered into the contract had they been aware of the change; and, secondly, the purchaser must be materially prejudiced by the change. This test is based on similar New South Wales case law where the rights of a purchaser to rescind a contract are under review. If a notice of rescission is not served by the purchaser, the disclosure statement is taken to be amended to include the information notified in the notice of.

The purchaser will not only have a right to rescind if a notice of changes is served. New section 66ZP requires the vendor to give the purchaser a copy of the registered plan, plus any other documents registered with it, at least 21 days before the purchaser can be required to settle the contract. If the plan reveals inaccuracies in the disclosure statement in relation to a material particular, the purchaser will have another opportunity to rescind. Once again, the purchaser must show that they would not have entered into the contract had they been aware of the inaccuracy and will be materially prejudiced by it.

The sunset clause provision has also been revised. Since its introduction in 2015, section 66ZL has been successful in preventing disreputable vendors from unjustly ending contracts to the detriment of purchasers. This clause will be reinstated and renumbered as new section 66ZS. Its application has been widened to include another sunset event, tied to the issue of an occupation certificate. This closes a loophole that had been used to avoid the provision. Regulations can be made in the future if further novel ways of avoiding the legislation are identified. Section 66ZS has also been amended to clarify that the court can award damages to the purchaser as part of proceedings brought by the vendor for termination. Altogether, these reforms provide a balanced regime that gives transparency and consumer protection to buyers but without unreasonably restraining the flexibility needed for developers to continue to offer high-quality residential properties to the market. The Government will commit to reviewing the legislation after 12 months to make sure that the bill is meeting its intended objectives.

I turn now to the other major reform proposed by the bill. This reform recognises that the property industry is moving towards a 100 per cent digital future. In July 2016, the Government announced plans to transition to electronic conveyancing, known as "eConveyancing". EConveyancing allows lawyers, conveyancers, financial institutions and government bodies to subscribe to an online platform through which transactions are settled and dealings are lodged for registration electronically. Documents are created, signed and lodged within the platform, and parties complete all necessary steps to settle the transaction online. Electronic conveyancing delivers many benefits, including increased transparency and a reduced risk of errors, fraud and delays. However, the process still relies on paper documents, particularly for mortgages, where lenders retain paper instruments as evidence of a transaction. This is an impediment to a fully digital process.

The eConveyancing platform allows subscribers to digitally sign registry instruments, like mortgages, on behalf of clients. They must make a number of certifications about the transaction, including that they have taken reasonable steps to verify the identity of their client and are authorised to sign the documents on their client's behalf. For mortgages, the certification requires that the mortgagee holds a mortgage on the same terms as the electronic registry instrument. Industry is uncertain about the impact of the certification rules. Many practitioners and financial institutions see the certification rules as requiring paper mortgage documents to be signed and retained for evidentiary purposes. This bill clears the path to fully digital conveyancing by making it certain that land transaction documents that support an electronic registry instrument can also be in electronic form.

While eConveyancing allows a property transfer to be finalised quickly and reduces the scope for delay and error, it only deals with part of the sale of land process—the end phase. The beginnings of a transaction, including the negotiations between the parties, vendor disclosure and exchange of contracts, all occur outside the scope of the eConveyancing platform and have traditionally involved manual processes and physical documentation. Buying and selling land has traditionally involved substantial amounts of paper. Contracts are usually prepared in duplicate, with extensive disclosure documents attached. They can extend to hundreds of pages, especially for properties in complex strata or community schemes. Forms often require "wet" signatures and, until recently, settlement moneys have primarily been paid by bank cheque. While some conveyancing

practitioners have embraced technology and are using digital signatures on land contracts, others are reluctant because of concerns about whether historical requirements for the way land contracts are to be formed can be satisfied electronically. These important reforms will remove this uncertainty.

In New South Wales a contract for the sale of land is not enforceable unless it is in writing and signed by the party to be bound. This well-established principle has its roots in ancient laws that were developed to ensure transparency and to protect against fraud. However, innovative technology now allows us to sign and exchange contracts online in a secure, reliable and convenient manner. Online signature tools enable parties to provide consent without physically signing documents. These products are particularly useful when parties are interstate or overseas, saving time and costs in a transaction. Parties do not have to be in the one place to sign a document, there is no need to rely on post or courier services to deliver hard copies of documents and the scope for error in execution is reduced.

While the Electronic Transactions Act 2000 permits requirements for writing and signing to be satisfied electronically, there is a general reluctance in the conveyancing industry to use electronic land contracts because of concerns about the validity of electronic agreements. These concerns will be resolved by an amendment to section 23C of the Conveyancing Act 1919 that will resolve once and for all the validity of electronic land contracts that have been electronically signed. The bill also permits vendor disclosure to take place electronically. It inserts a new section 6C into the Conveyancing Act that allows a disclosure document, required to be provided by the vendor, to be given electronically. Paper-specific obligations like prescribed font sizes are dispensed with by a requirement that the electronic form of the document be clearly legible.

An amendment is also made to section 170 of the Conveyancing Act 1919, which deals with the service of notices in a conveyancing transaction. The amendment permits service to be effected by email to an address specified by the person to be served for notices of that kind. This amendment brings service provisions in line with current business practice and is consistent with recent changes affecting transactions between government entities and the community under the Electronic Transactions Legislation Amendment (Government Transactions) Act 2017. Electronic contracts and disclosure provide flexibility to the consumer and translate to time and cost savings, as postage, printing and legal costs for preparing and reviewing contracts will be reduced. Parties will also be able to sign deeds electronically.

Deeds are particular legal documents used to formalise agreements that may lack contractual requirements like consideration, with special obligations for signing and attestation to ensure they are valid and enforceable. They are common in land transactions but may be used for other purposes. The reforms will relate to all deeds, not only those affecting land. Currently, there is some doubt about whether deeds can be signed electronically. This is because of traditional, common law requirements for deeds to be executed on "paper, parchment or vellum" and the need for deeds to be witnessed. The bill removes this doubt by expressly permitting the electronic signing and attestation of deeds. The bill does not prescribe a specific method of electronic signing or witnessing so that parties are not limited as options become available and technology advances. However, regulations may provide guidance about how electronic signing and attestation can be achieved. The Government is committed to delivering faster, more convenient and more efficient services to the community through digital channels. This bill supports that commitment.

The bill also makes some minor changes, by way of statute law revision, to both the Conveyancing Act 1919 and the Real Property Act 1900. Schedule 1 [17] applies to the Central Register of Restrictions that is maintained by the Registrar General. The amendment simplifies the definition of a "participating party" so that it includes a person on whose behalf information is recorded in the central register. Schedule 2, items [11] to [13] clarify how a priority notice and a writ are to work together, preventing a writ from being recorded while a priority notice has effect. Finally, I thank the many stakeholders who contributed so productively to the development of this bill. In particular, thanks must go to the Law Society of New South Wales, whose expertise has helped to ensure that the mechanisms proposed by this bill are not only fair but practical and workable. I commend the bill to the House.

Debate adjourned.

PLANNING LEGISLATION AMENDMENT (GREATER SYDNEY COMMISSION) BILL 2018

First Reading

Bill introduced, and read a first time and ordered to be printed on motion by Mr Scot MacDonald, on behalf of the Hon. Don Harwin.

Second Reading Speech

Mr SCOT MacDONALD (22:59): On behalf of the Hon. Don Harwin: I move:

That this bill now be read a second time.

The main purpose of this bill is to amend the Environmental Planning and Assessment Act 1979 and the Greater Sydney Commission Act 2015 to clarify the powers and functions of the Greater Sydney Commission. On 1 July the Greater Sydney Commission was elevated to report directly to the Premier. This bill aims to give the commission the legislative framework it needs to deliver the New South Wales Government's bold vision for Sydney as three integrated and connected cities.

The amendments will enable the commission to focus on providing independent advice, strategic oversight and coordination across government agencies and assurance that good outcomes are being delivered. Secondly, the bill makes minor changes to improve the operations of the Independent Planning Commission, which plays an important role in building community confidence in the decision-making processes for major development and land use planning across New South Wales. Thirdly, the bill will clarify the functions of the Natural Resource Commission, which provides independent, evidence-based advice to the Government in relation to complex natural resource management issues.

I will now outline the provisions of the bill. Schedule 1 amends the Environmental Planning and Assessment Act 1979. Item [1] allows the Minister to appoint a member of a subcommittee of the Independent Planning Commission as a member of the commission. The appointment can be limited to a particular matter or function. This will allow people with appropriate expertise to be appointed so the best decisions are made. For example, this will enable a member of the Mining and Petroleum Gateway Panel to be appointed to the Independent Planning Commission where their expertise and experience will enhance the assessment by the panel of a State significant mining proposal.

Item [2] of the schedule extends the timing for the next review of the Greater Sydney Region strategic plan by 12 months from 2022 to 2023. This will allow the next Greater Sydney Region Plan review to be informed by the latest census data, which will become available in 2022. Items [3] and [4] of schedule 1 to the bill give the Greater Sydney Commission a new endorsement role in relation to local strategic planning statements. Local strategic planning statements recognise the critical role councils play in strategic planning for their local areas, setting a 20-year vision for land use in the relevant local area. The statements identify planning priorities for an area and outline how councils will deliver, monitor and report on implementation of those priorities. The statements shape how development controls in local environmental plans will evolve over time to meet community needs.

Under the new provisions, the Greater Sydney Commission will need to provide advice in writing that the statements of councils are consistent with the Greater Sydney Region Plan and the applicable district plans before the statements are made. This is a critical new step in the planning process to ensure that those statements align with the Government's vision for Sydney. This builds on the strong and collaborative relationships already in place between the commission and councils and reflects the important coordination role played by the commission. Item [6] requires the Minister for Planning to consult with the Greater Sydney Commission before recommending the making of certain State environmental planning policies [SEPPs] which relate to land within the Greater Sydney region. This consultation must occur where the Minister is of the opinion that the SEPP is likely to significantly affect the implementation of a strategic plan.

This puts the commission in a better position to provide advice on whether proposed SEPPs align with the Greater Sydney Region Plan—A Metropolis of Three Cities and district plans. This alignment will ensure that the planning system looks to future needs for housing, jobs, infrastructure and a healthy environment as our population grows. Item [10] requires the Minister for Planning, before making a determination that a planning proposal for a local environment plan [LEP] can proceed, to refer the planning proposal to the Greater Sydney Commission. This referral must be made if the planning proposal relates to land within the Greater Sydney Region and the Minister is of the opinion that the proposal is likely to significantly affect implementation of a strategic plan. The Greater Sydney Commission must then advise the Minister whether or not it supports the planning proposal.

Once again, this amendment is all about ensuring there is appropriate coordination when it comes to developing planning instruments in Sydney that will facilitate the delivery of quality services and infrastructure. Items [5], [7] to [9] and [11] to [13] will relieve the Greater Sydney Commission of its role in local planning activities, which have been undertaken by the Department of Planning and Environment under delegation since the commission was established in 2015 and before that under previous arrangements. This will ensure that the commission is able to focus its resources on its oversight and assurance role. The final two provisions of schedule 1 relate to the Independent Planning Commission.

Item [14] removes the requirement for the Independent Planning Commission to report on a matter where it has conducted a public hearing where the Planning Commission is also the consent authority for the application.

This removes the need for the Planning Commission to report twice on the same matter, streamlining the commission's operations. Item [15] allows the Minister for Planning to extend the appointment of a member of the Independent Planning Commission so they can complete a matter they are dealing with. These are sensible amendments to enhance the efficiency of the commission.

I now turn to schedule 2 to the bill, which makes amendments to the Greater Sydney Commission Act 2015. Items [1], [3] and [7] clarify the provisions governing the appointment of the Chief Commissioner of the Greater Sydney Commission. Item [2] clarifies where a regulation is made amending the area that comprises the Greater Sydney Region that the commission can be empowered to exercise specific of its existing functions in the new area. Items [4] and [8] will allow the appointment of up to three members of the Greater Sydney Commission in addition to the chief commissioner, changing the current requirement for there to be four Greater Sydney Commissioners. Item [9] ensures where there are fewer than three commissioners appointed to the commission in addition to the chief commissioner, there will continue to be a commissioner with principal responsibility for the activities of the commission in relation to environmental, social and economic matters, with one commissioner now being able to be responsible for more than one of those matters.

Item [10] of schedule 2 to the bill is more explicit in allowing for a district commissioner to be appointed for more than one district in the Greater Sydney Region. These amendments provide the commission with greater flexibility to streamline appointments. Items [5], [13], [16], [18] and [21] make consequential amendments and update references to provisions in the Environmental Planning and Assessment Act. Item [6] changes the ex-officio members of the Greater Sydney Commission to add the Secretary of the Department of Premier and Cabinet and the Chief Executive Officer of the Commission as members. Adding the Secretary of the Department of Premier and Cabinet is appropriate given the move of the Greater Sydney Commission in July this year to the Premier and Cabinet cluster. Item [20] will also make the chief executive officer a member of the Finance and Governance Committee. These changes support appropriate governance within the organisation.

Items [11] and [12] expand the functions of the Greater Sydney Commission to confer on the commission the functions of providing advice and making recommendations on matters relating to land use planning and infrastructure in the Greater Sydney Region, and providing progress and assurance reports on matters relating to the preparation and implementation of any plan or proposal relating to development in the Greater Sydney Region. This advice and the recommendations and reports can be provided to the Minister administering the Greater Sydney Commission Act and to any other Minister with the approval of the Premier in her capacity as the Minister who administers the Act.

Items [14] and [15] ensure that the Greater Sydney Commission can provide information, advice and reports directly to the Minister administering the Environmental Planning and Assessment Act at that Minister's request. Item [17] imposes a general obligation on government agencies, including councils, to provide information to the Greater Sydney Commission that is relevant to the commission's functions. This is not an unlimited obligation. Requests must be reasonable and the information must be relevant to the commission's functions. This provision will ensure the commission has the information it needs to carry out its role and is a standard power for a body with assurance functions.

It is also consistent with the information-gathering powers of Infrastructure NSW. Item [19] enables the Greater Sydney Commission to delegate functions to the Secretary and other employees of the Department of Premier and Cabinet, consistent with the commission's new place in the Premier and Cabinet cluster. Finally, item [22] in schedule 2 makes it clear that the changes to appointment provisions for commissioners does not affect current appointments of Greater Sydney Commissioners and District Commissioners.

I now turn to schedule 3 to the bill, which deals with amendments of other legislation and largely makes consequential amendments to other Acts to give effect to the changes made by the bill to the Environmental Planning and Assessment Act. Schedule 3 to the bill makes minor amendments to the Natural Resources Commission Act and the Local Land Services Act to clarify the functions of the Natural Resources Commission. The Natural Resources Commission provides independent, evidence-based advice to the Government about complex natural resource management issues that often involve competing interests.

The Natural Resources Commission, under the leadership of Dr John Keniry, has made a significant contribution to the development of natural resources policy and programs in this State. Since 2011 the Natural Resources Commission has provided the Government with valuable advice about a range of complex issues, including improving the way we manage weeds and pest animals and ensuring that our native forestry sector balances environmental values and timber supply. The purpose of the amendments in the bill is to clarify the functions of the Natural Resources Commission to ensure that the commission is best placed to perform these critical functions for government into the future.

The bill will clarify that the commission's functions include: to advise on strategic and investment priorities in natural resource management as required by the Minister; to provide audits and reviews of natural resource management issues as required by the Minister, including in relation to forestry and water management issues; to advise on program design for natural resources management as required by the Minister; and to conduct audits of State and local strategic plans under the Local Land Services Act at the request of the Minister administering that Act. The bill also takes the opportunity to update and modernise the object of the Natural Resources Commission Act, including by replacing the reference to establishing a "sound scientific basis" with a reference to establishing a "sound evidence basis" for the properly informed management of natural resources in the social, economic and environmental interests of the State.

The purpose of this amendment is to ensure that the commission may consider all scientific, environmental, economic and social issues in providing its advice to government. Together, these changes will help position the Natural Resources Commission as an independent source of high-quality advice to government into the future. The Planning Legislation Amendment (Greater Sydney Commission) Bill 2018 aims to give the Greater Sydney Commission the legislative framework it needs to fulfil its new oversight and assurance role at the centre of government. These amendments will help ensure that Greater Sydney is transformed into a thriving and connected global city. I commend the bill to the House.

Debate adjourned.

FAIR TRADING LEGISLATION AMENDMENT (REFORM) BILL 2018

CHARITABLE FUNDRAISING AMENDMENT BILL 2018

First Reading

Bills introduced, and read a first time and ordered to be printed on motion by Mr Scot MacDonald, on behalf of the Hon. Sarah Mitchell.

Second Reading Speech

Mr SCOT MacDONALD (23:14): On behalf of the Hon. Sarah Mitchell: I move:

That these bills be now read a second time.

I am pleased to introduce the Fair Trading Legislation Amendment (Reform) Bill 2018 and the Charitable Fundraising Amendment Bill 2018. These bills will deliver on two major objectives of the Innovation and Better Regulation portfolio. First, the Better Business reforms in the Fair Trading Legislation Amendment (Reform) Bill will empower everyday people by cutting red tape and giving consumers the information they need to make meaningful decisions about their future. As John Locke wrote more than three centuries ago:

The purpose of law is not to abolish or restrain, but to preserve and enlarge freedom.

Secondly, the Charitable Fundraising Amendment Bill will implement the recommendations for legislative reform arising from the public inquiry undertaken by Justice Bergin into the RSL NSW and related entities. In 2017 the Hon. Nick Greiner, a former Premier of this great State, and an independent panel of regulatory and data experts, undertook a review of the NSW Regulatory Policy Framework. An important recommendation of the review panel was that Ministers and agencies should take a stewardship approach to the legislation in their portfolios and which they administer.

The Better Business reforms arise out of a stewardship approach to the legislation within the Innovation and Better Regulation portfolio. The reforms also follow a consultation paper entitled "Easy and Transparent Trading", which sets out the rationale for many of these proposals and which generated well over 500 submissions. Throughout this process the Minister made it clear that any reductions in red tape and regulatory burden cannot increase the risk of consumer detriment or compromise the safety of workers and consumers. These reforms do just that—make changes that will improve the lives of the citizens of this State without increasing risk.

I now deal with the objectives and provisions of each bill, turning first to the Better Business reforms in the Fair Trading Legislation Amendment (Reform) Bill. Schedule 2 harmonises licence durations and restoration periods across 10 Acts, including home building contractors, property agents, motor dealers, architects, surveyors and others. The bill standardises licence restoration periods, applying a three-month restoration period across all affected licences. The secretary has a discretionary power to extend the period in which an application for restoration must be made, where it would be just and equitable to do so. Fair Trading NSW will be able to offer all applicants for those licences the option of taking up a one-, three- or five-year licence. Not all licences represent the same level of risk to consumers or have the same potential compliance burden for the regulator. In recognition of this, the amendments in schedule 4 to the bill convert 13 categories of trade work under the Home Building Act into ongoing licences.

Trade licensees for kitchen benchtop installation, paving, decorating, dry plastering, fencing, glazing, painting and other minor trade work will no longer have to renew their licence or pay the full licence renewal fee. Instead, they only need to notify the regulator every five years that they still require the licence and have not become a disqualified person and pay a flat rate administration fee, currently $51. During consultation, leading industry groups such as the Motor Traders' Association [MTA], the Institute of Automotive Mechanical Engineers [IAME] and the Caravan and Camping Industry Association NSW [CCIA] called on the Government to make the laws work better for businesses and consumers in sections of the motor vehicle industry. The Government thanks the IAME, the MTA and the CCIA for their consistently valuable contributions to the development of regulations affecting their members. We have heeded their calls.

The bill creates new types of specialised licences for repairs to motor vehicles, caravans and recreational vehicles. The MTA advised that the costs involved in employing a fully licensed, certificate III-qualified motor mechanic for more minor or specialised types of work have proven prohibitive for small businesses, especially in regional areas. Some types of repair work, such as transmission or wheel alignment, require only a certificate II qualification; however, the regulation requires a full certificate III motor vehicle repair qualification to do this work. Schedule 4 to the bill inserts the necessary power to create specialised categories of repair work. Following the passage of the bill, the Government will work closely with industry to establish these new specialised classes of tradespersons' certificates. Schedule 4 to the bill provides for a new class of licence for electrical and LP gas repairs to caravans and recreational vehicles [RVs].

Schedule 4 amends the Motor Dealers and Repairers Act to clarify a potential issue where an applicant may be required to secure council-approved premises before they can apply for a dealer's licence. This lack of clarity can result in small businesses spending thousands of dollars leasing premises before they even know whether they will be granted a licence to trade. Accordingly, the bill replaces the term "licensed premises" in the Motor Dealers and Repairers Act with "notified premises", which licensed dealers must provide to Fair Trading NSW a minimum 20 business days before they start trading from those premises. Motor dealers must have the relevant planning approvals for the premises before they commence trading, ensuring car lots do not open in improper places.

The objectives of the Tow Truck Industry Act 1998 are to protect consumers and prevent criminal elements from infiltrating the industry. Areas have been identified where costs and burdens can be reduced while still meeting the objectives of the Act—for example, for licensed repairers who only drive tow trucks to test drive them after a maintenance job or where RV dealers use their own tow trucks to transport their own RVs to and from trade shows. The bill provides the necessary power to grant exemptions on a case-by-case basis and requires Fair Trading NSW to notify the NSW Police of any exemptions granted. Exempted drivers must carry evidence of the exemption at all times. The reforms to the licensing regimes reduce red tape and cut costs for business but do not increase the risk of consumer detriment or compromise the safety of workers and consumers.

The objective of the amendments in schedule 3 to the bill are to ensure that the structure of the licensing regimes in the Innovation and Better Regulation portfolio do not force a licence holder to close down when they may have been able to trade out of financial difficulty. External administration is a means for a corporation to deal with its debts. Under Commonwealth corporations legislation, a corporation may be allowed to trade out of its difficulties if creditors consider they will have more of their debts paid if the corporation continues to trade instead of being wound up. For consistency with this right under Commonwealth laws to help New South Wales businesses stay in business and potentially increase the amount creditors are paid, schedule 3 to the bill gives Fair Trading NSW the discretion to allow a corporate licensee to trade its way out of administration.

I am pleased to now turn to the specific measures in the Fair Trading Legislation Amendment (Reform) Bill 2018 that increase transparency and competition, giving consumers the information they need to make meaningful decisions about their future. Schedule 1 to the bill includes amendments to the Fair Trading Act which aim to ensure that consumers are fully informed about the goods and services they are looking to acquire. The aim of clause 47A is to ensure that traders are clear, up-front and explicit about the terms and conditions of purchasing their goods or services. Traders have become so risk averse that the length of their terms and conditions means it is often impossible for a consumer to read them all, much less find the ones which could adversely affect them and seriously influence their choices. For example, CHOICE found that Amazon Kindle's terms and conditions contained 73,198 words and took nine hours for a person to read out loud.

These reforms will require suppliers of goods and services, including the fast-growing area of subscription services, will be required to take reasonable steps to ensure that consumers are aware of the substance and effect of any term that could substantially prejudice a consumer's interests. The bill provides that this includes terms that exclude or limit the liability of the supplier, make the consumer liable for damage to delivered goods, allow the trader to provide identifiable personal data to third parties, impose exit fees, balloon payments and other fees, and any other terms prescribed in the regulation. The purpose of the requirement is to take reasonable steps

to ensure that a consumer is aware of the substance and effect of such terms and conditions is to see that consumers have a fair chance of understanding what they are signing up to.

If a consumer is at risk of having their interests substantially prejudiced, they should be put squarely on notice of that risk. It is not good enough that prejudicial terms are hidden in lengthy contracts or on obscure web pages, or that they are so complex that it is difficult for an ordinary person to understand. Consumers should be able to easily understand what they are signing up to and make meaningful decisions, and that is the purpose of this requirement. That is also why the provision focuses on a consumer's awareness of the substance and effect of relevant terms: to ensure consumers can make meaningful and informed decisions. The provision has precedent in case law. In the United Kingdom Court of Appeal case of *Thornton v Shoe Lane Parking Ltd* the court considered a term that waived the liability of a car park operator. Lord Denning MR held that:

> The Court should not hold any man bound by [such a term] unless it is drawn to his attention in the most explicit way.

His Lordship was concerned that there was "reasonably sufficient" notice. These comments were very much borne in mind in the development of this provision. The provision also seeks to ensure that there is sufficient certainty for business and that businesses have practical ways of complying with their obligations. The notion of "reasonable steps" is well understood by the courts. It does not require the business to absolutely guarantee that their consumers understand relevant terms—consumers still need to take ultimate responsibility in understanding what they are signing up to—but it will require them to be up-front. Additionally, whilst the "substantially prejudice" test involves questions of degree, it sets a high bar which gives businesses the scope to take a conservative approach to compliance.

Schedule 1 also addresses the burgeoning area of third party referrals and information or recommendations on goods and services. All too often these businesses, such as online comparator sites, are actually subscription sites, only recommending those businesses that are subscribed to the service and not providing the consumer all the available options, as it is often implied they do. Others receive fees and commissions for recommending a particular supplier. To ensure consumers can make fully informed decisions, the bill requires traders to disclose any commissions, referral fees or other kickbacks they receive for providing this advice to consumers about other third parties. Importantly, the amendment allows regulations to be made which limit the application of the requirement. It is intended that regulations will be made that exclude businesses that already have legal disclosure requirements under another law.

I make two points regarding this provision. First, the purpose of the reasonable steps to ensure consumer awareness test is the same as that for proposed section 47A. I refer to my earlier comments regarding why that test is appropriate. Suffice to say, it is not sufficient that disclosure occurs on some obscure webpage; the disclosure must be up-front. Secondly, the provision focuses on the existence of a financial arrangement. The Government had two policy options. We could have formulated the test to require disclosure of the nature, content or value of the financial arrangement. This may have been very difficult to implement for a number of businesses and for that reason was not adopted. Rather, the Government considered that the purpose of the reform was to ensure that consumers are put on notice when the advice they are receiving may be biased and that this could be achieved by disclosing the fact that there is such a financial incentive, without having to disclose its value.

Such an approach is already implemented by some businesses .Google and a number of news websites identify content for which they receive payment by labelling that content as "sponsored" or as an "ad". Assuming that this is done in an up-front manner, that is all that will be required of intermediaries. The words "sponsored" and "ad" make it clear that the content is being shown in circumstances where the publisher is receiving payment. The Government considers that this approach of focusing on the existence of the financial arrangement rather than on the financial arrangement's content, nature or value strikes the right balance. It protects the legitimate interest of consumers in knowing if the recommendations they are receiving may be biased. It also respects businesses' legitimate interest in being able to comply with as little cost as possible and in keeping commercially sensitive information confidential. This provision will be a consumer protection first across the general marketplace in Australia.

The bill also includes a number of other disclosure and transparency measures to improve the ability for consumers to make meaningful decisions about their future. Currently the Fair Trading Regulation prescribes "information standards" for certain sectors and products—fuel prices, textiles and basic funeral costs. Information standards ensure that consumers have the information they need to make meaningful and informed choices. Currently, the Act has individual provisions to prescribe those standards. The bill repeals those individual provisions and inserts one overarching power to prescribe information standards. Clause 86AB allows consumers to let Fair Trading know if they believe a product or service breaches fair trading laws, even if they have signed a non-disclosure agreement with the trader. The amendment does not void the non-disclosure agreement entirely; it just ensures the regulator can be informed about the potential breach. This means that Fair Trading can act to

inform or protect consumers when necessary—for example, by issuing public warnings about unsafe products that could cause serious harm.

Schedule 1 makes the necessary amendments to allow for the creation of a central trader check online portal. The amendments will ensure that information about traders that could influence whether or not a consumer engages with them will be included in the one easily accessible and searchable online portal. The bill allows for the applicable regulations to prescribe other matters that will be made available on the portal, such as directions issued under the consumer guarantees direction power when it commences. Licence checks for certain licences currently can be made online. However, there is no consistency about what information can be included. In some cases the information about the licensee is in several different places and some regulatory regimes do not even have the same requirements for public disclosure of information as other similarly regulated entities.

Schedule 4 amends the Strata Schemes Management Act 2015 to put the power of choice back into the hands of lot owners in relation to utility contracts that service the whole scheme. Under the amendments, any agreements for the supply of electricity, gas or other utilities entered into by the owners corporation will automatically expire at the conclusion of the first annual general meeting of the owners corporation, if the agreement was executed before the meeting. In other cases, the agreements will automatically expire three years after the date they commenced. This will prevent owners corporations from being permanently locked into utility supply agreements and from being unable to negotiate a better deal that is available on the open market. Finally, the bill includes amendments that remove antiquated requirements and defunct entities from several Acts, ensuring the legislation remains fit for purpose, and operates as efficiently and as effectively as is possible.

I turn now to discuss the objectives and provisions of the Charitable Fundraising Amendment Bill 2018. The main objective of the Charitable Fundraising Act 1991 is to maintain public confidence in donating to charities. The wrongdoing of a few involved in the management of the RSL NSW had the potential to seriously bring the sector into disrepute and lose the confidence of the public in donating to charities. In mid-2017, the Parliament passed laws that conferred the power to establish a special type of public inquiry into charitable fundraisers. This followed startling revelations of misconduct in the RSL NSW, the RSL LifeCare, and the RSL DefenceCare, all of which held authorities to fundraise under the Act. The Minister appointed Justice Patricia Bergin, SC, as the public inquirer under the Act and published Justice Bergin's report on the RSL inquiry in early February 2018.

Justice Bergin's report made 29 specific recommendations. Six related to compliance or administrative action, implementation of which commenced immediately. The other 23 recommendations were for law reform. The Charitable Fundraising Amendment Bill now before the House delivers those reforms. Justice Bergin's recommendations for law reform had two overarching aims: to reduce the unnecessary regulatory burdens on charities imposed by duplicative requirements in the Act, and inconsistency and duplication with other State and Federal laws, and to enhance the current investigative and enforcement powers and governance requirements which are no longer adequate in effectively ensuring the objectives of the Act are being met. The reforms in this bill will help to ensure that the objectives of the Act can be met by boosting confidence among the generous people of New South Wales, who donate over $1 billion a year to charity.

As to modernising and simplifying, items [6] and [7] incorporate into the Act relevant provisions of the charitable fundraising authority conditions, which are referred to as the standard conditions, and enable the regulation to provide for related matters, such as what traders must publicly disclose when conducting an appeal. Currently, the Act does not provide for a duration, renewal, suspension or cancellation of authorities. Item [16] inserts a maximum five-year duration for authorities and includes renewal processes. This ensures that the regime is in keeping with other Fair Trading authority regimes and puts in place a statutory mechanism that will allow the regulator to reject an application for renewal if the charity cannot or is not meeting the requirements of the Act.

Many charitable fundraising authority holders run community games to raise money and are therefore also regulated by the Lotteries and Art Unions Act 1901. The grounds for renewing, suspending or cancelling an authority in clauses 16 and 17 of the bill therefore are aligned with the requirements for community gaming, which will make it easier for charities that must comply with both Acts. To harmonise legislative requirements and reduce red tape and regulatory burden on charities, the bill includes the following amendments.

Currently, many charitable fundraising authority holders are also registered with the Australian Charities and Not-for-profit Commission [ACNC]. For registration, the ACNC has very similar requirements to applying for a fundraising authority. To make it easier for charities to apply for a New South Wales authority, item [12] provides that proof of current registration with the ACNC can be used to apply for a fundraising authority in New South Wales. Rather than going through two lengthy application processes which are similar but also different enough to not be the same, they can do it once with the ACNC. This will significantly reduce the burden on ACNC-registered charities as they will no longer need to complete a second lengthy application form but simply provide proof of registration and include details of the fundraising appeals to be held in New South Wales.

Clauses 23 to 25 align financial reporting and self-disclosure reporting requirements with ACNC requirements. Fundraising authority holders who have a turnover exceeding $1 million and who currently have to provide an audit to both Fair Trading and the ACNC will have to provide it only to the ACNC, which will then provide the report to Fair Trading. To ensure the reporting requirements are aligned with the ACNC and improve oversight, the small number of authority holders that do not currently report annually to either Fair Trading or the ACNC must provide Fair Trading with an annual return. These amendments will reduce red tape and duplication. It is estimated that these changes will save charities $15 million over 10 years.

The public inquiry into the RSL found that NSW Fair Trading did not have sufficient compliance and enforcement powers in the Act to conduct random inspections of charities and investigate breaches of the Act. It also found that, in some instances, there was not appropriate oversight of the activities of fundraising authorities. The bill ensures that authorised Fair Trading officers can use the current compliance and enforcement powers in the bill in the same way that they can in other New South Wales fair trading legislation. Item [26] does this by strengthening Fair Trading's compliance and enforcement powers by providing express powers of investigation to authorised officers, and providing for a range of modern and flexible enforcement options, depending on the level of non-compliance.

The bill increases the maximum penalties for certain offences to align them more closely with equivalent legislation in other jurisdictions, and to provide consistency with other New South Wales fair trading statutes. The new penalty amounts are much more appropriate and will ensure there is a sufficient deterrent against wrongdoing. During her inquiry, Justice Bergin found that section 48 of the Charitable Fundraising Act was confusing, with many fundraising authority holders misinterpreting the provision. The section requires authority holders to seek approval to appoint an officeholder of the board or other governing body if they are to receive remuneration. However, authority holders have interpreted the provision as meaning approval was required for the remunerated amount, rather than the position itself.

Item [39] of schedule 1 amends section 48 of the Act to clarify that the Minister is required to approve individuals who hold remunerated board positions on charities. These amendments will go a long way to making it easier for charities to raise funds for their important causes while ensuring that NSW Fair Trading has the necessary oversight and powers to enforce the Act. In developing the reforms, the Department of Finance, Services and Innovation undertook targeted consultation with key stakeholders. Charitable fundraising authority holders, such as the Royal Flying Doctor Service, support the reforms in the bill and see them as a first step towards a more modern, nationally harmonised and less burdensome regulatory regime.

Further consultation with the community and charities sector will continue after the passage of the bill, during preparation of supporting regulations. This will ensure that regulations are fit for purpose, easy to comply with and well understood by the charitable sector. The New South Wales Government is committed to consulting comprehensively and evaluating the impact of regulations to ensure reforms deliver a clear net public benefit. The Charitable Fundraising Amendment Bill will reduce regulatory burden on the sector and improve governance and oversight, instilling greater confidence in the public to donate to worthy causes. These reforms will empower tradies and other everyday people by cutting red tape and giving consumers the information they need to make meaningful decisions about their future. I commend the bill to the House.

Debate adjourned.

Adjournment Debate

ADJOURNMENT

The Hon. NIALL BLAIR: I move:

That this House do now adjourn.

HEALTH AND FITNESS AND SOCIAL MEDIA

The Hon. LYNDA VOLTZ (23:40): As someone who learned to touch-type on a manual typewriter, I wander through the world as some archaic Luddite, needing my long-suffering teenagers to explain why my iPhone keeps beeping at me. I admit Kim Kardashian is also a complete mystery to me. I do not like reality television and an app to Fit in Your Jeans by Friday seems an unnecessary burden. I feel most comfortable in the middle of a rugby pitch, and the idea of being in the middle of a beauty salon fills me with horror.

Yet despite my playing soccer and rugby, rowing surf boats, competing in triathlons and having a long-term love affair with sport, I suspect Kim Kardashian has had a greater impact on my daughters' sport and exercise regimes than I have. Like many millennials, they are more likely to get their health and fitness messages from somewhere else on the planet through their smartphones. They are tuning in to Kim Kardashian's "how to

eat healthy" tips, they listen to Ariana Grande on mental health and they watch Cristiano Ronaldo kicking soccer balls around with his son.

In Australia fitness bloggers make up a significant group of the top 10 Instagram accounts in the country. Communicating technologies in this century can be a foreign language both for politicians and for government, but in the telecommunication super-age we are more interconnected than ever in how we speak to each other. Perhaps it is time the Government stepped up to the challenge and asked itself the hard questions, such as: How successful have we been with young people and healthy lifestyles, and are there better ways of doing it? Governments and parents have had little success telling kids and young adults to put down their smartphones and iPads and get outdoors—about as much success as our parents had with the Walkman. Now is the time to stop. Technology may not be the enemy, isolating young people from healthy lifestyles; instead, smartphones may just be the way and means to deliver the healthier, happier outcomes the Government wants to see.

Sport and fitness is one of the most important social issues. Fitness improves individual health outcomes and public health outcomes and is one of the most affordable and effective tools for addressing mental health issues. It is also the most effective tool to address lifestyle-related health issues such as obesity and diabetes. More importantly, it gives people routine, structure and a reward system in a culture that is obsessed with auditing and accounting for every minute of the day. The traditional way we talk about fitness and sport, an activity that takes an hour of precious time, adds to feelings of anxiety for young people who are already anxious about university, juggling their two or three jobs and trying to find time to see their mates.

Smartphone technology is the way to reform how people get access to sport and fitness resources. Young people crave direction for health and fitness, but they do not have a credible source for their information or fitness plans. While other government agencies have understood and successfully implemented new technologies to capture millennials—for example, the Australian Securities and Investments Commission has TrackMySPEND, TrackMyGOALS and MoneySmart Cars, successful apps that young people respond to—the government agencies charged with health and fitness are lagging well behind. As technology changes the way we exercise and play sport, government needs to adjust.

Think about what has been successful in getting kids outside and in the parks in the last few years. If we want to know what has got kids moving, we should think of Pokémon Go—before they disabled the tracking, of course. Suddenly every person under 20 was outdoors in parks trying to catch a Pokémon or Bulbasaur using their smartphones. Why? Because they felt rewarded for doing it. Habitica is another good example of an app in the technological rewards space. Habitica is designed so that the user must participate in daily challenges to meet the daily score goal. These challenges include using the stairs instead of the escalator, walking to the next bus stop, morning yoga and more. It incentivises young people to look at fitness, as well as other areas of their life, holistically, and it is something that can be easily incorporated into an already busy day. Yet government fails to deliver for sport or healthier lifestyles in this domain. The biggest community that young people reside in today is the online community. If Government is interested in healthy, happy lifestyles, it might want to think about joining them there.

RECREATIONAL FISHING

The Hon. ROBERT BROWN (23:45): Two months ago I requested a research paper on recreational fishing—in particular the cultural, economic and social benefits that recreational fishing delivers to this State—from the Parliamentary Library. I thank Daniel Montoya from the library research department for undertaking the research and for the information that he provided to me. Two weeks ago the Shooters, Fishers and Farmers Party, together with the Stop the Lockout fishing alliance, organised what was a very well attended, very well behaved and loud protest in front of Parliament. The message from that meeting was very simple: "We fish, we vote; you're sinking your own boat"—a direct message to the Government of the day and any future governments that even contemplate locking out fishers from the best fishing spots in the State based on shonky science and the advice of rent-seeking so-called experts.

To understand the anger from the ill-conceived fishing lockout proposal, which was foisted upon the recreational fishers, people need to understand what motivates recreational fishers. Those involved in recreational fishing are a diverse group but often perceived as a general group or a single entity for the simple reason that that perception does not take into account the beliefs of those pursuing recreational fishing, as well as motivational and attitudinal characteristics that drive recreational fishers. The research paper identified five subgroups: social fishers, generalists, hunter-gatherers, trophy fishers and outdoor enthusiasts. I like to think that I belong to all five groups—I am old enough to make that claim. I am an outdoor enthusiast who has fished since the mid-1950s—which makes me sound old. Many members would be well aware that hanging on my office wall is the mounted cast of a 13-pound brown trout I caught in the Jervois Stream in New Zealand many years ago.

The Hon. Dr Peter Phelps: The one that got away.

The Hon. ROBERT BROWN: No, it did not—I ate it. Members might not be aware that in the late 1970s and 1980s I owned a charter fishing business in Fiji. Hunter-gatherers—or rather, those who eat what they catch or collect—are more likely to be concerned with restrictions on catch. They are also more sensitive to overcrowding and loss of access to the best fishing spots, concerns that are shared by outdoor enthusiasts of all persuasions everywhere. The research found that social or generalist fishers are more likely to have lower levels of knowledge about fisheries management and associated regulations but more likely to be concerned by the costs associated with fishing licences.

Despite how one identifies oneself, there are roughly 900,000 fishers in the State and they provide approximately $1.6 billion to the New South Wales economy every year—year in, year out. I cannot think of an activity that is more family oriented than recreational fishing, where mum, dad and the children share the experience, particularly around school holidays. We have all seen it. If the Shooters, Fishers and Farmers Party is fortunate enough to hold the balance of power in either House after the next election, irrespective of which side of politics is in government, I can guarantee that the interests of the 900,000 recreational fishers will be protected if we have anything to do with it.

Our party will vehemently oppose the creation of any more marine parks and sanctuary zones based on very dodgy science and drawing lines on maps. Recreational fishing is not something to be scorned by a small but vocal minority who cannot stand the thought of catching and eating fish or of people enjoying themselves in the outdoors. It is all about a healthy outdoor activity enjoyed by millions of Australians, young and old, and it has always been about the sustainable utilisation of our marine life.

AQUACULTURE INDUSTRY

The Hon. LOU AMATO (23:49): It is great to know that the Hon. Robert Brown loves fishing like I do, so we have another fishing story. Australia has the third largest fishing zone in the world. In spite of this, our waters are less productive than many other world fisheries. Until recently, we have largely ignored the impacts of commercial fishing on our fishing stocks, which has led to a rapid decline in the productivity of New South Wales fisheries. The New South Wales Government has taken a proactive role in ensuring that New South Wales fisheries not only remain sustainable but also increase productivity to meet the growing demand for seafood consumption.

To ensure that the people of New South Wales can enjoy first-class seafood produce, aquaculture has been at the forefront of scientific research. The aquaculture industry is expanding to include more species of aquatic produce as we learn to create environments that can produce large quantities of world-class seafood. Presently the industry generates more than $65 million annually for the New South Wales economy and has more than 1,700 regional jobs. Currently two types of aquaculture are employed: intensive farming where species are grown using specially prepared foods, and extensive farming where natural waterways and ecosystems are used to naturally feed and grow a variety of marine species.

Currently there are more than 2,798 hectares of oyster leases in New South Wales that contribute more than $45 million annually to the New South Wales economy. Extensive oyster farming also contributes to the ongoing health of our estuary systems. The main species cultivated in New South Wales is the Sydney rock oyster, which requires healthy estuarine environments. Oyster growers must maintain extreme vigilance on water quality to ensure the production of world-class produce. Any detrimental change to water quality is quickly detected by growers, which ultimately ensures immediate remedial action. New South Wales oyster growers provide important environmental feedback, which has resulted in the maintenance of our estuarine systems.

Aquaculture has been expanding into rural areas on land-based farms. Presently there are more than 1,496 hectares of land-based farms employing pond-based and/or recirculating aquaculture systems. Land-based aquaculture includes the establishment of self-sufficient natural ecosystems and intensive farming employing specially prepared feeding systems. Many freshwater species such as barramundi, silver perch, Murray cod, trout and yabbies are grown on land-based farms. In addition to rural-based farms, aquaculture is expanding into coastal areas where prawn production has contributed over $6 million annually to the New South Wales economy.

Aquaculture provides many benefits to New South Wales, such as reducing the impact on wild fisheries as consumer demand for seafood rises and the restocking of threatened species into waterways with hand-raised fingerlings, which have a higher survival rate. Presently aquaculture is the fastest growing primary industry in Australia, with an average annual growth rate of over 12 per cent per year. Oyster farming provides two benefits: first, increased surveillance of our estuarine systems by farmers and oysters and, secondly, oysters act as a natural filtering system of estuarine waters.

The NSW Department of Primary Industries provides accreditation under the NSW Hatchery Quality Assurance Scheme, which ensures fish produced for restocking into natural waterways are of the highest genetic

and health standards. Aquaculture provides New South Wales with increased tourism opportunities, with farm tours and local seafood sales. Aquaculture is an efficient use of freshwater as it can be used to produce aquatic species and reused to irrigate hydroponic vegetables, agroforestry and pasture improvement. Marine organisms are efficient in converting feed into rich protein sources, which provide many Australians with healthy diets rich in omega-3 fatty acids.

Presently 87 per cent of all seafood consumed in New South Wales is imported to make up the shortfall of our wild fisheries. A recent survey indicated that more than 89 per cent of New South Wales residents expect seafood to be locally sourced. As aquaculture continues to grow, locally produced first-class seafood will reduce our reliance on imports. I commend the Government, especially the Department of Primary Industries, for its ongoing work not only in protecting New South Wales fisheries but also in its promotion of aquaculture, which will ensure our fisheries do not decline but actually improve so that fishing remains our number one pastime for generations to come.

MULTICULTURALISM

The Hon. ERNEST WONG (23:54): An outstanding feature of Australia is the profound disconnect between the number of overseas-born residents and the number of members of Parliament either at the Federal or State level who were born overseas. In the 2016 Census nearly 6.1 million people, or 26 per cent of the Australian population, were recorded as born overseas. However, at the Federal level only 24 out of 226 members, or 10.6 per cent, of the House of Representatives and Senators were born overseas. That 24 included 10 born in Britain. The situation is even more pronounced in our own Parliament.

While in 2016 the overseas-born proportion of the New South Wales population was 2.1 million, or 28 per cent of 7.5 million, there were only about 10 overseas-born members of Parliament, or just over 7 per cent of 135 parliamentarians. In the case of people of my background, the disparity is more obvious. In 2016 there were almost 515,000 people, or 2.2 per cent of the Australian population, whose country of birth was China or its special administrative regions. In the Federal Parliament, only one member had been born in China. In 2016 in New South Wales there were almost 275,000 people, or nearly 4 per cent of the State's population, whose country of birth was China. Of the 135 members of the New South Wales Parliament only one, or less than 1 per cent, had been born in China or its special administrative regions.

Australia is a multicultural society and much is said about the benefits that this bestows. However, embracing multiculturalism necessitates including those from a culturally diverse background in the legislative process. The democracy of countries committed to multiculturalism improves when the number of overseas-born members in legislatures mirrors the presence of those born overseas in the population. There are two realms of representation in which this is realised: descriptive representation, where the number of overseas-born members truly reflects the presence of those born overseas in the population, and substantive representation, where representatives are able to contribute in legislatures on behalf of their communities and reflect their needs and interests.

The benefits of these two areas of representation operating fully together are that overseas-born members of the population experience greater confidence in representatives who resemble them when debates on policy occur; representatives of those born overseas, by virtue of holding positions in Parliament, demonstrate to their communities that their rights are recognised; and the legitimacy of the political system is seen to be validated with the number of overseas-born members truly reflecting the prominence of those born overseas among the general population.

Political under-representation of those born overseas is so pronounced that it has become an established field of academic inquiry. Professor Rafaela Dancygier of Princeton University, in her article "Why Are Immigrants Under-Represented in Politics?", highlights the fact that it is the "party gatekeepers who are critical actors in determining selection in the major parties across virtually all western European countries". Professor Juliet Pietsch of the Australian National University, in her study "Ethnicity and the Participation Gap", observes that, "Members of immigrant ... groups are often selected for unwinnable seats and, therefore, seldom elected ... even though immigrant candidates are often highly suitable for preselection in winnable seats." Professor Maritta Soininen, in her study "Ethnic Inclusion or Exclusion in Representation?", has added that party gatekeepers, including candidate selection committees, are often unwilling to place immigrants on party lists, especially in high positions, because of prejudice among themselves or among local party members.

Are there countries that Australia can look to for a more enlightened approach? There are. In the Canadian House of Commons and Senate, 56 out of 433 members were born overseas. At least two prominent Canadian political parties have instituted processes to reduce the barriers to overseas-born Canadians gaining preselection. As outlined by Professor Jerome Black, the Canadian Liberal Party and the Canadian New Democratic Party have set up formal structures to represent within their parties those born overseas, and both parties take proactive

measures to recruit overseas-born candidates. It is little wonder that 12.6 per cent of Canadian parliamentarians were born overseas.

Those born overseas have a multitude of experiences they can draw on to contribute to the work of Parliament, but Australia fails to take advantage of what they can offer when those born overseas are so under-represented. Neither of the major parties seems to take this issue seriously. The party gatekeepers appear wary of countenancing any meaningful selection of those born overseas as candidates. Yet their representation must increase if New South Wales is to be a fully functioning democracy that takes the greatest advantage of the diversity of its population.

INTERCITY TRAIN FLEET

The Hon. SHAYNE MALLARD (23:59): Last month I was pleased to tour the new intercity trains that will service the Blue Mountains line. I had the opportunity to visit Sydney Olympic Park to view the prototype of the new fleet with my parliamentary colleagues the Hon. Taylor Martin, Mr Scot MacDonald, Mr Adam Crouch and Parliamentary Secretary for Transport and Infrastructure Mr Mark Coure. The new intercity fleet, an investment by the Berejiklian Government of more than $2 billion, will service the Central Coast, Newcastle, Blue Mountains, Illawarra and South Coast rail lines and is set to be rolled out in 18 months. The first of more than 500 cars—or 40 to 50 trains—will arrive in Sydney early next year after extensive track testing in South Korea, where they are being manufactured. I was only one of hundreds of people who had the opportunity to tour the prototype, along with numerous community and disability groups, as part of the extensive consultation process undertaken by Transport for NSW.

These state-of-the-art trains will include racks for surfboards and bikes, as well as stowaway sections for luggage, which will make it easy for commuters on their train journeys. While surfboards may not be in high demand in the Blue Mountains, the bike racks and luggage stowaway section will be beneficial to the many tourists who travel on the Blue Mountains line. The trains will also have power points to accommodate chargers for phones and laptops, a sturdy folding steel tray table and spacious, fully accessible bathrooms, including infant change areas. The seats are designed in a two-by-two configuration with fixed seating, which is much more spacious than the older three-by-two design. This fixed seating, which is a new approach for intercity trains, will allow for more passenger space and eliminate injuries to passengers and rail staff caused by the older reversible seating model. The new trains will also have digital display screens in each carriage, as well as on the outside of the train, to indicate to commuters whether carriages are full and how many seats are available in those carriages that still have room.

Currently, extensive consultation is being undertaken about having guards on trains or whether a customer service attendant would be better suited to supply commuters with the information they need on their journeys. The new trains will have the capacity to accommodate either option. I also had the opportunity to sit in the driver's compartment of the new train. It was extremely spacious and fully digitised—very much like a state-of-the-art Airbus A380. The new trains will be in stark contrast to those used by commuters under the former Labor Government. It refused to upgrade the trains on the Blue Mountains line and treated Blue Mountains commuters like second-class citizens. But the fiscal management of the Berejiklian Government has allowed us to invest in and deliver these state-of-the-art intercity trains for Blue Mountains commuters. The Berejiklian Government has also allocated money for the permanent upgrade of the Springwood to Lithgow train line. Indeed, the previous Labor Government never bothered to or could not commence the much-needed upgrade of those 100-year-old train lines.

Let us be clear: The previous Labor Government purchased the outer suburban rail cars [OSCars] but because they could not fit the Blue Mountains line they put the people of the Blue Mountains in the too-hard basket and they never got the new trains. Newcastle and Wollongong got the OSCars, not the long-suffering people of the Western Sydney and the Blue Mountains. They were told to make do with the 40-year-old V set trains—the same trains that I caught when I went to university in the 1980s. I can also dispel any myths regarding the upgrade of the Springwood to Lithgow train line. I can confirm that the upgrades to the Blue Mountains line will not—I repeat, will not—involve any rail line closures other than for standard maintenance times. The upgrades are currently ahead of schedule—and apparently below budget—despite the fake news being peddled by the Labor Party.

On the topic of fake news, I can once again reaffirm that the new, state-of-the-art Blue Mountains intercity trains will fit the tracks. We did not buy or order trains that do not fit the tracks. This Government has made the significant commitment to upgrade this line for the long-suffering Blue Mountains commuters. We are futureproofing the Blue Mountains line. The Labor Party allowed commuters to travel on the Blue Mountains line in 40-year-old V set trains, which are overdue for retirement. The new intercity trains were purchased from South Korea after a competitive international market for tender, just like the process followed by the Labor Party when it purchased the Waratah trains from China. That is more hypocrisy from the Labor Party. These trains do fit

the tracks and there is no cost blowout. The trains are ahead of schedule, and the member for the Blue Mountains should stop running a scare campaign and spreading fake news about the new intercity trains.

NATIONAL INDIGENOUS HUMAN RIGHTS AWARDS

The Hon. SHAOQUETT MOSELMANE (00:04): It is a delight to be able to use the next few minutes to recognise the National Indigenous Human Rights Awards and to thank the Hon. Sarah Mitchell, the Minister for Aboriginal Affairs, for her support. I also recognise all my colleagues who attended the function, which was held tonight. About 20 members of Parliament attended, including the President, the Deputy President and the Assistant President as well as the Hon. Robert Brown and a number of members of New South Wales Parliamentary Friends of Reconciliation. Many distinguished guests from the Aboriginal and Torres Strait Islander community attended, along with representatives of ethnic and multicultural media, National Indigenous Television and radio. The event marked the fifth celebration of the National Indigenous Human Rights Awards, which recognise the contribution of Indigenous Australians to social justice and human rights across Australia.

The awards were founded by me five years ago. It is always tough to try to organise a national award from New South Wales. It requires seeking financial support, calling for nominations, arranging for judging and organising events such as the one that was held tonight. As I said, the National Indigenous Human Rights Awards acknowledge the most important social justice struggles in Australia and recognise Aboriginal people and Torres Strait Islanders who work in the social justice and human rights fields. The three award recipients tonight were Keenan Mundine, Megan Krakouer and Clinton Pryor, all of whom spoke with passion. They spoke about incarceration rates, poverty, discrimination, abuse—

The Hon. Robert Brown: The suicide rate.

The Hon. SHAOQUETT MOSELMANE: They spoke about the suicide rate and the depressed state of the Australian Aboriginal community. The work of 27-year old Clinton Pryor is worth noting. He walked from Perth to Canberra—6,000 kilometres—and started his speech tonight by saying that he found it difficult to put his feelings into words, but what he did say meant a lot. He really expressed the depth of suffering of Indigenous Australian. Australia could do much better for our Indigenous people. Often the will is there, but more resources are needed to assist Indigenous Australians. I recognise the support of many who have good hearts and good intentions, but more resources will help to alleviate the problems that are causing the most harm.

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

Motion agreed to.

The House adjourned at 00:08 until Thursday 18 October 2018 at 10:00.