New South Wales

Legislative Council

PARLIAMENTARY DEBATES
(HANSARD)

Fifty-Sixth Parliament
First Session

Tuesday, 20 November 2018

Authorised by the Parliament of New South Wales

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LEGISLATIVE COUNCIL

Tuesday, 20 November 2018

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

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

Announcements

CALIFORNIA BUSHFIRES

The PRESIDENT (14:31): I inform the House that on behalf of members of the Legislative Council and the people of New South Wales I have sent a message of condolence to the President of the California State Senate in our sister State in the United States of America expressing sympathy to the relatives and friends of the people who have been killed, injured or made homeless by the current bushfires.

Members and officers of the House stood in their places as a mark of respect.

Visitors

VISITORS

The PRESIDENT: I welcome to the President's Gallery Ms Sophie Chakma from Kirrawee High School, who is here on work experience with the Hon. Lynda Voltz.

Motions

INTERNATIONAL DAY OF YOGA

The Hon. SCOTT FARLOW (14:33): I move:

(1) That this House notes that:

(a) 21 June 2018 marks the fourth International Day of Yoga across the world; and

(b) the Consulate General of India, Mr Shri B. Vanlalvawna, hosted a celebration marking the milestone in Sydney on 8 June 2018 in which a number of special guests attended, including the Hon. Scott Farlow, MLC, Parliamentary Secretary to the Premier.

(2) That this House notes that:

(a) the United Nations passed a resolution to declare 21 June as the International Day of Yoga in December 2014, supported by the Prime Minister of India, Narendra Modi, MP;

(b) International Yoga Day highlights the important role healthy living plays in the realisation of sustainable development goals;

(c) yoga is an ancient physical, mental and spiritual practice that originated in India, symbolising the union of body and consciousness and today it is practised in various forms around the world; and

(d) currently over 140,000 residents of New South Wales as well as thousands of other Australians have Indian ancestry, with many valuing the practice of yoga in its many forms for spiritual, mental and physical health.

(3) That this House acknowledges the significance of yoga and its practice in many cultures worldwide and for its sustainable and binding nature.

Motion agreed to.

DEAF SOCIETY ONLINE HUB LAUNCH

The Hon. SCOTT FARLOW (14:33): I move:

(1) That this House notes that:

(a) on 14 June 2018 the Deaf Society held the launch event for its new online hub Hear Space at the Australian Hearing Hub, Macquarie University, Sydney; and

(b) a number of attendees were present at the event, including CEO Ms Leonie Jackson, Directors Mr David Atkinson, Mr Evan Kidd, Mr Michael Boneham, Ms Kashveera Chnaderjith, Mr Vince Lam and Ms Sarahjane Thompson, as well as the Hon. Ray Williams, MP, Minister for Multiculturalism, and Minister for Disability Services, represented by the Hon. Scott Farlow, MLC, Parliamentary Secretary to the Premier.

(2) That this House notes that:

(a) the Deaf Society is a charitable organisation established in 1913 that provides specialist services for deaf, deafblind and hard of hearing people and their families to give them equal access to life's opportunities;

(b) Hear Space will be an online platform to support people who are hard of hearing and will connect users with the information and services they need to live the best life with hearing loss; and

(c) over three million or 14 per cent of Australians are affected by some degree of hearing loss and this figure is expected to rise by 2050 to affect nearly 25 per cent of the Australian population.

(3) That this House acknowledges the tireless efforts and work conducted by members of the Deaf Society particularly Chairperson, Mr Brian Halse; CEO, Ms Leonie Jackson; and Directors, Mr David Atkinson, Mr Evan Kidd, Mr Michael Boneham, Ms Kashveera Chnaderjith, Mr Vince Lam and Ms Sarahjane Thompson.

Motion agreed to.

SCOTTISH AUSTRALIAN HERITAGE COUNCIL TARTAN DAY LUNCHEON

The Hon. SCOTT FARLOW (14:33): I move:

(1) That this House notes that:

(a) on 4 July 2018 the Scottish Australian Heritage Council hosted its annual Tartan Day Luncheon in Parliament House, Sydney; and

(b) a number of guests attended the event including the Hon. Grant Guthrie Davidson of Davidston, Chief of the Name and Arms of Davidston; Mr Malcolm Buchanan, President of the Scottish Australian Heritage Council; Ms Susan Cooke, Secretary of the Scottish Australian Heritage Council; Ms Nea MacCulloch, Honorary Treasurer of the Scottish Australian Heritage Council; and the Hon. Scott Farlow, MLC.

(2) That this House notes that:

(a) Tartan Day marks the lifting of the Act of Proscription by the British Parliament in 1782 which, after a period of 35 years, allowed the wearing of Highland dress to no longer carry the threat of imprisonment for six months;

(b) Tartan Day 2018 marks the 236th anniversary since the Act was adopted by the British Parliament and highlights a significant milestone in the history of Scotland; and

(c) currently there are 2,023,474 people claiming Scottish ancestry, either alone or in combination with another ancestry residing in Australia, and Scottish ancestry is the fourth most commonly nominated ancestry throughout the country.

(3) That this House acknowledges the tireless work and efforts of the Scottish Australian Heritage Council executive committee including President Malcolm Buchanan, Secretary Susan Cooke and Deputy President Nea MacCulloch.

Motion agreed to.

NEW SOUTH WALES MULTICULTURAL SENIORS ASSOCIATION

The Hon. SCOTT FARLOW (14:34): I move:

(1) That this House notes that:

(a) the Multicultural Seniors Association have nine activity centres, hosting a number of events aimed at keeping local seniors active and healthy in the Strathfield area;

(b) on 9 July 2018 the Minister for Multiculturalism, the Hon. Ray Williams, MP, Councillor Gulian Vaccari, Mayor of Strathfield Council, and the Hon. Scott Farlow, MLC, Parliamentary Secretary to the Premier, visited the Multicultural Seniors Association in Strathfield; and

(c) on behalf of the Government, the Hon. Ray Williams, MP, announced funding in the amount of $3,000 for the association's continued activities and special events.

(2) That this House notes that:

(a) the New South Wales Multicultural Seniors Association currently consists of approximately 1,100 members from different cultural backgrounds, currently residing in the Strathfield and inner west area;

(b) the funding secured by the grant will help to support the association's upcoming Lunar Festival, which will demonstrate and thank the local community by showcasing the origins of lunar celebrations and its cultural significance to the Chinese community; and

(c) there are over 2,400 seniors over the age of 70 in the local Strathfield area, according to the latest census 2016 Australian Bureau of Statistics data, with over 5,800 residents in Strathfield identified as Chinese.

(3) That this House acknowledges the tireless efforts and work conducted by all members of the New South Wales Multicultural Seniors Association including President Ms Yin Lan (Agatha) Ge.

Motion agreed to.

AUSTRALIAN CHINESE YOUTH ELITE CLUB ANTI-DOMESTIC VIOLENCE DINNER

The Hon. SCOTT FARLOW (14:34): I move:

(1) That this House notes that:

(a) on 20 July 2018 the Australia Chinese Youth Elite Club [ACYEC], in conjunction with White Ribbon Australia, hosted an anti-domestic violence charity gala dinner in Sydney; and

(b) a number of special guests and attendees were present at the event including: Mr Mark Coure, MP, member for Oatley; the Hon. Helen Sham-Ho, OAM; Mr Bruce Chan, White Ribbon Australia Ambassador; Ms Jennifer Mullen, White Ribbon Australia Executive; Mr George Coorey; Mr Gordon Brian; Mr Leo Wei, Chairperson, ACYEC; Ms Susie Lim; Mr Benjamin Chow; and the Hon. Scott Farlow, MLC, Parliamentary Secretary to the Premier.

(2) That this House notes that:

(a) the event was attended by over 450 guests from a number of diverse multicultural and business backgrounds, with over $13,000 being raised on the evening for White Ribbon Australia;

(b) White Ribbon Australia is a part of a global movement of men and boys working to end men's violence against women and White Ribbon is a not-for-profit organisation that works through a primary prevention approach in schools, workplaces and communities across Australia; and

(c) 487,976 people currently residing in Sydney claim Chinese ancestry, representing a significant portion of the multicultural population of New South Wales.

(3) That this House acknowledges the tireless efforts and work conducted by members of the ACYEC including Mr Leo Wei, Chairperson; Ms Susie Lin, Co-Founder ACYEC; and all major sponsors and donors of the event.

Motion agreed to.

MENTAL HEALTH SERVICES

The Hon. SCOTT FARLOW (14:35): I move:

(1) That this House notes that:

(a) Banks House is located in the Bankstown Hospital precinct and provides acute mental health services, a place of safety and treatment for people with acute mental health needs;

(b) on 12 July 2018, the member for East Hills, Mr Glenn Brookes, MP, and the Hon. Scott Farlow, MLC, Parliamentary Secretary to the Premier, visited Banks House; and

(c) on behalf of the Government, Mr Glenn Brookes, MP, and the Hon. Scott Farlow, MLC, announced funding in the amount of $50,000 for Beautiful Minds to undertake renovation works in the patients' courtyard at Banks House.

(2) That this House notes that:

(a) for over 25 years Beautiful Minds has been assisting people with mental illness in communities across the south west of Sydney by providing information, housing, rehabilitation and support services;

(b) the funding secured by the grant will support renovations that include an upgrade to outside decking and seating, new flooring, installation of artificial turf, new garden beds as well as the installation of a new exercise equipment area; and

(c) one in five Australians aged 16 to 85 experience a mental illness in any year, with 54 per cent of people suffering from a form of mental illness not having access to any treatment.

(3) That this House acknowledges the tireless efforts and work conducted by members of the Beautiful Minds executive committee, particularly President Ms Kathryn Bain, Secretary Ms Michelle Davis and Treasurer Ms Barbara Schmidt, as well as all the volunteers of the Beautiful Minds organisation, in particular former President Ms Sandra McDonald.

Motion agreed to.

KOREAN FILM FESTIVAL

The Hon. SCOTT FARLOW (14:35): I move:

(1) That this House notes:

(a) that on 9 August 2018 the ninth Korean Film Festival in Australia was hosted in Sydney; and

(b) that a number of special guests and dignitaries attended the event including: Consul General, Sangsoo Yoon; Mr William Seung, former Korean Society of Sydney President; Korean Cultural Centre Australia Director, Soejong Park; Korean Cultural Centre Australia Director, Chang Hang-jun; Cultural Director, Jang Won-seok; Cultural Director, Jeon Go-woon; Cultural Director, Kim Soon-mo; as well as the Hon. Scott Farlow, MLC, Parliamentary Secretary to the Premier.

(2) That this House notes:

(a) that the Sydney Korean Film Festival in Australia was hosted at Dendy Cinema Sydney from 9 to 18 August and showcased 22 films from across Korea that have been released over the past year;

(b) the significant role which the festival plays in highlighting and serving to introduce Korean cinema and culture to the broader New South Wales community; and

(c) that nearly 70,000 residents in New South Wales claim Korean ancestry with many living in Sydney, further highlighting the close relationship which the Korean population share with New South Wales.

(3) That this House acknowledges the tireless work and efforts of the Korean Cultural Centre Australia in organising this year's Korean Film Festival, particularly Chairwoman Soejong Park, and members and volunteers of the organisation.

Motion agreed to.

FEDERATION OF INDIAN ASSOCIATIONS INDIA DAY FAIR

The Hon. SCOTT FARLOW (14:35): I move:

(1) That this House notes that:

(a) on 11 August 2018 the India Day Fair was held by the Federation of Indian Associations of New South Wales in Parramatta Park, Parramatta; and

(b) a number of special guests and dignitaries attended the event, including: the Hon. Gladys Berejiklian, MP, Premier; the Hon. Ray Williams, MP, Minister for Multiculturalism; the Hon. David Clarke, MLC; Dr Geoff Lee, MP; Mr Damien Tudehope, MP; Mr Mark Taylor, MP; Mr Julian Leeser, MP; Mr Luke Foley, MP, New South Wales Leader of the Opposition; the Hon. Michelle Rowland, MP; Ms Julie Owens, MP; Ms Jody McKay, MP; Mr Hugh McDermott, MP; Ms Julia Finn, MP; Mr Andrew Wilson, Lord Mayor for City of Parramatta; Dr Michelle Byrne, Mayor of The Hills Shire; Councillor Suman Saha, Cumberland councillor, representing Mayor of Cumberland Council; Councillor Susai Benjamin, Blacktown Council, representing Mayor of Blacktown Council; Dr Harry Harinath, Chair, Multicultural NSW; and the Hon. Scott Farlow, MLC, Parliamentary Secretary to the Premier.

(2) That this House notes that:

(a) the Federation of Indian Associations of New South Wales [FIAN] is an umbrella organisation of multiple Indian associations in New South Wales, its guiding principles are proper governance, transparency, accountability, and high moral and ethical standards, and its representatives are not motivated by personal gain;

(b) the India Day Fair was in celebration of the seventy-second anniversary of Indian Independence from Britain on 15 August 1947 and had a number of Indian-Australian cultures present at the event; and

(c) events such as the India Day Fair are essential to promoting positive community engagement, wellbeing and understanding of other cultures for not only the over 140,000 Indian-Australians currently residing in New South Wales but for all residents interested in fostering the harmonious multicultural society of New South Wales.

(3) That this House acknowledges and congratulates the tireless efforts and work conducted by members of the Federation of Indian Associations including: Dr Yadu Singh, President; Mr Kumar Madappa, Vice President; Mr Mahesh Raj, Vice President; Dr Naveen Shukla, Secretary; Mr Baljit Khare, Treasurer; Navneet Verma, Joint Treasurer; and Surinder Singh Bhogal, Joint Secretary.

Motion agreed to.

KOREAN-AUSTRALIAN YOUNG PROFESSIONALS SYMPOSIUM DINNER

The Hon. SCOTT FARLOW (14:36): I move:

(1) That this House notes that:

(a) on 24 August 2018 the annual Korean-Australian Young Professionals' Symposium Dinner was hosted in Sydney; and

(b) a number of dignitaries were present at the event including: Mr Sangsoo Yoon, Consul General of the Republic of Korea in Sydney; Mr Ken Hong, Advisory Board member, Multicultural NSW; Ms Mitzi Kim, Chief Operating Officer, Accenture Australia and New Zealand; Ms Christina Danbi Choi, Principal Federal Prosecutor at the Commonwealth Director of Public Prosecutions; Mr Joseph Kim, Chief Executive Officer, BBRC Private Equity; and the Hon. Scott Farlow, MLC, Parliamentary Secretary representing the Hon. Gladys Berejiklian, MP, Premier.

(2) That this House notes that:

(a) the event was attended by over 70 Korean Australian professionals between 20 and 40 years old who focused on how to leverage their identities in the workplace;

(b) Korean Australian Young Leaders [KAY] was established in 2009 and aims to provide its community leadership initiatives and increase their participation in the community whilst also striving to empower Korean Australian young people to find a unified voice in the broader Australian community; and

(c) more than two million or one quarter of New South Wales citizens were born overseas according to the 2016 census representing 27.6 per cent of population with nearly 70,000 people claiming Korean ancestry.

(3) That this House acknowledges the tireless efforts and work conducted by the members of the Korean Australian Young Leaders organisation including: Mr Alex Lee, President; Ms Jenny Han, Vice President; and young working professionals who contributed to the event.

Motion agreed to.

AIRDS/BRADBURY MEN'S SHED

The Hon. SCOTT FARLOW (14:36): I move:

(1) That this House notes that:

(a) Airds/Bradbury Men's Shed has over 85 active members;

(b) on 28 July 2018 the Minister for Multiculturalism, and Minister for Disability Services, the Hon. Ray Williams, MP, the Hon. Lou Amato, MLC, and the Hon. Scott Farlow, MLC, Parliamentary Secretary to the Premier, visited the Airds/Bradbury Men's Shed; and

(c) on behalf of the Government, the Minister for Multiculturalism presented a grant in the amount of $5,000 to the men's shed.

(2) That this House notes that:

(a) the Airds/Bradbury Men's Shed opened in late 2010, establishing a strong and vibrant local community, highlighting the need for support of its members;

(b) members range in age from 20 to 85, most of whom get together to discuss men's health issues and learn new skills in a positive peer group environment and some of the group activities include gardening, machinery works and repairs as well as carpentry and woodwork; and

(c) the funding secured will go towards the continued support and purchase of essential metalworking machinery, which will continue to ensure the productive activity of members of the shed.

(3) That this House acknowledges the tireless efforts and work conducted by members of the Airds/Bradbury Men's Shed, including Shed Coordinator Mr Andrew McGlinchy and Counsellor Mr Brad Simpson as well as the volunteers and members of the shed.

Motion agreed to.

KOREAN SOCIETY OF SYDNEY

The Hon. SCOTT FARLOW (14:37): I move:

(1) That this House notes that:

(a) the Korean Society of Sydney was established in 1968 and primarily serves the 180,000 Koreans living in New South Wales;

(b) on 9 July 2018 the Minister for Multiculturalism, the Hon. Ray Williams, MP, Councillor, Phillip Madirazza, Canterbury Bankstown Council, and the Hon. Scott Farlow, MLC, Parliamentary Secretary to the Premier, visited the Korean Society of Sydney in Croydon Park; and

(c) on behalf of the Government, the Hon. Ray Williams, MP, announced funding in the amount of $5,000 for the purchase of new equipment for upcoming computer programs for seniors.

(2) That this House notes that:

(a) the Korean Society of Sydney acts as an umbrella organisation for over 100 professional, educational, religious, and trade organisations throughout New South Wales;

(b) the mission of the Korean Society is extensive with many activities and events hosted by the society aiming to promote Korean culture, to help develop a positive image for Korean Australians, and to support the multiethnic communities of the inner west; and

(c) there are over 8,000 residents of the inner west who were born in Korea, contributing to the over 51,000 residents across New South Wales born in Korea, according to the latest Australian Bureau of Statistics census data.

(3) That this House acknowledges the tireless efforts and work conducted by all members of the Korean Society of Sydney, including President, Byoung Soo Ryu, and the executive committee.

Motion agreed to.

AUSTRALIAN RUGBY FOUNDATION

The Hon. NATALIE WARD (14:37): I move:

(1) That this House notes that:

(a) the Australian Rugby Foundation is a not-for-profit organisation and since 2014 has been working at the heart of rugby in Australia supporting a vision to grow rugby by investing in grassroots/community rugby initiatives to inspire all Australians to enjoy the game of rugby; and

(b) the Australian Rugby Foundation's partnership with the Ramsay Foundation will see investment in the grassroots development of rugby in schools, including new Fifteens Schoolboys' competitions in Queensland and New South Wales, as well as a budgeted program for the provision of coaching, team equipment, referee accreditation, game day costs, transport and marketing.

(2) That this House acknowledges the outstanding work of the Australian Rugby Foundation and the generous support of the Ramsay Foundation in developing and supporting rugby.

Motion agreed to.

NORTH COAST DRAMA COLLEGIATE DRAMAWORKS SHOWCASE

The Hon. BEN FRANKLIN (14:37): I move:

(1) That this House notes that:

(a) on 13 September 2018 the North Coast Drama Collegiate presented Dramaworks, a showcase of 2018 Higher School Certificate drama students from the North Coast; and

(b) the showcase included the following works:

(i) *The Struggle* starring Ruby Faundez, Harrison Fettel, Zane Stewart and Cooper Wilson;

(ii) *Scrub* starring Maddie Ambler;

(iii) *The Search Bureau for Missing Persons* starring Amir Partoush;

(iv) *Bureaucracy* starring Lauren Essex, Rani Koolloos, Becky Paull and Saskia Ramsey;

(v) *Burnt Crumpets* written by and starring Caitlin Ellis;

(vi) *Almost, Maine* starring Shaun Chaseling;

(vii) *Do You Remember?* starring Niva Ewald, Sinead Fell, Maddyson Lloyd and Kate Utting;

(viii) *Twenty People in Less Than Thirty Seconds* starring Maddie Ambler, Gemma Kuiters, Yasmin McGuiness and Sol Taylor;

(ix) *Love and Lavatories* starring Kieran Williams;

(x) *It's Obvious!* starring Michaela Bryant, Fraser Crane, Ellie Dunne, Kendra Fitzpatrick and Hayley Myers;

(xi) *Undone* starring Arran Hughes;

(xii) *To Moscow* starring Sinead Fell; and

(xiii) *Six Foot Downunder* starring Lachlan Mackie, Lachlan McGeary and Jacob Ryan.

(2) That this House congratulates these North Coast students on their exceptional and innovative performances in the 2018 Dramaworks showcase, and congratulates all Higher School Certificate drama students on their efforts in creating and performing works for their Higher School Certificate.

Motion agreed to.

Business of the House

FORMAL BUSINESS

The PRESIDENT: The question is that Private Member's Business item No. 2643 outside the Order of Precedence standing in the name of Mrs Ward—

The Hon. Walt Secord: Objection!

The PRESIDENT: I have not put the question yet. I would appreciate it if members would allow me to put the question. I repeat: The question is that Private Member's Business item No. 2643 outside the Order of Precedence standing in the name of Mrs Ward be taken as formal business. Is there any objection to this being taken as formal business?

The Hon. Walt Secord: Objection.

The PRESIDENT: Objection taken.

The Hon. Natalie Ward: Why don't you like—

The Hon. Walt Secord: You left out the Labor people.

The Hon. Natalie Ward: I didn't see them there.

The Hon. Walt Secord: You left out the Labor people—pretty petty.

The PRESIDENT: Order! I call the Hon. Walt Secord to order for the first time. I call the Hon. Natalie Ward to order for the first time. I make it clear to all members that they should proceed through formal business without continual interjections and interruptions.

Motions

POLISH CLUB ASHFIELD INVICTUS GAMES CELEBRATION

The Hon. DAVID CLARKE (14:39): I move:

(1) That this House notes that:

(a) on Sunday 21 October 2018 the Polish Club at Ashfield hosted a celebratory function to welcome the Polish team participating in the 2018 Invictus Games held in Sydney;

(b) the Invictus Games 2018 are the first of these games in which a Polish contingent has participated and was an occasion of great pride and celebration for the Polish Australian community;

(c) those who attended the Polish Club function as guests included:

(i) Colonel Graham Stewart, Australian Defence Force, representing Brigadier Scott Winter, Commanding Officer, 3rd Brigade in Townsville;

(ii) the Hon. David Elliott, MP, Minister for Counter Terrorism, Minister for Corrections, and Minister for Veterans Affairs, and Mrs Nicole Elliott;

(iii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice, and Mrs Marisa Clarke;

(iv) Colonel Leszek Slomski, Military Attache, Polish Embassy Jakarta, Indonesia, and Mrs Slomski;

(v) Lieutenant-Colonel Kimberlea Juchniewicz, Invictus Games Participating Nations Manager, Commanding Officer 39th Operational Support Battalion;

(vi) Charlotte Hays, Invictus Games CFO;

(vii) Mike Hawkes, Invictus Games Program Manager;

(viii) competitors in the Polish team, team staff and family and friends who came from Poland as support for the team; and

(ix) members and friends of the Polish-Australian community.

(d) those who comprised the Polish competing team were: Marcin Chlopeniuk, Tomasz Kloc, Jan Koczar, Jaroslaw Kurowski, Dariusz Liszka, Mariusz Manczak, Krzysztof Polusik, Janusz Raczy, Tomasz Rozniatowski, Mariusz Saczek, Andrzej Skrajny, Marek Stosio, Jakub Tynka, Lukasz Wojciechowski and Wlodzimierz Wysocki;

(e) those who comprised the team staff were: Leszek Stepien – Personal Carer/Director of Veterans Centre; Mariusz Pogonowski – Team Manager; Agata Krzeminska – Family and Friends Manager; Bozydar Abadzijew – Trainer; Tomasz Bartosik – Trainer; Tomasz Kazmierczak – Trainer; Bartlomiej Tott – Trainer; Ziemowit Budek – Medical Officer; Renata Anna Matynia – Public Affairs; and Waldemar Jan Mlynarczyk – Public Affairs;

(f) family and friends who accompanied the team from Poland comprised: Emil Chlopeniuk, Iwona Gasinska, Arkadiusz Janczyk, Agnieszka Koczar, Paulina Konopacka-Polusik, Mateusz Kurowski, Urszula Lukaszek, Izabela Manczak, Jacub Musiatowicz, Dominika Musz, Grzegorz Panicz, Dorota Raczy, Malgorzata Schwarzgruber, Anna Skrajna, Joanna Starzynska, Sylwia Stosio and Agata Tynka;

(g) those who organised the celebratory function comprised:

(i) the Polish Club Executive: Ryszard Borysiewicz – President; Robert Czernkowski – Senior Vice-President; Hania Geras – Junior Vice-President; Mateusz Konopka – Treasurer; Eleonora Paton – Secretary; and committee members Helen Oktalowicz, Zbigniew Slomowski, and Andrew Wozniak; and

(ii) club volunteers: Teresa Borysiewicz, Andrew Brajbisz, Izabela Kuczma, Helena Zebrowska, Lucjan Romanowski, Bianca Borysiewicz, Marysia Nowak, Halina Borysiewicz, Malgorzata Malolepsza, Teresa Tuczynski, Conrad Romanowski, Roman Kokoszka, and Malgorzata Kwiatkowska.

(h) entertainment was provided by the Polish Folkloric Ensemble Syrenka.

(2) That this House:

(a) congratulates and commends the Polish Club Ashfield for its successful hosting of a celebrating function on Sunday 21 October 2018 to welcome the Polish team participating in the 2018 Invictus Games, Sydney;

(b) welcomes to Sydney and Australia the Polish team participating in the 2018 Invictus Games in Sydney together with the team staff and relatives who accompanied them; and

(c) commends the Polish-Australian community for its ongoing contribution to the cultural and social life of New South Wales.

Motion agreed to.

H2 INSTITUTE INNOVATION

The Hon. NATALIE WARD (14:39): I move:

(1) That this House notes that:

(a) H2 Institute is a not-for-profit organisation and independent think tank established and dedicated to increasing the understanding of innovation in Australia;

(b) the institute seeks to provide vision and leadership to constructively contribute to the shape of Australia's innovation led future; and

(c) its mission is to educate and inspire through applied innovation.

(2) That this House congratulates:

(a) H2 Institute's co-founders, Mr Ben Heap and Dr Toby Heap, who in five years have invested in over 50 FinTech, data and artificial intelligence early stage ventures; and

(b) their commitment through the institute's fellowship to engage the foremost business, education and other leaders of Australian society to guide and shape an innovation-led future.

Motion agreed to.

MULLUMBIMBY AGRICULTURAL SHOW

The Hon. BEN FRANKLIN (14:39): I move:

(1) That this House notes that:

(a) the Mullumbimby Agricultural Show Society held its annual show on Saturday 10 and Sunday 11 November 2018;

(b) this year was the 111th show, making the Mullumbimby Agricultural Show Society the longest running not-for-profit community organisation in the Byron shire;

(c) the show supports, educates and promotes agricultural, horticultural and pastoral excellence and innovation; and

(d) this year's show included arts, crafts, baking and horticultural competitions, as well as Showgirl, Show Ambassador, excavator soccer events, a Young Farmer Team Challenge and a demolition derby.

(2) That this House congratulates:

(a) 2018 Mullumbimby Showgirl, Ashleigh Hartley;

(b) 2018 Mullumbimby Show Ambassador, Eva Brooke; and

(c) all the competition winners.

(3) That this House acknowledges and thanks the Mullumbimby Agricultural Show Society President, Mark Ward, and all of the show society committee for their hard work and dedication to making the Mullumbimby show a resounding success.

Motion agreed to.

UNITED NATIONS DAY WREATH LAYING CEREMONY

The Hon. NATALIE WARD (14:40): I move:

(1) That this House notes that:

(a) the United Nations Association of Australia [UNAA] is the official non-profit, non-government, membership-based organisation in Australia working on behalf of the United Nations core body to promote its overall aims and ideals, and equally seeking to build support for the United Nations' programs, activities and agencies;

(b) the UNAA official mission is "to inform, inspire and engage all Australians regarding the work, goals and values of the UN to create a safer, fairer and more sustainable world";

(c) UNAA has division offices in every State and Territory of Australia;

(d) on Wednesday 24 October 2018 the United Nations Association of Australia (New South Wales) held Sydney's Annual United Nations Day Wreath Laying Ceremony at The Cenotaph, Martin Place, Sydney; and

(e) the following guests were in attendance:

(i) the Governor of New South Wales, His Excellency General the Hon. David Hurley, AO, DSC (Ret'd), and Mrs Linda Hurley;

(ii) the Hon. Michael Kirby, AC, CBG, Justice of the High Court of Australia (Ret'd);

(iii) the Hon. Natalie Ward, MLC, representing the Premier;

(iv) the Hon. Lynda Voltz, MLC, representing the Leader of the Opposition;

(v) Federal and local government representatives;

(vi) representatives from various United Nations organisations; and

(vii) members of the public, including Mrs Barbara Ward.

(2) That this House congratulates:

(a) all United Nations Association of Australia State and Territory organisations on their tremendous work in continuing to carry out the mission of the United Nations; and

(b) the United Nations Association of Australia (New South Wales) on its hard work and commitment throughout the year and particularly bringing together a very memorable event.

Motion agreed to.

RUSSIAN RESURRECTION FILM FESTIVAL

The Hon. DAVID CLARKE (14:40): I move:

(1) That this House notes that:

(a) on Thursday 1 November 2018 the opening night of the 2018 Russian Resurrection Film Festival Sydney was held at Event Cinemas, Sydney, featuring the Australian premiere of the Russian film The Coach followed by an opening night reception party at the Gilt Lounge, QT Sydney Hotel;

(b) the Russian Resurrection Film Festival, which is now in its fifteenth year, is recognised as the largest festival of Russian films outside the Russian Federation itself;

(c) the director, organiser and founder of the Russian Resurrection Film Festival is Mr Nicholas Maksymow;

(d) a special feature of the opening night was the attendance of:

(i) Mr Danila Kozlovsky, lead actor and director of the opening night's film *The Coach*; and

(ii) Mr Konstantin Khabenskiy, prominent Russian actor and director who has worked extensively in Hollywood and is the director of Sobibor which has been put on the short list for Best Foreign Language Film for the Oscars presentation for 2019 and is one of the films featured at the festival.

(e) others who attended the festival's opening night included:

(i) the Hon. Victor Dominello, MP, Minister for Finance, Services and Property;

(ii) the Hon. Walt Secord, MLC, shadow Minister for Health, the Arts and North Coast, and Deputy Leader of the Opposition in the Legislative Council;

(iii) His Excellency Mr Grigory Logvinov, Ambassador of the Russian Federation;

(iv) Mr Sergei Shipilove, Consul-General of the Russian Federation in Sydney;

(v) Mr Andrei Ovcharenko, Minister Plenipotentiary of the Embassy of the Russian Federation in Australia;

(vi) Mr Nicholas Maksymow, director, organiser and founder of the Russian Resurrection Film Festival;

(vii) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice, and Mrs Marisa Clarke;

(viii) Mr Laurie Ferguson, former member for Reid and Werriwa;

(ix) Reverend Fr Michael Storozhev, St Peter and Paul Cathedral, Strathfield - Russian Orthodox Church Outside of Russia (Australia and New Zealand Diocese);

(x) Reverend Protodeacon Alexander Kotlaroff, St Peter and Paul Cathedral, Strathfield - Russian Orthodox Church Outside of Russia (Australia and New Zealand Diocese);

(xi) Reverend Deacon Bill Konstantinidis, Protection of the Holy Virgin Church, Cabramatta, Russian Orthodox Church Outside of Russia (Australia and New Zealand Diocese); and

(xii) Mr Michael Christodoulou, CEO, New South Wales Federation of Community Language Schools.

(f) those who were part of the team who worked under the direction of Mr Nicholas Maksymow to make the Russian Resurrection Film Festival a success included: Mrs Julia Maksymow, Mrs Tatiana Hartung, Mr Dimitry Palmer, Mr Christopher Palmer, Mr Dimitri Konstantinidis, Ms Elena Veselova, Mrs Olga Thomas, Mrs Milla Krivozhnya, Mrs Tatiana Tsoutman, Mrs Larisa Lapardin-Kojevnikov, Mr John Cole, Mr Greg Dolgopolov, Mr Dmitry Davidenko, Ms Sari-Elle Kraemer, Alpha Consult, and Mr Anthony Kierann, General Manager Festivals, Event Cinemas; and

(g) others who provided assistance included:

(i) the Embassy of the Russian Federation in Australia, the Ministry of Culture of the Russian Federation, Lenfilm and Mosfilm;

(ii) St Sergius Aged Care (Russian Relief Association), FATS Digital, Lamrock Design, Moore Stephens, MOS Beverages, and White Birch Vodka as sponsors;

(iii) FilmInk, *Unification* Russian-Australian newspaper, Horizon Newspaper, SBS Radio, Russian Radio, Russian News Time, St Alexander Nevsky Russian School at Homebush, and Sydney Film Festival who provided publicity for the film festival.

(2) That this House:

(a) congratulates and commends Mr Nicholas Maksymow, the festival's director, organiser and founder, together with his organising team and all others who assisted in the holding of the successful 2018 Russian Resurrection Film Festival, Sydney, which has now become a significant event in the cultural life of New South Wales; and

(b) commends the Russian Australian community for its ongoing contribution to the State of New South Wales.

Motion agreed to.

COPTIC NEW YEAR

The Hon. DAVID CLARKE (14:40): I move:

(1) That this House notes that:

(a) on Tuesday 11 September 2018 the Coptic Orthodox Community of Sydney celebrated El Nayrouz the feast of the Coptic New Year for 2018 at the Parliament of New South Wales at a function attended by several hundred members and friends of Sydney's Coptic Orthodox community;

(b) the function was jointly hosted by His Grace Bishop Daniel, Bishop of the Coptic Orthodox Church, Diocese of Sydney and Affiliated Regions, and the Public Affairs Council of the Diocese chaired by Mr John Nour;

(c) those who attended included:

(i) His Grace Bishop Daniel of the Coptic Orthodox Church, Diocese of Sydney and Affiliated Regions;

(ii) His Eminence Metropolitan Basilios, Antiochian Orthodox Archdiocese of Australia and New Zealand;

(iii) His Grace Bishop Daniel, Bishop and Abbott of St Shenouda Monastery;

(iv) Mr Mark Coure, MP, Parliamentary Secretary for Transport and Infrastructure, representing the Hon. Gladys Berejiklian, MP, Premier;

(v) Mr Chris Minns, MP, shadow Minister for Water, representing Mr Luke Foley, MP, Leader of the Opposition;

(vi) the Hon. John Ajaka, MLC, President of the Legislative Council, and Mrs Mary Ajaka;

(vii) Mr John Nour, Chairman, Public Affairs Council of the Coptic Orthodox Church, Archdiocese of Sydney and Affiliated Regions;

(viii) the Hon. David Elliott, MP, Minister for Counter Terrorism, Minister for Corrections, and Minister for Veterans Affairs;

(ix) the Hon. Mark Speakman, MP, Attorney General;

(x) the Hon. David Clarke, MLC, Parliamentary Secretary for Justice;

(xi) Mr Yasser Abd, Consul-General for Egypt in Sydney, and Mrs Llebba Abd;

(xii) Mr Mohammed Taher, Deputy Consul-General for Egypt in Sydney, and Mrs Reham;

(xiii) Mr Mohammed Farghal, Deputy Consul-General for Egypt in Sydney, and Mrs Botoul;

(xiv) Mr Jihad Dib, MP, shadow Minister for Education;

(xv) the Hon. Paul Lynch, MP, shadow Attorney General;

(xvi) Mr Edmond Atalla, MP, and Mrs Damiana Attalla;

(xvii) Ms Julia Finn, MP, Opposition Parliamentary Secretary for the shadow Cabinet;

(xviii) Reverend Fr Moses Shenouda, St Shenouda Monastery;

(xix) Reverend Fr Morris Morris, Coptic Orthodox Church;

(xx) Reverend Fr Superior Ferkh, St Charbel's Maronite Mission;

(xxi) Reverend Dr James Collins, Rector of St Paul's Anglican Church Burwood;

(xxii) Reverend Dr Manas Ghosh, Leigh Memorial Congregation;

(xxiii) Reverend Andrew Sempell, Rector of St James' King Street;

(xxiv) Reverend Ken Day, St Stephen's Uniting Church;

(xxv) Nishan Basmajian, Executive Director, Archdiocese of the Armenian Church of Australia and New Zealand;

(xxvi) Ms Liz Stone, General Secretary, National Council of Churches, Australia;

(xxvii) Ms Zdenka Zrno, Department of Home Affairs;

(xxviii) Mrs Nella Hall, representing the Hon. Paul Green, MLC;

(xxix) Ms Tanya Raffoul; and

(xxx) students and teaching staff of St Bishoy Coptic College, Mount Druitt; St Mary and St Mina's Coptic Orthodox College, Bexley; and St Mark's Coptic College, Wattle Grove.

(d) those who organised the event comprised members of the Public Affairs Council of the Coptic Orthodox Church Sydney Diocese, particularly Mr John Nour, Mr Michael Lawndy and Ms Sandra Saman.

(2) That this House congratulates the Coptic Orthodox community on the occasion of the Feast of El Nayrouz 2018.

Motion agreed to.

The PRESIDENT: I remind the Hon. Walt Secord and the Hon. Natalie Ward that they are both on one call to order. I will not hesitate to call both of them to order again. If members wish to have a discussion, they should do so outside the Chamber and not while I am dealing with formal business.

Petitions

RESPONSES TO PETITIONS

Tweed Byron Policing

The Hon. SCOTT FARLOW: I lodge a response from the Hon. Troy Grant, Minister for Police, to the following petition signed by more than 500 persons:

Tweed Byron Policing—lodged 16 October 2018—(The Hon. Walt Secord)

I move:

That the petition be printed.

Motion agreed to.

Documents

TABLING OF PAPERS

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

(1) Annual Reports (Departments) Act 1985—Report of Greyhound Welfare and Integrity Commission for year ended 30 June 2018.

(2) Annual Reports (Departments) Act 1985 and Annual Reports (Statutory Bodies) Act 1984—Report of Department of Finance, Services and Innovation for year ended 30 June 2018, incorporating:

Building Professionals Board

Long Service Corporation

Mine Subsidence Board (trading as Subsidence Advisory NSW)

New South Wales Government Telecommunications Authority (trading as NSW Telco Authority)

Office of the Valuer General

Rental Bond Board

State Archives and Records Authority.

(3) Annual Reports (Statutory Bodies) Act 1984—Reports for year ended 30 June 2018:

Destination NSW

Mental Health Commission

Multicultural NSW

New South Wales Aboriginal Land Council

NSW Architects Registration Board

Place Management NSW, incorporating:

Luna Park Reserve Trust

Property NSW

Service NSW

State Insurance Regulatory Authority

Teacher Housing Authority of NSW

Waste Assets Management Corporation

Wentworth Park Sporting Complex Trust.

(4) Cemeteries and Crematoria Act 2013—Report of Cemeteries and Crematoria NSW for year ended 30 June 2018.

(5) Greyhound Racing Act 2009—Report of Greyhound Racing New South Wales for year ended 30 June 2018.

(6) Harness Racing Act 2009—Report of Harness Racing NSW for year ended 30 June 2018.

(7) Mental Health Act 2007—Report of Mental Health Review Tribunal for year ended 30 June 2018.

(8) Professional Standards Act 1994—Report of Professional Standards Council for year ended 30 June 2018.

(9) Thoroughbred Racing Act 2009—Report of Racing NSW for year ended 30 June 2018.

(10) Workplace Injury Management and Workers Compensation Act 1998—Report of the Workers Compensation Independent Review Office for year ended 30 June 2018.

I move:

That the reports be printed.

Motion agreed to.

Committees

LEGISLATION REVIEW COMMITTEE

Report: Legislation Review Digest No. 65/56

The Hon. NATASHA MACLAREN-JONES: I table a report of the Legislation Review Committee, entitled "Legislation Review Digest 65/56", dated 20 November 2018. I move:

That the report be printed.

Motion agreed to.

COMMITTEE ON THE HEALTH CARE COMPLAINTS COMMISSION

Report: Cosmetic Health Service Complaints in New South Wales

The Hon. MARK PEARSON: I table report No. 4/56 of the Committee on the Health Care Complaints Commission, entitled "Cosmetic Health Service Complaints in New South Wales", dated November 2018. I move:

That the report be printed.

Motion agreed to.

The Hon. MARK PEARSON (14:42): I move:

That the House take note of the report.

The report entitled "Cosmetic Health Service Complaints in New South Wales", tabled on 20 November 2018, is the fourth report of the Committee on the Health Care Complaints Commission [HCCC] that has been tabled in the Fifty-sixth Parliament. The inquiry was self-referred on 13 February 2018 in response to public safety concerns raised by the Minister for Health, the Health Care Complaints Commission and the media following various cases relating to cosmetic health services, including the tragic death of Ms Jean Huang following a breast filler procedure late last year. The committee wanted to examine whether the HCCC and other government regulatory frameworks could improve outcomes for members of the public who use cosmetic health services.

This industry is growing and demand is increasing. The inquiry demonstrated that a number of complexities make regulating cosmetic health services challenging. Various State and Commonwealth laws and organisations assist in this area. There is no set definition of "cosmetic health services" and both registered and unregistered practitioners provide services. We received evidence that some corporate operators prioritise profits over patients. Other practitioners may compromise patient safety by using counterfeit products or employing unqualified staff to provide low-cost services. We were concerned to learn that complaints relating to cosmetic health services may be underreported for various reasons. We also heard from a range of stakeholders that there is a lack of public awareness about this industry.

The committee has made 16 recommendations to the New South Wales Government to better protect and inform the public. Our recommendations will ensure that the HCCC's powers and functions are robust enough to adequately address the complexities associated with this industry and assist patients in resolving their concerns.

Our recommendations will ensure that legislative and regulatory frameworks are strengthened. In particular, we want the HCCC to have adequate powers to enter and search clinics when it receives intelligence and warn the public about operators it has concerns about. We also want the public to be well informed about procedures, practitioners and complaint processes.

Our recommendations are not just focused on the HCCC. The committee found that collaboration between the commission and other State and Commonwealth organisations is important and it is essential that this collaboration continues. We heard that there is public confusion surrounding the title "cosmetic surgeon". It surprised members of the committee to learn that, at present, any doctor can use this title. This could range from a general practitioner, cardiothoracic surgeon or plastic surgeon. Members of the public are often not aware that their doctor could have decades of training and experience in cosmetic surgery or may have completed only a short course. The use of the title "cosmetic surgeon" could be misleading the public by conveying the false impression that a doctor has specialist training as a surgeon.

The New South Wales Minister for Health has already approached the Council of Australian Governments Health Council to restrict or protect the title "cosmetic surgeon" at a national level. We have recommended that the Minister continue to pursue this matter. If national consistency cannot be achieved, the Minister should consider whether to introduce separate legislation in New South Wales to place restrictions on the use and title that the doctors are conveying.

I seek leave to have the balance of my speech incorporated in *Hansard*.

Leave granted.

The Committee considers that protecting or restricting the title 'cosmetic surgeon' would assist by regulating that doctors using the title meet minimum criteria in terms of education, training and experience. The Committee's recommendations will also ensure that relevant and important information about the cosmetic health services industry is more accessible to the public so individuals can make informed decisions about procedures and practitioners and understand where and how to make a complaint if they are dissatisfied. We have recommended a public education campaign using advertising and social media, with a focus on targeted demographics, to raise awareness of the risks involved in cosmetic procedures and where to find relevant information. We have also recommended consideration of a one-stop-shop where the public can easily obtain information on procedures, practitioners, facilities and the complaints process.

The Committee learnt that, unlike some other States, New South Wales does not regulate lasers or intense pulsed light devices commonly used for cosmetic procedures. This means anyone is free to own and operate a device. The Committee has recommended regulation of these devices to ensure the safety of the public, preferably at a national level but, at the very least, in New South Wales. I would like to thank everyone who provided evidence to the Committee which was very helpful to us in formulating our recommendations. I commend the report to the House.

Debate adjourned. Religious Freedoms

Petitions

PETITIONS RECEIVED

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

Central Coast Seismic Testing

Petition calling on the Government to ban seismic testing and cease gas and oil exploration off Newcastle and the Central Coast to protect whales, dolphins, the coastal ecosystem and residents' health, received from **Mr Justin Field**.

Announcements

COMMONWEALTH PARLIAMENTARY ASSOCIATION TWINNING PROGRAM

The PRESIDENT (15:00): Under the twinning program, all Australian State and Territory Parliaments are twinned with Pacific legislatures. The goal of twinning is to promote collaboration and understanding between twinning partners, for the mutual benefit of each Parliament. As honourable members know, the New South Wales Parliament has been twinned with the Solomon Islands and Bougainville since 2007. I invite attention to the presence in my gallery of the Speakers of both those Parliaments. I welcome the Honourable Ajilon Jasper Nasiu, Speaker of the National Parliament of Solomon Islands, and the Honourable Simon Pentanu, Speaker of the Autonomous Region of Bougainville House of Representatives.

Since 2007 the members and officers of our three Parliaments have collaborated on numerous initiatives to strengthen the capacity of our legislatures, in order to fulfil our legislative, representative and oversight functions. We have learned from each other and in doing so, have become firm and trusted friends. I am sure that

I speak for us all in this House when I say how much we value this relationship and hope that it will continue well into the future.

The Hon. DON HARWIN: By leave: I move:

That, the Honourable Ajilon Jasper Nasiu, Speaker of the National Parliament of Solomon Islands, and the Honourable Simon Pentanu, Speaker of the Autonomous Region of Bougainville House of Representatives, be invited to take a chair on the dais.

Motion agreed to.

The PRESIDENT: I also welcome officers from our twinned Parliaments, here to attend the Australasian Parliamentary Educators Conference, which is being held this week at the New South Wales Parliament: Mr Joel Tukana, Principal Parliamentary Reporter, Autonomous Region of Bougainville House of Representatives, inaugural recipient of the twinning professional development scholarship; Ms Marisa Pepa, Parliamentary Civic Education Officer, National Parliament of Solomon Islands; and Mr Alex Seama, Parliamentary Principal Civic Education Officer, National Parliament of Solomon Islands. I advise members that an officer of the Legislative Council will take photographs from the floor of the House to commemorate this occasion.

Business of the House

WITHDRAWAL OF BUSINESS

The Hon. PAUL GREEN: I withdraw Private Member's Business item No. 2626 outside the Order of Precedence standing in my name on the *Notice Paper* for today relating to Dr Shaw.

Visitors

VISITORS

The PRESIDENT: I welcome to the President's Gallery Father Tomasz Gaj, a Dominican priest and co-author of *Sankofa,* a book on the ethics of life. Father Gaj will observe question time. He is currently visiting Australia from Poland and is the guest of Reverend the Hon. Fred Nile.

[*Later*,]

The PRESIDENT: Our guests from Bougainville and the Solomon Islands will be leaving us soon. I take this opportunity to thank them for joining us. I ask all members to acknowledge and thank them for their participation today.

[*Later*,]

The PRESIDENT: I welcome to the public gallery students and guests from Glenwood High School, Riverstone High School, Rouse Hill Anglican College, St John Paul II Catholic College, St Mark's College, The Ponds High School and Wyndham College, guests from the Riverstone electorate, hosted by the member for Riverstone, Mr Kevin Connolly.

Notices

PRESENTATION

The Hon. Dr Peter Phelps: Point of order: My point of order is in relation to an earlier motion moved by the Hon. Shaoquett Moselmane. A ruling by then President Harwin on 22 June 2011 indicated that the giving of notices is not an opportunity for debate. I am concerned now, and have been for some time, that the motion of the Hon. Shaoquett Moselmane and other supposed notices of motions are exceedingly long and, in effect, contain an argument within the motion which far exceeds that necessary to make the motion understandable. Will you please look at the motion and indicate whether it falls within the parameters of a notice of motion, and if it undertakes a debate should it, or parts of it, be ruled out of order?

The PRESIDENT: I happy to hear members on the point of order. I indicate to all members that I will reserve my ruling on this point of order. I will give my ruling before the end of this sitting day.

The Hon. Lynda Voltz: To the point of order: When you are reviewing the motion moved by the Hon. Shaoquett Moselmane I ask that the length of other motions that have been moved in this Chamber today also be reviewed. I also ask that you look at other motions previously moved by members on both sides of this Chamber that contain argument and debate.

The PRESIDENT: I will reserve my ruling. I note what has been said by the Hon. Dr Peter Phelps and the Hon. Lynda Voltz.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. DON HARWIN: I move:

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

Motion agreed to.

PRECEDENCE OF BUSINESS

The Hon. DON HARWIN: I move:

That Government business take precedence of debate on committee reports this day.

Motion agreed to.

Disallowance

MARINE ESTATE MANAGEMENT (MANAGEMENT RULES) AMENDMENT REGULATION 2018

The PRESIDENT: I remind members that the question that the motion proceed as business of the House was agreed to on 20 June 2018.

Mr JUSTIN FIELD: I move:

That the matter proceed forthwith.

Motion agreed to.

Mr JUSTIN FIELD (15:23): I move:

That, under section 41 of the Interpretation Act 1987, this House disallows the Marine Estate Management (Management Rules) Amendment Regulation 2018, published on the NSW Legislation website on 15 June 2018.

I speak to the motion to disallow the management rules that rezone certain marine parks to allow shore-based recreational fishing in our most precious marine sanctuary areas. Let us be crystal clear about what this regulation will do: it will wind back marine protections in this State. Ten of the marine sanctuaries in this State, some of which have been in place for many years—for example, in the Cape Byron Marine Park, the Solitary Islands Marine Park, the Port Stephens Great Lakes Marine Park and Batemans Marine Park—will be undermined, wound back and opened up for fishing.

After almost eight years in government, an independent review of marine parks which recommended that the network be expanded, the fanfare of the Government's new threat-and-risk approach, and the Marine Estate Management Act, what has the Government to show? Nothing. The Government has presided over nothing but cuts to marine protections in New South Wales. Reducing these protections goes against all evidence, runs counter to other jurisdictions around the country and the world that are taking steps to address risks to the marine environment and is opposed by the community. It should not be supported by this House.

This regulation is part of a sustained attack by this Government and Minister on our marine and terrestrial environment. The Government is undermining our national parks and world heritage. We have seen that with the decision to undermine the Blue Mountains National Park and the calls from The Nationals to allow forestry back into some national parks, and we are seeing it again today.

The Hon. Niall Blair: Point of order: We are debating the disallowance of a regulation that is limited to the marine estate. For Mr Justin Field to move onto forestry and other matters about national parks is straying from the substance of the motion before the House. The member should be brought back to the substance of the motion.

The ASSISTANT PRESIDENT (Reverend the Hon. Fred Nile): Mr Justin Field will return to the substance of the motion and restrict himself to that motion.

Mr JUSTIN FIELD: The regulation is part of a sustained attack on our environment. It started with national parks and it has continued with marine parks throughout the term of this Government. This is a time when our marine environment cannot allow more pressures. Climate change is the biggest single risk to our marine environment. This Government has no plan whatsoever. Marine parks, protected areas and sanctuaries are the best tools we have to build the resilience of our marine environment to respond to those threats. This Government systemically has undermined it. It has failed to meaningfully stem the flow of single-use plastics into the ocean. The community has been screaming for action but this Government cannot even ban plastic bags. This regulation is another example of the Government turning its back on science and the environment and giving a gift to the angry and noisy minority represented in this place by the Shooters, Fishers and Farmers Party.

It is the worst form of politics. We saw that in the extreme in September when the Government backflipped on a genuine Sydney marine park with adequate marine sanctuaries. The thousands of submissions over multiple consultations since 2014 were thrown out the door to appease the mob. On this issue also there was overwhelming opposition to the removal of sanctuary protections. This regulation has been in the pipeline since September 2015. It has spent years sitting with multiple environment Ministers who were, for a long time, too apprehensive to sign off on it—and they should have been apprehensive. It is backward step, it is destructive environmental policy, it is anti-science and it lacks genuine community support.

In short, the history is that in 2011 the Government commissioned an independent scientific audit of marine parks in order to advise on future management of the marine parks and the New South Wales marine estate. The audit reported in 2012 and concluded that information was lacking for some sanctuary zones, specifically in relation to ocean beaches. In March 2013 former Minister Katrina Hodgkinson announced an amnesty from prosecution for shore-based recreational line fishing from 30 ocean beaches and headland sanctuary zones across five of our marine parks.

The Minister went to public consultation on the draft management rules in September 2015 to permanently rezone 10 of the 30 sites to remove sanctuary protections altogether. Twenty were restored at that time but the damage in those sites had been done. Almost three years later the Government, despite 6,626 submissions—99.4 per cent of which did not support the proposal to rezone these sites—moved at that time to gazette the remaining 10 sites from being sanctuaries to allow for continuation of shore-based recreational line fishing.

This regulation undermines the entire value of our marine park network. The value for marine biodiversity primarily comes from the dedicated no-fishing marine sanctuaries in our marine parks. It is a critical element of the very idea of marine protected areas that there is comprehensive, adequate and representative coverage and protection. The rezoning of these 10 sites, while small in total area, will substantially change the percentage of our coastline protected as marine sanctuaries in New South Wales and leave our marine environment and important marine life that inhabits it completely exposed to extractive industries. It is essential that a portion of each of our biodiversity types is protected in these sanctuaries, but less than 2 per cent of the whole coastline will now have that type of protection. Currently less than 7 per cent of all State waters and less than 4 per cent of the shoreline is fully protected. These changes go even further, unless we disallow this regulation.

Marine parks, especially fully protected sanctuary zones, are one of the best management tools to build the resilience of the marine environment. They place the environment in the best position to recover from climate change impacts and from shocks, including major storm events and pollution incidents. It is absurd to rezone these sites, particularly now, given the Government has indicated future pilots to develop management plans for the entire marine estate network and the marine parks within it. On the one hand, the Government is promising a process; on the other hand, there is the politics of the absurd—ocean beaches and headlands assessment and the undermining of these important sanctuaries. Those opposite pick and choose the process that suits their politics, and the community is sick of it. This is not what the community wants.

Submissions to the process were overwhelmingly opposed. In 2014 a Galaxy Research survey of more than 1,000 New South Wales residents found that 94 per cent of people supported the idea of marine sanctuaries. Of those who identified as recreational fishers—I am one of those—91 per cent supported marine sanctuaries. The dive industry supports sanctuary zones and asked for protections to be restored. Reduction in the area of sanctuary zones is seen as a threat to that industry and the economic benefit it brings to local economies. The Port Stephens-Great Lakes Marine Park Advisory Committee rejected the proposal as it related to that marine park, but the Government has pushed ahead anyway.

The impacts are real. These areas might seem like small strips of ocean that few people visit but they are critical places. The Cape Byron Marine Park gives several examples; I am a bit shocked that a particular Government member is not present to hear this. Tyagarah Beach is home to the endangered little tern and the vulnerable pied oystercatcher. The East Cape Byron sanctuary that is being undermined is a major tourist attraction, which is adjacent to the viewing platform where visitors watch whales and where the Byron Bay bottlenose dolphins, which are susceptible to entanglement in fishing lines and lures, can often be seen. It is one of the most visited tourist sites on the north coast of New South Wales, where people go to see marine life in its natural environment, including animals that are endangered by the fishing process. Very few people can get there, but why do this? The sanctuary had the support of the community.

The Minnie Water Back Beach in Solitary Islands Marine Park is an aggregation site for the critically endangered grey nurse shark. North Head in the Batemans Marine Park was previously a scientific reference site and was identified in the Government's own assessment at the time as representing a high risk if rezoned, given its scientific value. During the debate on the Hawkesbury process we heard a lot about the need for science, but here is an example of the Government undermining the scientific reference sites in our marine parks. It is just not

good enough. Also in the Batemans Marine Park, Mullimburra Point features extensive inshore kelp forests. Along the east coast of Australia such places are under pressure and are being decimated by warming waters due to climate change. In New South Wales important protections for these sites are being removed by this regulation.

Brou Beach is home to the endangered nesting little tern and hooded plover. The site borders Brou Lake and Lake Tarourga—both in the Eurobodalla National Park—creating a rare environment in New South Wales. It is one of the only estuary-to-sea connections in the State. National parks run into marine parks down the estuary all the way to the ocean and the surrounding beaches and headlands. Yet that protection will be lost due to this regulation. Those are just some of the examples.

The community is right to be concerned about the future of the marine environment under this Government. How much more damage will those opposite do to our environment as they negotiate their way to the next election and vie for votes from the angry mob? What is their plan for the pilot reviews of the Solitary Islands and Batemans marine parks? Considering the trajectory the Government has taken through the marine estate management process, which has delivered absolutely nothing for marine park protections, the signs are not good, and people see it. When confronted with science and facts, those opposite turn away and play politics; they divide communities and cast aside the environment. The Legislative Council should stop it here and disallow this regulation. This House should step in and save our marine sanctuaries in New South Wales.

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:34): The Government opposes this disallowance motion. The Liberal-Nationals Coalition came to government in 2011 promising that marine park planning would be based on independent scientific evidence combined with opportunities for local communities to have their say in these decisions. It delivered on this promise and has embarked on significant reforms to marine estate planning. The Government commissioned an independent scientific audit of marine parks in New South Wales. In 2012 the audit report made a number of recommendations to deliver more effective and evidence-based management of the entire marine estate, including marine parks.

The Marine Estate Management Authority undertook the statewide threat and risk assessment [TARA], which for the first time ever provides a comprehensive, evidence-based assessment of the threats and risks impacting the benefits that the New South Wales community derives from the marine estate. The TARA found that the highest ranked threats to the environmental values of the marine estate were things like urban stormwater discharge, modification of estuary entrances and diffuse source water pollution. The Marine Estate Management Strategy released a few years ago delivers a comprehensive plan for dealing with the biggest threats to the marine estate environment. The threat and risk assessment and the Marine Estate Management Strategy can now be used to inform the development of new marine park management plans to balance community needs and the use of the marine environment in order to achieve the best outcome for everyone.

When it comes to marine parks, fishers often have felt excluded from the process and not listened to. That is why the New South Wales Government tasked the Marine Estate Expert Knowledge Panel to undertake an assessment of recreational line fishing from ocean beaches and headlands within sanctuary zones. In March 2013 the Government introduced an amnesty on recreational line fishing from ocean beaches and headlands within sanctuary zones while the panel undertook that work. The panel used a threat and risk assessment-based approach to assess a range of economic, social and environmental factors relating to the impact of recreational line fishing at 30 sites on ocean beaches and headlands. The panel's assessment plus the advice of the Marine Estate Management Authority informed the Government's interim decision in December 2014 to end the amnesty at 20 of the original 30 sites within sanctuary zones.

The amnesty remained in place at 10 sites: four sites in Batemans Marine Park, two sites in Cape Byron Marine Park, two sites in Port Stephens-Great Lakes Marine Park and two sites in Solitary Islands Marine Park. Rezoning these 10 sites required an amendment to the management rules for the four affected marine parks to formalise the arrangements that have existed since 2014—I repeat, to formalise the arrangements that have existed since 2014. What we are discussing here today is not new, but Mr Justin Field has waited until almost the last sitting day to move this disallowance motion. The Government invited submissions on the draft management rules from 1 September to 13 November 2015 but no new evidence was provided that required a reconsideration of the rezoning proposals.

Let us be clear about what is being allowed through this regulation. The zones include strips between the shoreline and 100 metres seaward at each site in four of the State's six marine parks. The sanctuary zones surrounding each site remain in place. I am aware that The Greens have made statements in the media to the effect that marine protected areas have been halved by this regulation. For the record, I am advised that overall there is a 0.05 per cent reduction in the sanctuary zone area, from 6.49 per cent to 6.44 per cent of the New South Wales marine estate.

I recognise that some of our marine park plans will be revisited, especially now that the marine park management planning for Batemans Marine Park has begun with Solitary Islands to follow and given our increasing understanding of threats and risks to the marine estate and the rolling out of the first ever Marine Estate Management Strategy. No doubt the work already undertaken in relation to these ocean beaches and headlands will be taken into consideration. I am proud to say we have opened up 44 kilometres of coastline in these marine parks to recreational fishing. The Greens should be congratulating the Government on using such a robust process with thorough community consultation in order to achieve this balanced outcome.

The member moving this motion cites science. This is a case of The Greens not accepting the science because it did not come up with the outcome that they wanted. This arrangement is low on the risk assessment. It will allow people to use line fishing off beaches and headlands, as they have done since 2014. It is not something that is new. The Government is formalising arrangements that are already in place. The world has not stopped since this arrangement has been allowed. It contributes vital economic and social benefits to our community. It is not a threat. This disallowance motion shows that The Greens do not accept the independent process and the science that has informed this decision.

The Hon. PENNY SHARPE (15:39): I make a brief contribution to indicate that Labor will not be supporting this disallowance motion. The motion proposes to stop the Government's regulation that rezones 10 ocean beaches and headland areas within the Cape Byron, Solitary Islands, Port Stephens-Great Lakes and Batemans marine parks from sanctuary zones that prohibit fishing to instead allow recreational line fishing from the shore to a distance up to 100 metres from shore. The 10 areas where the line fishing from shore will be allowed are the two areas in the Solitary Islands, Minnie Water Back Beach and the southern section of Moonee Beach; in Cape Byron, Tyagarah Beach south and Cape Byron east; in the Port Stephens-Great Lakes Marine Park, Cellito south and Fiona Beach; and in Batemans Marine Park, North Head, Mulliburra, Brou Beach and Bogola.

Labor has given a great deal of consideration to this matter. The contest relating to marine parks and marine protection has been ongoing since the election of this Government. As members know, Labor has had significant concerns about the way in which the matter has been dealt with. We have looked closely at what is being proposed. We were very opposed to the Government's original actions when it lifted compliance activities in 30 areas. We were somewhat heartened when the Government reinstated in 20 areas, after a proper assessment. We believe that there has been a strong assessment of the arrangements and do not believe that members can pick and choose the scientific evidence.

Labor does not argue for one minute the importance of sanctuary zones in marine parks but we do argue that in the review of marine parks—and we note that under this Government many reviews have not taken place—there is always a need to look at the zonings. As members would be aware, in 2011, the Government, when it first came to office, disallowed a regulation which increased recreational fishing and provided greater protection to grey nurse sharks and other areas. That is what governments do, and it is something that Labor would seek to do if elected in March next year. However, at this point we believe that the Government's actions are not unreasonable and we do not support a motion to disallow the regulation.

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

The House divided.

[*In division*]

The PRESIDENT (15:44): Before I appoint the tellers, I indicate the following: Tellers are appointed at the request and sole discretion of the Chair. Accordingly, tellers have a duty to undertake the task to which they are appointed in an efficient, diligent and honourable manner. Furthermore, tellers, like all members, are required to follow the instructions of the Chair and adhere to all standing orders. It is always open to the Chair to replace the tellers first chosen if the Chair considers that the tellers are unable or unwilling to perform the task to which they are appointed.

Ayes 4
Noes 30
Majority.....26

AYES

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

NOES

Blair, Mr	Borsak, Mr R	Clarke, Mr D
Colless, Mr R	Cusack, Ms C	Donnelly, Mr G
Fang, Mr W (teller)	Farlow, Mr S	Franklin, Mr B
Graham, Mr J	Green, Mr P	Harwin, Mr D
Houssos, Mrs C	Khan, Mr T	MacDonald, Mr S
Maclaren-Jones, Mrs (teller)	Mallard, Mr S	Martin, Mr T
Mitchell, Mrs	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

Motion negatived.

SYDNEY OLYMPIC PARK AUTHORITY REGULATION 2018

The PRESIDENT: According to standing order the question is: That the motion of Mr David Shoebridge proceed as business of the House.

Question resolved in the affirmative.

Mr DAVID SHOEBRIDGE: I move:

That the matter proceed forthwith.

Motion agreed to.

Mr DAVID SHOEBRIDGE (15:51): I seek leave to amend Business of the House Notice of Motion No. 2 by inserting after "the House disallows" the words "clauses 4 (1) (b) and 5 (1) (i) of".

Leave granted.

Accordingly, I move:

That, under section 41 of the Interpretation Act 1987, this House disallows clauses 4 (1) (b) and 5 (1) (i) of the Sydney Olympic Park Authority Regulation 2018, published on the NSW Legislation website on 31 August 2018.

This motion comes about because of the onerous restrictions that have been proposed on a large swathe of public land—that is, the Sydney Olympic Park site. Many people consider the Sydney Olympic Park site to be public land upon which members of the public can express an opinion and engage with their families, not to be arbitrarily removed from it. The Legislation Review Committee in Legislation Review Digest No. 64/56 stated:

> The Sydney Olympic Park Authority has wide powers under the Regulation to prohibit categories of persons from entering Sydney Olympic Park, direct a person to leave if the person causes inconvenience, and to ban any person from entering the Park for up to 6 months.
>
> The above provisions may trespass on the right to freedom of movement and freedom of assembly, particularly in the context of a public place, in circumstances where, for example, there is little information provided as to what constitutes an "inconvenience", or when categories of persons can be prohibited from entering the Park.
>
> While acknowledging that these provisions existed under the previous regulation, the Committee draws the nature of these powers to the attention of the Parliament.

I too acknowledge that this is a remaking of the legislation. The blanket capacity to ban or prohibit categories of persons and to have that ban proceed for a period of six months, we believe, goes too far. When it comes to the array of activities that are prohibited under clause 5 of the regulation, a raft of about 25, the one that causes particular concern is in clause 5 (1) (i), which prohibits distributing a brochure, leaflet or handbill. There are separate prohibitions in that clause that prohibit advertising material or the handing out of commercial material. Clause 5 (1) (i) is directed to non-commercial, non-advertising material, which may relate to handing out a brochure from a reading or church group or handing out political material on a current issue. That should be allowed on public land.

We saw that provision being abused in April this year when Sniff Off, a very fine advocacy group, was handing out material about what it believed to be excessive police powers being exercised in the drug detection dog program to prohibit people entering a music festival at the Sydney Olympic Park site, even when those people had had a false positive raised from a drug detection dog. They were told if they did not move on they would be prosecuted under the regulation. They are the reasons The Greens move this disallowance motion. I could go on at great length—which I am sure the shadow Minister and Parliamentary Secretary would appreciate. I have conveyed The Greens' arguments as briefly as I can. I commend the motion as amended to the House.

The Hon. SCOTT FARLOW (15:55): As the 2012 regulation was due to sunset on 1 September, the opportunity was taken to make minor technical amendments to the new 2018 regulation. These amendments deal with such things as parking infringements to prevent stopping on no stopping signs; the definition of "sportsground" to include changes of names to sportsgrounds; prohibiting certain activities such as operating a drone, releasing an animal and abandoning, leaving or docking a bicycle in a non-designated area; and conditions of entry to a sportsground to ensure that conditions displayed on entry are complied with. There has been no change to the banning conditions, which remain the same under the new 2018 regulation as they were under the 2012 regulation. There is nothing controversial about these amendments and indeed nothing that any reasonable person could object to.

Extensive consultation took place with major stakeholders and the public through the release of a regulatory impact statement. No submissions were received from the public nor from the member who has raised the motion for disallowance. The regulation is essential to the day-to-day operation and commercial activities of the park, including the administration of the wetlands, which I feel certain my honourable colleague would not want to disadvantage. If the regulation were disallowed, it would mean that there would be no power for the authority to regulate any of the activities that are carried on in the park. I do note that the motion was amended so that the disallowance did not relate to the entire regulation.

Mr David Shoebridge: We all want to save the wetlands.

The Hon. SCOTT FARLOW: I am glad that the member does. I note that interjection.

Mr David Shoebridge: And the corroboree frog.

The Hon. SCOTT FARLOW: We love the corroboree frog. The regulation has been in place since 2001 with minor changes—

Ms Dawn Walker: The green and yellow bell frog.

The Hon. SCOTT FARLOW: Yes, I think it is the green and golden bell frog.

The PRESIDENT: Order! The Parliamentary Secretary will not respond to or comment on interjections.

The Hon. SCOTT FARLOW: Thank you, Mr President, I note your wise counsel. The regulation has been in place since 2001 with minor changes and I urge the House to reject this motion for disallowance.

The Hon. LYNDA VOLTZ (15:57): The Labor Party supports the disallowance motion. It has been refined significantly and now deals only with the handing out of leaflets and material in the parklands. The Labor Party supports the principle of the right to free assembly. All advertising and commercial activities are still contained within the regulation and this disallowance motion does not affect those activities. I would have thought that a party that has so many members who argue at length for free speech would support this disallowance motion.

Mr DAVID SHOEBRIDGE (15:57): In reply: I thank both honourable members for their contributions. I note the contribution from the Parliamentary Secretary when he said that in response to a rigorous public consultation process no submissions were received. It was probably one of those consultations that is held in a basement and behind a locked door with a sign on it stating, "Beware the leopard", and, strangely enough, the community did not venture down there and put in submissions. We have heard an argument about the principle. The motion relates to whether or not public land should be available for people to publicly gather without unreasonable restrictions or prohibitions placed on them by bureaucrats or the Government. I believe that is the way the law should operate. I appreciate that the Labor Opposition has that view as well. For those reasons, I commend the motion to the House.

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

Motion negatived.

Rulings

NOTICES OF MOTIONS

The PRESIDENT (15:59): During the giving of notices of motions this afternoon, the Hon. Shaoquett Moselmane gave notice of a motion concerning views on Islam. The Hon. Dr Peter Phelps subsequently took a point of order that the notice of motion was contrary to a number of previous Presidents' rulings and that it was excessively lengthy and argumentative. Standing Order 71 (1) provides:

> A member may give notice of a motion to initiate a subject for discussion by reading the notice of motion allowed, giving the Clerk at the table a signed, written copy and stating the day proposed for moving the motion.

Standing Order 71 (2) provides:

Lengthy notices need not be read, provided a summary of the intent of the notice is indicated to the House.

As the Hon. Dr Peter Phelps pointed out, previous Presidents have appropriately ruled that the giving of notices "is not an opportunity for debate". On two occasions in recent years the Procedure Committee has reviewed the rules and practices for the giving of notices of motions. In its 2012 report the Procedure Committee noted that the number and length of notices of motions given in the Legislative Council has increased significantly over recent years, and that the length of notices has increased from approximately 100 words in average length to some being more than 800 words in length.

The committee also noted that there had also been a change in the nature and content of notices given in the Legislative Council, with a tendency for notices to contain argument, imputations and debating points, sometimes virtually amounting to an undelivered speech and to contain facts and details that are impossible to verify. Ultimately, the committee did not make any recommendations for changes to the standing orders. The same occurred in 2017. Given the recent developing practice of the House, I am not going to rule the Hon. Shaoquett Moselmane's notice of motion out of order or require it to be amended before it appears in the *Notice Paper*. However, current practice of the House in relation to the giving of notices of motions may well be a matter that the Procedure Committee may wish to consider in the new Parliament.

Visitors

VISITORS

The PRESIDENT: I welcome to the gallery Ms Ella Avni from Kincumber High School, who is undertaking work experience in the office of the Hon. Courtney Houssos this week.

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

Questions Without Notice

DEPARTMENT OF PLANNING AND ENVIRONMENT MINING TITLES UNIT

The Hon. ADAM SEARLE (16:01): 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 serious claims regarding the operation of the mining titles unit, including serious conflicts of interest between departmental staff and the mining industry, staff modifying mining files, the leaking of confidential information to mining companies, and former departmental staff making inappropriate direct appeals to senior departmental employees seeing benefits for their mining industry clients, what administrative steps has the Minister taken to investigate these matters?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:02): I note that articles have appeared today raising concerns about serious allegations in relation to the operations of the Division of Resources and Geoscience, which since the machinery of government changes at the beginning of 2017 has become a part of the Department of Planning and Environment. I have asked the Secretary of the Department of Planning and Environment for a briefing on these matters. That is all I propose to say on these matters at this stage.

ABORIGINAL ARTS AND CULTURE

The Hon. SCOT MacDONALD (16:02): My question is addressed to the Minister for the Arts. Will the Minister update the House on how the Government is supporting the Aboriginal arts and culture sector?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:03): I thank the Hon. Scot MacDonald for his question. New South Wales is home to Australia's largest Aboriginal population and this Government is very proud to support the Aboriginal arts sector. Since 2011 the Government has provided more than $9.3 million for programs and projects exploring, celebrating and providing access to our wonderful Aboriginal arts and culture. I am delighted to say that this Government's investment in Aboriginal arts and culture continues to grow and now finds itself at an all-time high. In 2017-18 we provided more than $2 million to support Aboriginal artists and organisations, as well as Aboriginal arts and cultural projects. This was a 15 per cent increase on what was provided in Aboriginal arts and cultural funding by the former Labor Government in 2010-11.

This Government appreciates the value that Aboriginal arts and cultural organisations bring to our communities across New South Wales. Support for Aboriginal artists and arts organisations in 2017-18 was provided for a number of inspiring projects, including $57,000 to Marrugeku to produce the second stage of Burrbgaja Yalirra, which translates as "dancing forwards", an initiative to support change makers in contemporary, intercultural and Indigenous dance; and $24,720 to Amanda Jane Reynolds for Wiring-guwal, which translates as "female ancestors", an exhibition featuring ancestors along one of the ancient pathways from New South Wales

to South Australia. Nine exciting arts projects, through the Aboriginal Regional Arts Fund, shared $160,964 to support projects that celebrate and promote Aboriginal cultural identities in regional New South Wales.

Ten projects, through the first Creative Koori Aboriginal Strategic Program, received a share in $565,270 in funding, which supports the Government's ambition of fostering a strong, contemporary and multidisciplinary Aboriginal arts and cultural sector, including $43,400 to the Bundanon Trust for an Aboriginal residency program; $75,000 to Moogahlin Performing Arts for a Moogahlin assistant producer initiative; $60,000 to Northern Rivers Performing Arts for the employment of emerging Indigenous artists; and $75,000 to Performing Lines Ltd for the pilot of a New South Wales Indigenous producer career development program.

As part of round one of the Regional Cultural Fund announced earlier this year, significant investment is also being made in Aboriginal cultural infrastructure, including $846,000 to enable the Armidale and Region Aboriginal Cultural Centre and Keeping Place to complete its gallery and other works; $117,000 for the National Aboriginal and Islander Skills Development Association Dance College to develop its Central Coast campus at Kariong into a flagship international precinct for Indigenous creative learning; and $103,000 for the upgrades to the Yarrawarra Aboriginal Cultural Centre on the State's mid North Coast at Corindi Beach. Round two of the Regional Cultural Fund closed on 21 September 2018 and assessments for it are now underway. I am pleased that funding for successful applicants will be announced shortly for visionary arts infrastructure projects across the regions. I am very proud of our record on Aboriginal arts and culture. [*Time expired*.]

DEPARTMENT OF PLANNING AND ENVIRONMENT MINING TITLES UNIT

The Hon. WALT SECORD (16:07): My question is directed to the Leader of the Government, and Minister representing the Minister for planning and environment. Will the Minister investigate the events surrounding the removal of senior mines titles operations manager Rebecca Connor, who was suspended a day after she revealed that she was going to make a protected disclosure, claiming serious misconduct by a former titles staff member that led to an unlawful mining lease approval? Will the Minister investigate claims that other staff were made redundant or forced to resign after raising similar allegations and bullying claims?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:08): The honourable member has asked those questions of me in my capacity as the Minister representing the Minister for planning and environment. In fact, those questions should have been directed to me in my capacity as Minister for Resources because they are related to staff members who administer Acts of Parliament entirely within my portfolio. The Resources portfolio is part of the Department of Planning and Environment and the Secretary of the Department of Planning and Environment reports to me in relation to those staff. I indicated in my response to an earlier question from the Hon. Adam Searle about these matters that I have asked the Secretary of the Department of Planning and Environment for a briefing on these matters.

The Hon. WALT SECORD (16:08): I ask a supplementary question. Will the Minister elucidate his answer in regard to the content of the questions and the briefing? Will the Minister now expand that briefing into a referral to the appropriate agency?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:09): All I am prepared to say is that I have asked for a briefing on the matters that have been raised by the serious allegations in the media, and naturally I will be taking whatever steps flow from that briefing that are appropriate.

GROUNDWATER RESOURCE MANAGEMENT

The Hon. BEN FRANKLIN (16:09): 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 how the New South Wales Government is ensuring the future sustainability of our groundwater resources?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:10): I thank the Parliamentary Secretary for his question. Today I announced an independent review into the impacts of the bottled water industry on groundwater sources in the Northern Rivers. Whilst I am confident that the bottled water industry is operating sustainably, The Nationals' candidate Austin Curtin, the Hon. Ben Franklin and Lismore member of Parliament Thomas George made representations to me on behalf of their constituents. On that basis, I am happy to commission independent expert advice. The NSW Chief Scientist and Engineer will provide advice on the sustainable groundwater extraction limits in the New South Wales Northern Rivers, as well as advice on whether the current or proposed groundwater monitoring bores are sufficient.

Water is the most valuable resource and we are completing this review to make sure that water remains available into the future in the Northern Rivers catchment for all purposes, including stock and domestic users.

As a result of our work, there are close to 4,000 monitoring bores across the State, which provide our hydro-geologists with the data they need to make informed decisions around the management of our aquifers. The Liberals and The Nationals recognise the importance of groundwater for farmers who rely on access to this water for livestock watering and household use. On the North Coast some landholders have decided to diversify their business by using some of their water entitlement for water bottling. This is perfectly within their rights under existing water management legislation. However, as the State Government, we have a duty to ensure that when there are new uses of water all implications are well researched. This is in sharp contrast with some of those on the crossbench who prefer to play the role of prosecutor, judge, jury and executioner.

The Natural Resources Access Regulator [NRAR], the independent water compliance authority, is auditing four water extraction operators in the Tweed catchment. NRAR has required three plant operators to install accredited water meters on each of their extraction bores by early next year, with the fourth found to have adequate meters. NRAR will continue to monitor water-take activities on the North Coast. That is how the Government has reformed water management: It gathers all available information, has a strong regulator in place and has done the hard work by carrying out significant reform to ensure that all people across New South Wales have confidence in water management.

On this side of the House, with a fit-for-purpose regulator in place, we are happy to rely on the science in this matter. Unfortunately, for some of those opposite it is a matter of picking and choosing which science suits them. I call on those opposite, and in particular The Greens, to await the outcomes of the Chief Scientist's review and not treat this as a political wedge to divide the local community. It seems The Greens have declared war on the bottled water industry, despite them also relying on that very same bore water when travelling up north. Labor and The Greens claim to support environmental reform, then vote against it; they oppose bottled water, then drink it. That is why the Liberals and The Nationals are the only parties that can ensure the health of our groundwater resources on the North Coast and across the State post March next year.

That is what the Government is doing in this space. It has had strong representation from those members, particularly the Hon. Ben Franklin. Thank God the people of Ballina have him on their side. They cannot rely upon their local member—she is asleep at the wheel. We do not know where she stands on any of these matters. Thank God the people of the North Coast have the Hon. Ben Franklin to go in to bat for them. That is what the people of Ballina can look forward to after March next year. This is an important issue for them. The Hon. Ben Franklin brought the issue to me and the Government has taken action. The Greens have gone missing. They cannot even turn up to question time.

ANIMAL WELFARE

The Hon. MARK PEARSON (16:13): My question is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. As the Minister responsible for animal welfare, what is his response to a *Sydney Morning Herald* article of 13 November that relied on an Office of Environment and Heritage report that revealed the Government's plans to raise the height of the Warragamba Dam would have adverse impacts on threatened species, such as the regent honeyeater and eastern brown tree creeper, as well as Sydney's last emus? Given the Minister's responsibilities under the Prevention of Cruelty to Animals Act, what is his department planning to do to prevent individual animals suffering as a result of the flooding of downstream habitat?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:15): I thank the honourable member for his question. I think he is drawing a very long bow in trying to attach this question to my portfolio. The member is suggesting that flooding events somehow should be investigated and potentially prosecuted under the Prevention of Cruelty to Animals Act—or POCTA Act—that is administered by my agencies, with the policy work also enforced by the police, the Animal Welfare League and the RSPCA. That is a long bow. It suggests that natural events such as flooding should be investigated by the RSPCA because it may endanger some native animals. That is what the member is saying. It is absolutely ridiculous. The member must have run out of ideas in the last week of Parliament. Surely he has questions about other areas of my portfolio. This a long bow at the very least.

I do not imagine anyone in the agencies that enforce the POCTA Act would take seriously any suggestion that any flooding that happens in the Hawkesbury Valley should warrant an investigation under the POCTA Act. At this stage, I am happy to say that I am not aware of any work that my agency has done in relation to how this impacts on the POCTA side of my portfolio. The member referred to the Office of Environment and Heritage, which is the agency that is possibly responsible for some of the animals in the national park. But when it comes to cruelty to animals, we move to the POCTA Act. I do not think there is anything that my agency could be doing at this stage, particularly as we are only talking about environmental assessments of potential impacts of raising the dam wall. I am quite confident to suggest that, as far as I am aware, no work is being undertaken by my agencies under the POCTA Act.

This is a very long bow. The question may have been better directed to the Minister representing the Minister for the Environment. Possibly the Office of Environment and Heritage has looked at some of the impacts on some of the native wildlife. But the member has asked the question of me and, under the responsibility of the POCTA Act, I say that I am not aware of any work that is being done by my agencies in relation to this matter at this time.

The Hon. MARK PEARSON (16:18): I ask a supplementary question. Will the Minister elucidate how his portfolio of animal protection does not include the impacts upon wild animals when a government makes a decision to cause the flooding of an area that will impact those wild animals?

The Hon. Scott Farlow: Point of order: The supplementary question asked by the Hon. Mark Pearson did not seek an elucidation of the Minister's answer; it is a new question.

The Hon. Penny Sharpe: To the point of order: I listened very carefully. The Minister's answer included discussion about whether it was forced flooding or natural flooding. I believe the Hon. Mark Pearson has asked for elucidation in relation to that particular aspect of the Minister's answer. As such, the question is in order.

The PRESIDENT: I will allow the supplementary question. It is in order. I remind the Minister that he can answer the question in any way he deems fit.

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:19): All my answers are fit. When we talk about flooding, whether it is the result of someone's actions—

The PRESIDENT: Order! The Minister will resume his seat. The Clerk will stop the clock. As members are well aware, rulings by past Presidents permit members to read extracts from documents. Those rulings are well regarded. It is also well known that members are not permitted to use props in the Chamber. I advise members that flashing a newspaper page in the air and pointing to something on the page is not deemed to be reading an extract from the paper but is, in my view, using a prop. Members will be called to order if they undertake such actions. The Minister has the call.

The Hon. NIALL BLAIR: Regardless of whether an animal is impacted from flooding as a result of someone's action or inaction, I do not see the correlation between that and the Prevention of Cruelty to Animals Act. It is like saying that if animals are impacted by an out-of-control fire the RSPCA, under its legislation, should investigate to hold those responsible to account. If the Hon. Mark Pearson has some legal advice that is contrary to my assessment, I would love to see it. I believe the question should have been directed to the Office of Environment and Heritage, which is better placed to look at this issue.

Through the assessment process of this project and the environmental impact statement, I am sure that the impacts on wildlife, Aboriginal cultural heritage and the national park will be looked at. I do not believe it should be investigated under the Prevention of Cruelty to Animals Act. As I said, if the member has anything that will convince me otherwise, I will be more than happy to look at it. As I stand here, I do not have any indication that his information is any different from my answer. The Hon. Mark Pearson should have directed the question to the Minister representing the Minister for the Environment.

DEPARTMENT OF PLANNING AND ENVIRONMENT MINING TITLES UNIT

The Hon. PENNY SHARPE (16:22): My question without notice is directed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. Given community concern that up to 10 New South Wales government officials were involved in the soliciting of gift contributions and payments towards an employee's personal credit card, why was this matter not thoroughly investigated when it was brought to his department's attention in May 2017?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:22): That is a good question. As I have said in a previous answer, I have asked the Secretary of the Department of Planning and Environment for a briefing on matters, including that one.

NORTH COAST ABORIGINAL HOUSING AND EDUCATION

The Hon. NATALIE WARD (16:22): My question is addressed to the Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education. Will the Minister update the House on how the New South Wales Government is continuing to invest in the North Coast regions?

The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (16:23): I thank the member for her question—and the belated support from my colleague. As I mentioned in the House last week, I recently had the pleasure of visiting Coffs Harbour with the outgoing member for Coffs Harbour, Mr Andrew Fraser.

The Hon. Walt Secord: That would have been fun.

The Hon. SARAH MITCHELL: It was a lot of fun. I began my visit by stopping in at the Local Aboriginal Land Council [LALC] to meet with community members and to discuss local issues. It was wonderful to be surrounded by such passionate and inspired people. I take this opportunity to commend to the House the work that is being done in the Coffs Harbour region. The Coffs Harbour LALC delivers a range of programs, including social housing, with the LALC currently owning and managing a portfolio of 54 social housing properties within local government area boundaries with accommodation ranging from one to five bedrooms. While visiting the LALC, I met the newly appointed chief executive officer, Nathan Brennan, who is doing an extraordinarily wonderful job in that role. He has been well received by the community and is keeping the organisation in a strong position.

Other community organisations took the opportunity to say hello and it was wonderful to have that time with them. While in Coffs Harbour, I took the opportunity to visit a number of early childhood education services. Once again, I am extremely impressed with the level of service that is being delivered throughout that region. Our first visit was to Possums' Den, which received a Quality Learning Environments grant to install new shade sails and a folding-arm awning as well as $3,000 in drought funding. I also visited 3 Bears Cottage to meet with Alyssa Lane, who is a recipient of our rural and remote teaching scholarship. Alyssa was impressive and told me how she is looking forward to becoming a university-qualified early childhood teacher. It was nice to hear that she will be able to work, study and support her young family, thanks to the support of our Government.

I was also able to visit the Brayside Community Preschool, which is one of the best laid out preschools I have ever visited. It is a purpose-built facility in a lovely environment that is surrounded by trees and gardens. The children helped me escape the Coffs Harbour sun with some of their pretend ice cream from their little shop and told me a very imaginative story about unicorns, which I cannot put on *Hansard* but suffice to say children in that age group have active imaginations.

The Hon. Walt Secord: Shayne, tell them your unicorn story.

The Hon. Scott Farlow: Point of order—

The PRESIDENT: Order! The Clerk will stop the clock.

The Hon. Scott Farlow: The Deputy Leader of the Opposition just called out to the Hon. Shayne Mallard in a way that I think is not befitting of this Chamber. I ask him to withdraw the comment.

The Hon. Walt Secord: To the point of order: I would like to give some context. During a debate on agricultural shows the Hon. Shayne Mallard talked at length about his love of and winning a unicorn. I was making a reference to that comment, nothing else.

The PRESIDENT: As members are well aware, as Chair, I am required to accept in good faith what I am being told. I accept what the Hon. Walt Secord is saying. There is no point of order. The Minister has the call.

The Hon. SARAH MITCHELL: Brayside Community Preschool received more than $7,000 in a Quality Learning Environments grant, as well as $9,400 in drought relief funding. It is one of four preschools in the Coffs Harbour electorate that received this well-deserved drought package to give families and services some relief in areas that have been impacted by the drought. We undertook this work with the Department of Primary Industries to identify community preschools and mobile preschools in rural and remote areas of the State that are adversely affected by drought. Coffs Harbour plays a vital role in servicing our coastal communities. I look forward to seeing what the next member of The Nationals will bring to the table.

The North Coast is also home to another Nationals member of Parliament, Geoff Provest. Yesterday it was my pleasure to travel to the Tweed to make some local announcements with him. We are proud to support Pottsville Beach Public School to enable it to make upgrades to its Aboriginal garden, play space and yarning circle. The Indigenous culture is celebrated, with elders attending the school to share their stories and traditions in sessions on bush tucker and to highlight the area's native plants. This is more than just curriculum support; it provides a focus for the Indigenous community to engender pride in cultural identity. I give a special mention to staff, the parents and citizens association and students I met at Pottsville. They are currently doing a series on government. I told them I would mention them in Parliament so they can look at *Hansard* and know that all members in the House send their best wishes. [*Time expired*.]

The PRESIDENT: Order! I call the Hon. Walt Secord to order for the second time. He will cease interjecting.

KOALA HABITAT

Ms DAWN WALKER (16:28): My question is directed to the Minister for Resources, Minister for Energy and Utilities, Minister for the Arts, and Vice-President of the Executive Council, representing the Minister for the Environment. The Minister for the Environment recently announced a new part of the Koala Strategy regarding private land. She said, "If you own good-quality occupied koala habitat that meets the criteria, the New South Wales Government is a willing buyer." Why is the Government willing to buy occupied koala habitat but not willing to reserve known occupied koala habitat or koala hubs in our State forests as part of the Koala Strategy?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:29): I am not inclined to agree with the characterisation of the New South Wales Government's approach as outlined by Ms Dawn Walker, who I would have thought would be more supportive of an initiative that clearly will lead to better protections of koalas, and that saddens me. The question has been directed to the Minister for the Environment, whom I represent in this place. I am happy to obtain an answer for Ms Dawn Walker in due course.

DEPARTMENT OF PLANNING AND ENVIRONMENT MINING TITLES UNIT

The Hon. PETER PRIMROSE (16:30): I direct my question to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. On what date did the Minister or his office become aware of the serious allegations of widespread corruption within the Mine Titles Unit? What specific administrative steps did the Minister take when he became aware of the allegations?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:30): I became aware of the allegations when I read about them in the newspaper today. I have asked the secretary of the Department of Planning and Environment for a briefing on those matters.

The Hon. ADAM SEARLE (16:30): I ask a supplementary question. Does the Government accept the recommendation of a departmental governance manager who advised that there was "not much value in conducting an investigation into the matter"?

The Hon. Don Harwin: Point of order: The supplementary question did not seek elucidation of my answer.

The Hon. Walt Secord: Cover up.

The Hon. Don Harwin: In fact, it was another question.

The Hon. Walt Secord: Cover up.

The PRESIDENT: I remind the Hon. Walt Secord that he is already on two calls to order. If the Hon. Walt Secord screams out "cover up" one more time he will be removed from the Chamber for longer than the end of question time. As members are well aware, a supplementary question is required to seek an elucidation of part of an answer that has been given by the Minister. I did not ask the Hon. Peter Primrose if he wanted to speak to the point of order, but I assume he does not. Clearly the supplementary question does not link with any part of the answer given by the Minister. I therefore rule the supplementary question out of order.

ARTS AND CULTURAL EVENTS

The Hon. SHAYNE MALLARD (16:32): I address my question to the Minister for the Arts. Will the Minister update the House on the work of the New South Wales cultural institutions? Is the Minister aware of any exciting plans for summer?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:32): I thank the Hon. Shayne Mallard for his question. Yes, with the warm weather just around the corner I understand why he is so enthusiastic. Some great things are planned in our cultural institutions because summer is a time when they sparkle with world-class exhibitions, events and performances. I will first start with the Art Gallery of NSW, which, as part of the Summer International Art Series, has mounted the Masters of Modern Art from the Hermitage exhibition. It is exclusive to New South Wales and presents a magnificent selection of works from giants of modern art, including works by Monet, Cezanne, Matisse, Picasso and Kandinsky.

The Australian Museum is providing visitors with the chance to beat the summer heat with a fantastic line up of exhibitions and events. The Whales-Tohora exhibition brings the incredible world of whales to life and celebrates their deep connections to Indigenous communities across the Pacific. The Powerhouse Museum is hosting a number of blockbuster exhibitions over the coming months, including the Star Wars Identities exhibition, which is exclusive to Australia and opened last week. This interactive exhibition features 200 original

Star Wars objects, and is a must see for any Star Wars fan. If members cannot make the exhibition, they can always look to the Opposition benches to see the Dark Side of the Force.

In December 2018 the Powerhouse Museum will also launch The Ideal Home, which may well be my favourite, an exhibition exploring Australian experiences of home over 100 years. Through a partnership with the Penrith Regional Gallery, The Ideal Home will be displayed at the Penrith Regional Gallery. It will also be extending to a satellite exhibition of modernist art and design at the Powerhouse Museum in Ultimo. At the State Library, the Western Galleries in the Mitchell Building are presenting the largest exhibition of paintings in the library's collection since the early nineteenth century. In addition, there will be an extraordinary installation by Indigenous curator, the brilliant Jonathan Jones, around the lives of four Gadigal elders. Both exhibitions are spectacular.

The newly opened Michael Crouch galleries will be the venue for a silent disco on three nights in January as part of the Sydney Festival. The State Library will be hosting three Out of the Vaults events during the Sydney Festival's Bayalla program, where people can experience rare collection items from Sydney's history with the Library's Indigenous Engagement Team. There is plenty on offer at the Sydney Living Museums over summer too, headlined by an exhibition of Sydney's Street Photographs. This exhibition, which opens on 8 December 2018, rediscovers the era of the street photographer from the 1930s to the 1950s. This fascinating exhibition follows a successful public call out for photos that were provided from many private family albums. Summer at the Sydney Opera House is always a wonderful time, with plenty on offer for everyone. There is also a great school holidays a range of programs, which I encourage people to take up. It is a big summer.

DEPARTMENT OF PLANNING AND ENVIRONMENT AND RIDGELANDS RESOURCES

The Hon. ADAM SEARLE (16:36): I direct my question to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. Given the handling of the Ridgelands Resources Community Fund within the Department of Planning and Environment and the Minister's refusal to answer questions connected to the departure of the Deputy Secretary Kylie Hargreaves, and now reports of serious allegations of a persisting culture of corruption within that part of the department that supports the Minister, will he now refer those matters to the Independent Commission Against Corruption?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:37): It is simply not true to say that I have refused to answer questions about Ridgelands. I have answered many questions about Ridgelands in the House and in budget estimates—

The Hon. Adam Searle: Point of order: I did not say that the Minister had refused to answer questions about Ridgelands. I said he has refused to answer questions connected to the departure of Deputy Secretary Kylie Hargreaves.

The PRESIDENT: Order! The Minister had commenced his answer. I do not believe he was debating the question at that stage. The Minister was being generally relevant. The Minister has the call.

The Hon. DON HARWIN: I have answered extensive questions about the matter in the House and in budget estimates previously, including that part of the question that relates to Kylie Hargreaves. I refer the Hon. Adam Searle to my previous answers.

FERAL DEER CONTROL

The Hon. TREVOR KHAN (16:38): I address my question to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Will the Minister update the House on how the Government is managing feral deer across New South Wales?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:38): I thank the honourable member for his question; I thought he would ask me that.

The PRESIDENT: Order! The Clerk will stop the clock. The Minister will resume his seat. I have not heard a single word the Minister has said because of the loud discussions and comments coming from Government members, particularly those sitting directly behind the Minister. The question was asked of the Minister. I want to hear only from the Minister, not from Government members sitting behind the Minister.

The Hon. NIALL BLAIR: Today I am pleased to tell members that the New South Wales Government has taken a further step toward mitigating some of the damage caused by deer—critically, a step that will relieve some of the pressure on farmers dealing with the current drought. Wild deer were identified as a priority species in the 11 Local Land Services Regional Strategic Pest Animal Management Plans. The New South Wales Government has responded to real community concerns about rising deer numbers by suspending deer hunting

regulations across the State for the next three years. This move will give landholders more options to control and to minimise the impact of deer on their properties.

The following regulations contained in schedule 1 to the Game and Feral Animal Control Regulation 2012 are suspended across New South Wales. This means that there will be open seasons for certain deer; that is, licence holders may now target all species at all times in the year. Licence holders may now use a spotlight or other electronic device to target deer on private land; licence holders may now hunt deer from an aircraft, watercraft or motor vehicle on private land; licence holders may now attract deer using a bait, lure or decoy; and licence holders may now hunt deer at night on private land.

These important measures are designed to make it easier to reduce deer numbers on private property. Already the relaxed rules are being well received and readily implemented across much of New South Wales. In addition, reputable licensed hunters are being invited to add their details to the Deer Assistance Hunter Register so landholders may contact them for help with managing the impacts of wild deer.

This issue does not affect only New South Wales. To tackle the escalating threat of feral deer, the New South Wales Government has joined forces with other States and key interest groups to form Australia's largest deer management research collaboration through the Centre for Invasive Species Solutions. Worth a combined investment of $8.7 million, the collaboration will work on four innovative projects to develop best practice management feral deer toolkits and to better understand the role of feral deer in the transmission of diseases to livestock. This large-scale collaboration was formed off the back of the National Workshop on Deer Management held in late 2016.

The major projects aim to target all aspects of managing this issue. New South Wales is leading a project looking into the cost-effective management of wild deer. The other projects will consider the role of wild deer in the transmission of diseases to livestock, led through Victoria; management of wild dog and deer in peri-urban landscapes; strategies for safe communities, led through Queensland; and a feral deer aggregator, led through South Australia. This Government is working on the practical management here in New South Wales, as well as the science behind management to control this pest for the people of New South Wales in conjunction with the rest of the nation.

This is certainly something for which landholders have been asking. We also want to engage hunters as part of the solution. We want this to be a win-win; we want hunters who would like to assist landholders control deer on their properties to be matched up with those landholders. That is why we are calling for more people to sign up to the Deer Assistance Hunter Register. This has been called for in most parts of the State. Our farmers have been doing it tough and landholders should be given greater flexibility to address deer numbers on their properties. We have responded to it and we will monitor how this progresses. It has already been implemented in some parts of the State but now we have expanded it across New South Wales.

POLICE NUMBERS

The Hon. ROBERT BORSAK (16:43): My question is directed to the Hon. Niall Blair, representing the Minister for Police. Earlier today the Minister announced that due to a $583 million investment, an extra 1,500 police will join the ranks of the force over the next four years. Will the Minister provide details of what incentives will be put in place to encourage new recruits to join the NSW Police Force, or is this just another empty promise on the eve of the next State election on 23 March 2019? How many of those planned positions will be in regional New South Wales?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:44): I thank the honourable member for his question. I am disappointed that the announcement today of the largest number of new police to be added to the force in New South Wales has been met with scepticism by the member and his party. This should be welcomed by everyone in New South Wales. The Minister should be commended for not only his re-engineering of the police, but also the great work that he has done with the commissioner to be able to get the Government to provide this level of investment into the NSW Police Force.

The police are there for everyone in New South Wales and they do a wonderful job. The fact that the Minister—himself a distinguished former police officer—has been able to traverse the hoops of the expenditure review committee and the budget process, work with the Commissioner of Police and deliver this record investment in police should be welcomed by everyone. It should not be seen as a cynical announcement made by the Minister. I dismiss the member's suggestion that the Minister's announcement is an empty promise. Knowing what the Minister has delivered in relation to the re-engineering of the NSW Police Force to provide a stronger presence, particularly in regional New South Wales, I know that this promise absolutely will be delivered. I congratulate the Minister for Police on that announcement today.

The question was asked of me representing the Minister for Police in this House. I was not at this morning's announcement. This has happened very recently and the member has asked for some specific detail about what the announcement may mean for regional areas in New South Wales. Knowing the Minister for Police and knowing the commitment to regional New South Wales of not only the police Minister but also The Nationals and the NSW Police Force under the commissioner and deputy commissioners, I know that they are making sure that regional New South Wales gets its fair share of the resources that are needed.

That is the difference: this will make sure that the resources required in specific parts of the State are adequately deployed to those areas to make sure that all of us who live in regional New South Wales have confidence and know that the police are there to protect and assist us in the many ways that they do. We should all be thankful of that, not only in regional New South Wales but also in metropolitan areas. Police Commissioner Mick Fuller and his team are doing an outstanding job, particularly under some trying circumstances during some recent events here in New South Wales.

The member asked for some specific information about the deployment of those resources, particularly into regional areas. I do not have that information on hand today so I will take that part of the question on notice. I will relay it to the Minister for Police and I am sure he will come back to me with the relevant information in due course. I will make sure that that information gets back to the member to round out the process.

FIREARMS REGISTRY

The Hon. ROBERT BORSAK (16:48): My question, on behalf of the Hon. Robert Brown, is directed to the Hon. Niall Blair, representing the Minister for Police. Is the Minister aware that Australian Bureau of Statistics data show that 911,800 people in New South Wales—14.8 per cent of the population—did not use the internet in 2016-17 and that the proportion of persons who do not use the internet is higher in rural and remote areas? What is the Minister doing to ensure services provided by the Firearms Registry are available to all people in this State, especially those in rural and remote areas and not only those who have internet access?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (16:49): I thank—

The Hon. Greg Donnelly: Tell us about black spots.

The Hon. NIALL BLAIR: It is funny you say that. I thank the member for his question, a question he has asked me representing the Minister for Police and directly related to the operations of the Firearms Registry. As a person who lives in regional New South Wales and has limited internet access at their house, I know that that can be challenging at times. I am one of those who have had to look at putting a dish on my roof to make sure I get adequate service in my house. I know that story is replicated across New South Wales, particularly in regional areas.

That is why the Deputy Premier has ensured that the Government has targeted digital and mobile phone connectivity to improve access for people living in regional New South Wales to what we would say are essential services. The member uses the case in point in accessing information through the Firearms Registry, but it is also important for those studying in regional New South Wales, for those wanting to stay in their local community to better themselves or their career and for those people relying upon other essential information—such as our farmers relying upon adequate data and information for weather forecasting or the use of new technologies that require good internet access or a strong mobile network.

As we move towards the 5G mobile network, that sort of connectivity will become more and more important, particularly as we start to use more machine-to-machine communication. It is not just about connectivity for individuals getting in contact and getting information from the internet; connectivity will be a bigger issue facing all of regional New South Wales in the future. That is why investing in connectivity is something the Government has supported. It is something that the Opposition has opposed when it has rejected some of the Government's transactions. We need to ensure that essential infrastructure is in place. I thank the member for his question. I will ensure that I pass it on to the Minister for Police to get the adequate information and come back to him as soon as possible.

PARRAMATTA POOL

The Hon. LYNDA VOLTZ (16:52): My question is directed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts, representing the Minister for Sport. Given that the families of Parramatta are facing another protracted hot summer without a pool as a result of the Government's actions, when will the Government stop squabbling with City of Parramatta Council and guarantee that the people will get a replacement pool?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:52): Parramatta pool was closed on 31 March 2017 to make way for the new stadium, which required a larger footprint than the old stadium. The New South Wales Government announced a funding boost of $30 million to enable the City of Parramatta Council to deliver a new like-for-like aquatic facility. Council started planning for a new pool in 2017 and in February 2018 decided to pursue a $75.2 million state-of-the-art aquatic centre. Council made assurances to the Government that by the end of the year it will have completed its business case, enabling the release of the $30 million funding grant from the New South Wales Government, lodged a planning application and begun the process to appoint a construction contractor. For the past eight months councillors have repeatedly changed their minds. First, they approved a world-class aquatic centre, then they wanted a smaller facility and now they do not want a pool at all. Unfortunately, council had not taken action—

The Hon. Trevor Khan: Point of order—

The PRESIDENT: Order! The Minister will resume his seat. The Clerk will stop the clock.

The Hon. Trevor Khan: My point of order is the constant interjections. A question is asked of the Minister and Opposition members then proceed to heckle. I ask that you call each and every one of them to order.

The PRESIDENT: I indicate to the Hon. Penny Sharpe that she is on her eighth interjection. I am well aware that I usually allow members one or two interjections before I call them to order. For some reason, I have allowed the Hon. Penny Sharpe seven. I now call the Hon. Penny Sharpe to order for the first time. I also call the Hon. Shaoquett Moselmane to order for the first time because he is on his fifth interjection.

The Hon. Shaoquett Moselmane: It was my second.

The PRESIDENT: The member should not respond while I am making a ruling. The Minister has the call.

The Hon. DON HARWIN: As I was saying, first the council approved a world-class aquatic centre, then it wanted a smaller facility and now it wants no pool at all. Unfortunately, council had not taken action by October this year when Minister Ayres reiterated the deadline to take action by correspondence. The New South Wales Government has done everything possible to work with council to facilitate this project, but the councillors cannot make a decision and stick to it. The people of Parramatta deserve better. On 5 November the Minister announced that Infrastructure NSW would take control and build the pool without delay.

I commend the Minister for Sport for stepping in and taking control. Last year we committed $30 million for a like-for-like replacement. We will honour that commitment and build the pool without delay. It is disappointing that the councillors are proposing to spend $147 million on their new council chambers and yet will not spend money on a pool for their residents. Councillors should be embarrassed about their performance on this issue. However, I reiterate that while the Government is very disappointed with the City of Parramatta Council's performance on the pool issue, there are other areas where the it and the City of Parramatta Council are working effectively together.

The Hon. Niall Blair: Tell us.

The Hon. DON HARWIN: Let me tell members about one of them that I am very familiar with—that is, of course, the relocation of the Museum of Applied Arts and Sciences headquarters to Parramatta. With Parramatta council, we have arranged to buy a site. The sale price is $140 million. Of that, $100 million has been—

Mr Justin Field: Point of order: My point of order is relevance. The question was in relation to the pool and nothing else. I ask that you direct the Minister back to the question.

The PRESIDENT: I uphold the point of order. I was struggling to see the connection to the question. Does the Minister have anything further to say in relation to the question?

The Hon. DON HARWIN: Yes. I simply say this: The purchase of the land and the subsequent business case that has been developed for the redevelopment of the Riverside theatre shows that the council and the State Government can work productively together. We would encourage council to take the same view for the pool.

The Hon. LYNDA VOLTZ (16:57): I ask a supplementary question. Will the Minister elucidate his answer as to why council was given the responsibility to rebuild a pool which his Government demolished and why the Minister for Sport did not take responsibility from the start?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (16:58): I think it would be the case that our preference was for council to do it. The fact is that the Minister is now doing it and Parramatta will get its pool.

ABORIGINAL COMMUNITY SERVICES

The Hon. CATHERINE CUSACK (16:58): My question is addressed to the Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education. Will the Minister update the House on how the New South Wales Government is delivering for Aboriginal communities around the State?

The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (16:58): I thank the Parliamentary Secretary for her question and her particular interest and passion for the work in the Aboriginal Affairs portfolio as well. I am proud to be the Minister for Aboriginal Affairs and to work closely with my colleagues, the community and the department to ensure the issues, concerns and desires of our first Australians remain an integral part of decisions we make as a government.

Be it employment, health or leadership, New South Wales has successfully made meaningful strides in improving the outcomes for Aboriginal Australians. Our Government also knows that having Aboriginal leaders making decisions contributes to better outcomes. We have increased Aboriginal representation in senior leadership positions across the New South Wales Government by 24 per cent. We are also backing the Aboriginal leaders of tomorrow. Through our record investments in education we have increased the proportion of Indigenous children enrolled in preschool programs by nearly 20 per cent. We are also on track to achieving the Premier's Priority of increasing the proportion of Aboriginal students in the top two NAPLAN bands by 30 per cent by 2019. We are backing Aboriginal students throughout their school life and have improved the attainment rate of year 12 students by 15 per cent to 65 per cent since elected. Members should be proud of these achievements

Another cornerstone of our focus on delivering improved outcomes is Opportunity, Choice, Healing, Responsibility and Empowerment [OCHRE], which continues to shape the direction and substance of the New South Wales Government's work with Aboriginal people and communities. In August this year, at a ceremony at Parliament House, I was presented with the first report of the 10-year evaluation of OCHRE. There is still work to do, and we will continue to have the conversation about what matters to Aboriginal communities and how we can work together. In July 2017 we saw the commencement of the Stolen Generations Reparations Scheme—a key element of the "Unfinished business" report and the Government's response to the findings of the parliamentary inquiry into reparations for the stolen generations. To date the reparations scheme has provided more than $26 million in payments to survivors. "Unfinished business" acknowledged the real and enduring trauma caused by wrongful past government policies and practices, and committed the Government to action.

Another fundamental of OCHRE is that language and culture are critical to wellbeing and a sense of pride, confidence and connection for Aboriginal communities. As we all know, last year we became the first State in the country to introduce legislation to acknowledge the unique value and importance of language to our First Peoples and to the State. We are now working with Aboriginal people to establish an independent trust to co-ordinate and resource local languages activities, guided by a five-year strategic plan. Achieving greater economic prosperity for Aboriginal people is another priority for the Government and this is also reflected in OCHRE.

Since we were elected the number of Aboriginal people in jobs has increased by nearly 40 per cent. In July this year New South Wales implemented the Aboriginal Procurement Policy [APP] in collaboration with the Department of Finance, Services and Innovation. It is a great policy which aims to grow Aboriginal businesses and employment, and sets targets of 3 per cent of all New South Wales Government domestic goods and services contracts being awarded to Aboriginal businesses by 2021. In conjunction with the existing Aboriginal Participation in Construction policy, the APP is expected to support an average of 1,000 Aboriginal jobs a year over the next three years.

We have also committed $20 million to establish the Aboriginal Centre of Excellence in Western Sydney. It has not been a straightforward process and we have deliberately approached it in a way that maximised the engagement with Aboriginal people and particularly young people. It has taken time, but I am pleased by the work that is being done together to deliver this fantastic outcome. I am proud of all these achievements and many more across government. With the support of Aboriginal Affairs, we will continue to work hard to ensure that the aspirations and voices of Aboriginal people across New South Wales are heard in government. I am committed to supporting the social, cultural and economic aspirations of Aboriginal people. I meet regularly with community members and this guides me as to what matters to the communities we represent.

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

Deferred Answers

THE NATIONALS ADVISERS

In reply to **the Hon. WALT SECORD** (16 October 2018).

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

Extremist and racist views have no place in our modern multicultural society.

I expect all ministerial staff and electorate officers to comply with their relevant codes of conduct at all times.

This question would be more appropriately addressed to the Deputy Premier.

REGIONAL AGED CARE STAFFING

In reply to **the Hon. MARK PEARSON** (16 October 2018).

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

As the member should be aware, staffing or registered nurses and assistants in nursing falls within the portfolio responsibilities of the Minister for Health. This question should be referred to the Hon. Brad Hazzard, MP.

Aged care is regulated by the Federal Government, and as such, questions regarding the regulation of aged care should be directed to the Minister for Aged Care and Senior Australians.

ABORIGINAL FISHING RIGHTS

In reply to **Mr DAVID SHOEBRIDGE** (16 October 2018).

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

The recent matter raised in regard to Mr Mason remains to be concluded. It is still an open investigation and as such, it is not appropriate to provide further comments, except to say that the Department of Primary Industries [DPI] will consider what, if any, action is to be pursued at the conclusion of investigations.

In relation to the supplementary question, details on Aboriginal cultural fishing arrangements can be found on the DPI Fisheries website. These arrangements apply across the State.

Cultural fishing extensions to the fisheries rules relate to take and possession limits along with shucking of intertidal invertebrates adjacent to waters. The Aboriginal Cultural Fishing Interim Access [ACFIA] arrangement is a long standing measure, previously known as the Interim Compliance Policy, which was introduced in early 2010 and details the fishing extensions and their context, aimed at protecting and promoting cultural fishing access.

Essentially the ACFIA arrangement provides for increased take and possession limits of fish, compared with rules for recreational fishers, when an Aboriginal person is undertaking cultural fishing. This allows five times the allowed take for abalone and double the take for some other fish species. It also promotes cultural activity by allowing for abalone, lobster and turban snail to be shucked and consumed adjacent to the shoreline.

Further extensions to the rules are also provided through authorities made under section 37 of the Fisheries Management Act 1994, and are applied in situations where there is cultural fishing needs that extend beyond the ACFIA arrangement. The use of equipment not normally allowed to be used, or accessing areas that are closed to fishing are examples of when section 37 permits are applied in promoting cultural fishing access.

Management of fishing activities also takes into account other rights that may exist, such as native title. In circumstances where a person has a native title right to fish, then many of the state's prescribed fishing rules do not apply, however this does not extend to commercial activity.

The significance of fisheries resources to Aboriginal people is recognised in our legislation and the protection and promotion of cultural fishing access is articulated within the objectives of the Fisheries Management Act 1994. Arrangements being developed, such as the trial of Aboriginal Cultural Fishing Local Management Plans or Cultural Resource Use Agreements in marine parks, are further management measures for continuing access and informing how best to accommodate ongoing needs.

CORUNNA STATE FOREST THREATENED SPECIES

In reply to **Ms DAWN WALKER** (16 October 2018).

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

Forestry Corporation has undertaken a thorough harvest planning process for the operation in Corunna State Forest including surveys for threatened flora and fauna. Protections and exclusion zones have been put in place in accordance with the strict native forest regulations which are based on independent scientific evidence of what is needed to sustain species.

Corunna State Forest is a re-growth forest. The area was cleared as a farm in the 1800s, and then regenerated to forest in the 1900s. Corunna State Forest has been harvested for timber or thinned for timber quality every decade since the 1960s and is an excellent example of how sustainable forest management works.

The operation will see around half the area protected including many habitat trees ensuring there is ongoing habitat for wildlife while the forest regenerates.

Bills

SNOWY HYDRO CORPORATISATION AMENDMENT (SNOWY 2.0) BILL 2018

Second Reading Debate

Debate resumed from 24 October 2018.

The Hon. ADAM SEARLE (17:03): I lead for the Opposition in debate on the Snowy Hydro Corporatisation Amendment (Snowy 2.0) Bill 2018 and, at the outset, I indicate that the Opposition does not oppose the measures that the bill proposes. Most of the electricity that we use today comes from coal-fired power stations that will be retired over the next 10 to 15 years. We need to increase significantly the investment, construction, development and implementation of new renewable energy generating projects. The increase is necessary if we are to have the level of energy supply and security that we have today and if we are to have any chance of bringing the skyrocketing power bills down. As the sources of our power become increasingly renewable—the predominant forms of renewable energy of wind and solar being intermittent in nature—there will be a need for firming technologies. The most developed and reliable form of storage that is readily dispatchable is hydro. Of the world's stored energy, approximately 97 per cent is in the form of pumped hydro.

The proposed Snowy Hydro 2.0 project has the potential to be a major source of new and stored energy which will provide security not only for New South Wales but also for Australia more generally. It is uncertain if the proposal will go forward because, as the Minister has indicated, it is not just a matter of having new energy sources built and connected to the grid. There are issues as to whether the transmission system can accommodate a new supply, and Snowy Hydro 2.0 falls into this category. It is a matter of engineering—and a matter of record—that in order to realise the value for the community that Snowy Hydro may represent, the transmission system will need to be upgraded to access the energy from where it is physically located.

The Opposition supports a move away from a fossil fuel based economy to one based on renewable energy. To make that more than an aspiration, projects such as Snowy Hydro 2.0 will need to be realised. If Snowy Hydro 2.0 cannot be realised due to geotechnical considerations, cost and the like, other pumped hydro possibilities will need to be examined. I note Professor Andrew Blakers of the Australian National University participated in a study that identified 22,000 potential pumped hydro sites across Australia and nearly 9,000 sites in New South Wales. While Snowy Hydro 2.0 represents a significant opportunity to secure additional energy supply and security, and though it may not be the only way forward, the Opposition will not stand in the way of exploring whether this can be made a reality. In his second reading speech, the Minister noted that this project, if successful, will add nearly 2,000 megawatts of firm dispatchable energy to the National Electricity Market, which is equivalent to approximately 14 per cent of our peak energy demand in New South Wales. If constructed, it would be the third-largest individual generator after Eraring and Bayswater coal-fired power stations.

We support the Snowy Hydro 2.0 project and will not oppose the bill. The bill will enable leases and other approvals needed for the construction and operation of Snowy Hydro 2.0 to be granted under the national parks and wildlife legislation, subject to the project being approved under the Environmental Planning and Assessment Act. This is needed, it is said, because the national parks and wildlife legislation does not contemplate power generation as a purpose for which a lease can be granted. Under the legislation the Minister for the Environment can consider the objects of the National Parks and Wildlife Act, the management principles for national parks and other matters when negotiating the terms of any lease and other approvals and when considering what conditions to impose. There is also a regulation enabling the power to allow for the modification of the plan and lease-making provisions of the National Parks and Wildlife Act.

The bill also gives the Government a right to seek an indemnity from companies if any compensation is payable in relation to native title, but it does not affect the operation of Commonwealth native title legislation. I note that The Greens have some concerns about the scope of the legislation and they will be moving some amendments to deal with those concerns. We will listen closely to the debate about the rationale underpinning those amendments and I apprehend that we will support at least some of those amendments. The Hon. Penny Sharpe will also address some of the issues raised by this bill in her contribution. With those short remarks, I indicate that the Opposition will not be opposing the legislation.

The Hon. BRONNIE TAYLOR (17:09): I thank the Minister for introducing the Snowy Hydro Corporatisation Amendment (Snowy 2.0) Bill 2018. This is a very important bill for the people of New South Wales, particularly those in the Snowy-Monaro community. Rather than address the specifics of the bill, I will speak to its context and why it is so important. The Snowy Mountains Scheme, in the Deputy Premier's electorate of the mighty Monaro, and part of my oversight as Parliamentary Secretary to the Deputy Premier and Southern

New South Wales, brings with it a history that is often referred to as the birth of modern Australia. This ambitious, unprecedented scheme brought together a workforce of more than 30 nationalities and has been seen as a monument to multicultural Australia. This work required thousands of workers, skilled and unskilled, most of whom came from a war-ravaged Europe.

Over the 35 years of construction, the workforce of 100,000 included migrants from countries such as Norway, Germany, Britain, Austria, Czechoslovakia, the Baltic States, Hungary, Malta and Italy. These migrants arrived in a foreign land with no family support and an unfamiliar language, but with a desire for a better life and for the children they hoped would soon follow. The great opportunities born from the scheme and an expanding Canberra region made complete sense. The most lasting legacy of this scheme is not one of energy; it is one of opportunity. The new workforce that arrived stayed in Australia and injected an entrepreneurial spirit and multicultural ethos that remains to this day.

The Snowy Hydro scheme has a very special place in the history of my family: my husband's grandfather, Sir William Hudson, was the first commissioner of the scheme. My family often talks about the scheme; it is a cause for rejoicing in the Monaro. Snowy Hydro 2.0 will now bestow on regional New South Wales its greatest legacy yet: On 2 March 2018 the New South Wales Government sold its 58 per cent shareholding in the scheme to the Federal Government for $4.2 billion. Importantly for The Nationals, the New South Wales Government has committed that every cent of these funds will go to regional New South Wales.

In October 2018 the Deputy Premier announced that five priority areas will be funded under the $4.2 billion Snowy Hydro Legacy Fund within regional New South Wales. The priority areas are: water security—dams and pipelines are a key priority, and work is already underway on water security projects to enable New South Wales to better manage our most precious resource; rail and road passenger connectivity—new technology and track upgrades to provide faster passenger rail services; freight linkages—new technology and track upgrades to provide faster freight rail services, as well as expanding air freight capacity and infrastructure; regional digital connectivity—the development of regional data hubs, high capacity "backbone" data links from regional centres to Sydney, connectivity to help agribusiness improve productivity and better access to reliable data speeds that will help businesses save money and improve services through technology; and special activation business precincts—funding the next stages of the Parkes Special Activation Precinct investigations, including planning and environmental studies to make it quicker and easier for government to establish additional precincts.

Those precincts provide ready-for-construction land, streamlined planning approvals and targeted financial incentives to attract interstate and overseas investors, creating new jobs and flow-on business in regional New South Wales. This transformational funding will go towards big-picture projects, which would not have been possible without the $4.2 billion windfall from Snowy Hydro, negotiated by this New South Wales Liberal-Nationals Government. The Snowy Hydro Legacy Fund is a once-in-a-generation opportunity for regional New South Wales. Unlike the agreement under the Restart NSW Fund Act, where regional New South Wales receives 30 per cent of all available money, the State Liberal-Nationals Government has agreed that 100 per cent of the $4.2 billion will be invested in the regions.

This is an incredible win for country New South Wales. But people who think members opposite support this vision should think again. Labor's record on regional communities is one of gross neglect and indifference. Labor left a $6 billion infrastructure backlog in regional New South Wales and voted against the poles and wires transactions used to fund Restart NSW. Then the shadow Treasurer decided to redraw New South Wales in order for Newcastle and Wollongong to be included as beneficiaries.

Most recently, the new Leader of the Opposition, when outlining what he stood for, mentioned regional New South Wales just once—almost as an afterthought. For those who believe the Government has been too focused on development in our cities and metropolitan areas, we say to those living in regional New South Wales, "It is your turn." We will invest this money wisely in nation building programs so they do not just sit on paper but become reality. In fact, we have already started work. In the 2018-19 budget we committed $40 million for scoping studies of potential projects. Parkes was announced as the first scoping project. It will become the first special activation precinct and inland port in New South Wales. We will invest in visionary projects that will deliver for regional New South Wales for generations to come—big-picture programs, big-ticket items that reflect the legacy of the Snowy Hydro project itself.

The Greens support clean energy; I therefore expect they will support this bill. As a responsible Government we support the right energy mix to deliver energy security to the people of New South Wales for generations to come. Importantly, we support regional jobs. Snowy 2.0 will deliver all of this and more. Indeed, I expect every member to support this bill; to oppose it would be to oppose regional jobs, energy security, and clean energy. We have an opportunity to build on a fine legacy created by the original Snowy Hydro scheme. This is a once-in-a-generation opportunity. I commend the bill to the House.

Ms CATE FAEHRMANN (17:16): I lead for The Greens on the Snowy Hydro Corporatisation Amendment (Snowy 2.0) Bill 2018. I state at the outset that The Greens will not be supporting the bill in its current form. While we acknowledge that Snowy 2.0 may have an important role to play in the transition to 100 per cent renewable energy, we cannot support a bill that gives a blank cheque to the Government to override important protections in the National Parks and Wildlife Act. The environmental impacts of the Snowy project have not been assessed, with only the environmental impact statement for stage one publicly available and four more separate EISs yet to come. In its current form, there are also no checks and balances to ensure there is adequate public consultation, consideration of environmental impacts and leasing arrangements to compensate for the loss of environmental, recreation and cultural values. However, The Greens have put together a series of important amendments that we believe address these concerns and, if accepted, will allow The Greens to support the passage of the bill.

The Greens and, I would argue, the wider public have long held that the protections afforded to national parks are sacrosanct. We have opposed significant new infrastructure in national parks, and argue that this is vital to ensure the unique natural and cultural heritage they protect are safeguarded for generations to come. We want to see an historic increase in the protected estate in New South Wales, an end to logging in all public native forests and a large increase in the funding of the National Parks and Wildlife Service. It is not an overstatement to say that right now our national parks and biodiversity are under attack from the Liberal and Nationals parties in New South Wales. Right now, the Government is proposing the destruction of 4,700 hectares in the Blue Mountains world heritage area and national park by the completely unnecessary raising of the Warragamba Dam wall. Right now, there is a government member's bill before the Parliament to revoke the Murray Valley National Park and allow logging back into the globally significant river red gum forests of the Riverina.

Shamefully, the Government has also prioritised feral horses over the protection of the fragile alpine ecosystems of the Kosciuszko National Park, and there is the ridiculous proposal to extend the F6 motorway through the Royal National Park. It is well known that koalas are becoming extinct, but the Government has alarming plans to burn vast areas of our North Coast native forests for electricity. Every year 10 million native animals have died from land clearing since this Government ripped up the Native Vegetation Act. The Government is also changing logging rules to allow clear-felling of areas up to 60 hectares—up from the current legal limit of only one-quarter of a hectare. I could go on.

When we are being asked to support a bill that gives the Government a blank cheque to overturn the National Parks and Wildlife Act for this project, The Greens say firmly "No way". As I said, the environmental impact of the final project is not yet known as there have been no environmental impact statements for the four additional stages after the initial exploratory works. The final project will involve digging a 27-kilometre tunnel and somehow disposing of tens of millions of cubic metres of excavated rock. We have no idea how or where this rock will be deposited. They may just dump it into Talbingo Dam, or somewhere in the park. Despite the Government's assurances that this is just natural material, we know from past experience that when large amounts of deep rock are excavated there is a very high chance that it will be acid-forming rock, which can leach into the surrounding environment.

The tunnels also have the potential to cause serious changes to underground water flows, with reductions in surface water retention and flows, and there is a risk, due to the location, that asbestos-type rock fibres will be mobilised. Then there are the easements for new transmission infrastructure, road widening and clearing for construction and a new power station. This will see the destruction and fragmentation of pristine bushland in the Kosciuszko National Park. The preliminary environment assessment for the exploratory works states that:

> The biodiversity values of the subalpine and montane areas in the Exploratory Works project are unique, and support unique species and vegetation communities. The seasonal presence of snow sets the Australian Alps apart from most other places on mainland Australia. Beyond this, the Alps contain unusual assemblages of plants and animals, many of which are endemic to the Snowy mountains.

This is the largest national park in the State and an area which is home to threatened species like the smoky mouse, the eastern pygmy-possum, the broad-toothed rat and the boorolong frog.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): Order! I call the Hon. Dr Peter Phelps to order for the first time.

Ms CATE FAEHRMANN: When this project is built, we will see the transportation of the noxious redfin or English perch from Talbingo Reservoir into Tantangara Reservoir. Currently this class one pest fish survives in Talbingo Reservoir. However, if Snowy 2.0 goes ahead, I understand there is no way to stop the fish's eggs, or even the fish itself, from being transferred when water is pumped back up from Talbingo to Tantangara. Fishers are furious because this will mean that redfin will be able to access one of Australia's most famous trout fisheries, Lake Eucumbene, which is now redfin free and is connected via a tunnel from Tantangara built in the original Snowy scheme. Redfin are voracious eaters of trout eggs and also the eggs of most other fish, and this

has the potential to seriously diminish trout fishing in Lake Eucumbene. It is illegal in New South Wales to possess live redfin or to transport them. I hope that the Shooters, Fishers and Farmers Party shares these concerns.

We also need to be aware that the Snowy Hydro Corporation has made it very clear that Snowy 2.0 is just the start. On its website it proudly proclaims that there are serious proposals for a further Snowy 3.0 and 4.0, or even 5.0 at some point in the future. Let us also be absolutely clear about why Snowy 2.0 has been proposed. This was a captain's pick by Malcolm Turnbull to avoid having a serious national energy policy to transition to renewable energy. To date, there has been no comprehensive analysis and comparison by either the New South Wales or Federal governments of alternative pumped storage options. There is also no guarantee that the project will even go ahead, with the Federal Government yet to commit to funding its construction and seemingly more interested in subsidising new coal-fired power plants.

Having said all of this, The Greens also acknowledge that Snowy 2.0 may have an important role to play in the transition to 100 per cent renewable energy. The Greens are strong supporters of a rapid transition to a 100 per cent renewable electricity system by 2030 if we are to do our bit to keep global warming to 1.5 degrees. We will continue to call out the shameful failure of both the New South Wales and Federal governments to introduce policies that prioritise and encourage investment in renewable energy. The Greens want to see an enforceable State-based renewable energy target, a significant increase in investment in renewable energy by the Government, and a much faster timetable for the closure of the existing fossil fuel generating assets. We understand the need for the development of significant storage, including pumped hydro, to ensure there is enough dispatchable power in the grid to complement new renewable energy and the shutdown of existing fossil fuel generation.

To meet a target of 100 per cent renewables by 2030, New South Wales needs to add approximately 34 gigawatts more of wind and solar generation or 2.6 gigawatts per year from now to 2030. This needs to be backed up with clean, dispatchable generation. As mentioned by the Hon. Adam Searle, Andrew Blakers from the Australian National University has estimated that New South Wales will need approximately 7.5 gigawatts in additional dispatchable generation capacity with 14 hours or 100 gigawatts of storage capacity. For comparison, Snowy 2.0 is for 2 gigawatts of power with 175 hours or 350 gigawatts of storage. This means we need approximately four projects like Snowy 2.0, or an array of smaller projects, including pumped hydro and concentrated solar thermal.

The proposed Snowy 2.0 project is probably an important storage asset as part of the transition to 100 per cent renewable energy. First, with its size it has the capacity to provide 2,000 megawatts of reliable, dispatchable energy generation, which will create space for the retirement of another coal-fired power station. It provides seven days storage of this capacity, which is a vital part of a 100 per cent renewable grid for extended periods where there is little sun or wind in south-east Australia. Secondly, it is centrally located between the major load centres of Sydney and Melbourne directly and South Australia indirectly. Thirdly, it involves existing dam infrastructure, so no new dams are required, meaning there will be minimal clearing, flooding or dam construction compared to constructing new dam sites. And, fourthly, there is an unusually large elevation difference between the existing dams at this site, which contributes to the capacity of energy generated by the project

Clearly the bill has posed a very difficult conundrum for The Greens, as I can tell by some of the expressions on the members' faces opposite. Members are being asked to choose between two competing but equally legitimate environmental interests. We are being asked to do so in the context of no comprehensive analysis and comparison by either the New South Wales or Federal governments of alternative pumped storage options and no understanding of the extent of the impacts of the project on the Kosciuszko National Park. The bill allows the Minister administering the National Parks and Wildlife Act to issue leases, licences, easements or rights of way for the purposes of the Snowy 2.0 project and the associated transmission infrastructure owned by TransGrid. It allows the Minister to do so even if it is in contravention of the objects of the Act or the management principles for the national park, although the Minister must have regard to these matters in making a determination. Any lease granted under this provision would have effect until 2077. There is a specific clause which provides that:

> A Snowy 2.0 lease is to make provision for public access to those stored waters of the Snowy Mountains Hydro-electric Scheme that have been previously available for public recreation.

In essence, this is a bill to override the protections of the National Parks and Wildlife Act and to allow the natural and cultural heritage values of the beautiful Kosciuszko National Park to be harmed by Snowy 2.0. As I have said, we are expected to vote on this before we know the full details of the project or the environmental impacts. The Government's argument for doing this is that there is only one week left of Parliament before we break until April next year, but Snowy Hydro is wanting to commence preliminary exploratory works by the end of this year or early next year. A lease will be required for those works to commence. Therefore, if we do not pass the bill we will be holding up the whole project.

However, The Greens have circulated amendments which overcome this issue. First, we are proposing that we limit the scope of the works to which the bill applies to only the stage one exploratory geotechnical works or engineering investigations and make any lease expire after five years. Stage one is the exploratory works and involves a three to four kilometre exploratory tunnel, excavation and disposal of 500,000 to 750,000 cubic metres of rock, a cleared construction pad and upgrades to some existing roads and tracks. It has a much lower environmental impact than the final project and the EIS is currently on public exhibition.

The Government has told us that this will not hold up the construction of Snowy 2.0. This stage is expected to take 18 to 34 months to complete, allowing plenty of time for the Government to bring a new bill to the Parliament once we have seen and considered the EIS for the subsequent four stages. This will allow Parliament to make an informed decision about the impact of the subsequent stages on the national park. Secondly, we want it mandated that Snowy 2.0 leases can be granted only over prescribed land. This will ensure that Parliament retains oversight of land that is impacted by the bill by requiring such land to be identified by regulation. This is an essential check on the Minister's power. The Government is asking Parliament to grant a blank cheque to override the National Parks and Wildlife Act for a development that will have very serious impacts on the Kosciuszko National Park and without any clarity as to which land will be used and the impacts it will have.

The scope of the bill is alarmingly wide. The Minister is being given the power to grant one or more leases, licences, easements or rights of way over Kosciuszko National Park or any other land reserved or dedicated under the National Parks and Wildlife Act for the purposes of or in connection with the Snowy 2.0 project, or for the purposes of enabling TransGrid to operate an electricity transmission system from the electricity-generating works associated with the Snowy 2.0 project. The Greens also want to ensure that the Minister maximises the use of existing easements and rights of way when granting a Snowy 2.0 lease. A large number of existing easements and rights of way already are established through the Kosciuszko National Park, including transmission lines and roads associated with the existing Snowy scheme. The amendments do not bind the Minister to use those areas but they are an important safeguard and will give the community additional confidence that options that do not cause unnecessary additional destruction have been seriously considered.

We require the Minister to publish reasons for the determination of lease conditions that contravene the objects of the National Parks and Wildlife Act or the plan of management for the park. The bill is granting the Minister the power to override the existing aims of the National Parks and Wildlife Act and the relevant plans of management, but there is no requirement for transparency regarding those decisions. If the Minister grants a lease that is detrimental to the park in some way, The Greens believe that the least that can be expected is that the Minister publicly acknowledge the reasons for making such a decision and its impact. This amendment ensures that transparency. The Greens want to ensure that proposed leases will be publicly exhibited and granted leases will be published. Again, the Government is asking for a blank cheque to override the National Parks and Wildlife Act without any transparency or accountability.

The Kosciuszko National Park is a public asset and the Snowy 2.0 project is a wholly publicly owned monopoly in the park. The Greens believe it is unacceptable for the arrangements in the lease agreement not to be publicly available and open for public comment. Our amendments will make leases subject to annual rents, fees or charges set by the Independent Pricing and Regulatory Tribunal. The Kosciuszko National Park is a public asset and the Snowy 2.0 project is a wholly publicly owned, for-profit company. The Greens believe it would not be acceptable for the Government to grant a lease that reduces the environmental, recreational and/or cultural values of the park without seeking compensation. Similarly, Snowy 2.0 or TransGrid should not be granted access to public lands for free or below market value given they will be using them to make significant profits. If no fee is charged, the temptation will be to maximise the use of parkland, which is free, rather than to minimise the impacts.

Finally, The Greens want to ensure that Snowy 2.0 leases are not transferable and are terminated if Snowy Hydro ownership changes. This amendment would allow the Government to renegotiate the lease agreement if the Snowy Hydro company is ever privatised by the Federal Government or even to refuse to grant a new lease and prevent the privatisation. I indicated to the House that The Greens will not proceed with amendment Nos 13 and 19, which require the Minister administering the National Parks and Wildlife Act's concurrence for regulations made under the bill. That decision was made after discussions with the Minister, who pointed out the very limited nature of these regulations, which go only to the timing of amendments to the national park plan of management regarding Snowy 2.0.

The Greens recognise the importance of the Snowy 2.0 project to transition to 100 per cent renewable energy, but we are not prepared to grant the Government a blank cheque to do what it wants in the Kosciuszko National Park. We categorically do not support any further pumped hydro projects in national parks and support calls from the Colong Foundation, the National Parks Association and the Nature Conservation Council of New

South Wales for the development of a comprehensive renewable energy policy which respects the integrity of our national parks. It is feasible to transition to 100 per cent renewable energy and the storage we need without damaging our national parks in the process. I thank the Labor Party for indicating that it will support some of our amendments. The Greens will support the bill at the second reading stage, but if our reasonable amendments are not supported in the Committee stage we will not support the bill.

The Hon. PENNY SHARPE (17:34): I make a brief contribution to debate on the Snowy Hydro Corporatisation Amendment (Snowy 2.0) Bill 2018, particularly from the perspective of the potential environmental impact of the bill on the Kosciuszko National Park. The bill seeks to amend the Snowy Hydro Corporatisation Act 1997 so that the Snowy 2.0 project will be granted the necessary leases and other approvals under the National Parks and Wildlife Act if the Snowy 2.0 project obtains the necessary approvals under the planning laws. That is a still a big if, which is why concerns have been raised about putting the entirety of this process in place when much is still to be decided through the various stages of the development approvals process. The Government could have undertaken a staged legislative process to ensure the necessary changes are in place as approvals are received. That is the preference of those with an interest in greater accountability for each step along the way, but that is not the path this Government has chosen.

Snowy 2.0 is a proposed expansion of the well-known and historic Snowy Mountains hydro-electric scheme. Snowy 2.0 will significantly boost the existing scheme, increasing its energy generation capacity and large-scale energy storage capability. The project will generate approximately 2,000 megawatts of energy dispatched to the grid. I note it has been described as being like Australia's biggest battery. It should increase the capacity of peak electricity demand by around 14 per cent in New South Wales, placing it as the third-largest generator in New South Wales after the Eraring and Bayswater coal-fired power stations.

Labor has long called for an increased focus on renewables in our State's energy generation system. While the New South Wales Government has lagged behind other States, this project will be important for the much-needed generation of reliable, renewable energy. Increasing renewables and increasing energy security at the same time is an opportunity that New South Wales cannot afford to pass up. It is a serious decision that will have consequences for the Kosciuszko National Park, but it is also an important decision for our future.

The bill gives the Snowy 2.0 project precedence over the National Parks and Wildlife Act for the purposes of granting leases, licences, easements and rights of way. This should never be done lightly and should never be used as a stalking horse to diminish the overarching system of conservation protections for our national parks, which we value so highly. I do not believe that is the purpose of the bill. Rather, we are making a hard choice to build significant infrastructure that will go a long way towards the greatest environmental battle of all, which is climate change.

The bill notes that the Minister administering the National Parks and Wildlife Act may determine certain conditions attached to any grants relating to the project and the Minister is to have regard to the Act when doing so. I commit now that if I am ever to become the environment Minister in a New South Wales Labor Government I will ensure that the conditions relating to this project are extremely strict and that the impact on this precious and important national park is minimal.

I understand and appreciate that a number of the State's pre-eminent environment and conservation organisations, which I respect and with whom I discuss issues regularly, are opposed to the bill. I understand their positions and the detailed information they have provided to me. It is very valuable work and they have laid out the matters before us carefully. Importantly, their concern is for the incredible natural asset that we have in Kosciuszko National Park. I place on record my respect for their views but on this bill we have different positions. However, our intentions stem from a similar desire to see better environmental policy enacted in New South Wales. From my perspective, this policy is supporting a boost to renewable energy generation that this State has to take up.

I note a number of proposed amendments to the bill. Labor will have more to say about them, but we will support a number of The Greens amendments. We understand those amendments are designed to protect the natural values of the Kosciuszko National Park. Those values will be challenged by this project. We cannot fail to acknowledge that. I put on record the submission I received from the Nature Conservation Council and note the points it raised. It is important to record the council's concerns at the beginning of this project and throughout the project and reflect on what it has said. The council's submission on this bill states:

> National Parks and other protected areas are the primary means of protecting and conserving nature. They are critical for conserving outstanding or representative ecosystems, maintaining biodiversity and ecological integrity, and protecting natural or cultural features or landscapes. The rules and management principles that govern National Parks are important for ensuring these natural areas are safeguarded for generations to come.

It continues:

> In recent times, the management of national parks has been compromised by proposed activities such as logging, grazing, hunting, and high-impact infrastructure and development that contravene the objects of national park reservation and management system. Kosciuszko National Park is already subject to specific and ever-increasing threats including feral horses, weeds and other introduced species, resort development and increased tourism and tourist infrastructure is also placing pressure on it.
>
> Snowy 2.0 will add to the pressures on the Park and have significant impacts on the environment. For example:
>
> - Snowy 2.0 will clear some 100's of hectares of native vegetation and remove important habitat for threatened species …
> - Millions of cubic metres of rock will be extracted from underground, and Talbingo Reservoir will be dredged. The relocation of extracted material, unless off-park (which of itself would be have a major environmental impact) will impact water quality … wildlife habitat and amenity …
> - Construction of high voltage electricity transmission towers, lines and easements, with an easement swarth 10 km long and 100 m wide through pristine alpine [region].
> - Extensive road upgrades …
> - Potential changes in underground water flows along the route of the tunnels …
> - … larger fluctuations in the water levels … which will impact on flora, fauna and aquatic species, and on recreational usage and amenity.

We should not forget for a minute how much people love this park. It is one of our most visited national parks and is used for all sorts of activities by visitors. I refer to a serious issue and quote from the Nature Conservation Council:

> - Joining Talbingo and Tantangara Reservoirs will result in transporting noxious and non-native fish from Talbingo Reservoir into Tantangara Reservoir, and throughout the Snowy Scheme—

That is a real danger that we have to address—

> - Snowy 2.0 will see sections of the National Park closed for public access for the duration of the project …

There are real issues when we look at managing the impact on this park from a very important project. I wanted to put those issues on record as we start the debate. This project will take many years and many decisions will have to be made. We must always remember that we need renewable energy, but we also need to protect this park.

The Hon. PAUL GREEN (17:41): On behalf of the Christian Democratic Party I make a brief contribution to the debate on the Snowy Hydro Corporation Amendment (Snowy 2.0) Bill 2018. The bill seeks to amend the Snowy Hydro Corporatisation Act 1997 No 99 to enable leases and other interests in lands to be granted under the National Parks and Wildlife Regulation 2009 to facilitate the Snowy 2.0 project. The Snowy Mountains Scheme, which is a significant feat, has the ability to store significant volumes of water and generate 4,000 gigawatt hours every year. Snowy 2.0 is an expansion of this scheme, increasing the ability for energy generation and storage. This will make it one of the biggest batteries built in Australia and will give New South Wales and Australian households access to reliable and affordable energy in the future. With the retirement of coal-fired power stations in future decades, Snowy 2.0 is a critically significant State infrastructure project for the future security of New South Wales.

The existing scheme is regulated under the Snowy Hydro Corporatisation Act 1997 No 99, the National Parks and Wildlife Act 1974 and the Environmental Planning and Assessment Act 1979. These Acts automatically recognise the Snowy Hydro-electric Scheme's use and lease of the land as the current Act does not allow a lease for power generation. But the Snowy 2.0 project includes activities that are not covered by the current lease and it needs a new lease to proceed. That is why these amendments to the Snowy Corporatisation Act 1997 are vital to this project proceeding. This bill will insert the Snowy 2.0 project into the principal Act and enable leases, licenses, easements and rights of way under the National Parks and Wildlife Act 1974 to be granted to Snowy 2.0.

The insertion of proposed section 39A into the principal Act allows the lease or licence of any other land reserved under the National Parks and Wildlife Act 1974 for TransGrid, or other holder of transmission licence, to operate an electricity transmission system. The insertion of proposed section 39B will ensure that if compensation is payable by the State for the impact on native title rights or other conduct under the proposed Act then TransGrid, or other licence holder, the Snowy Hydro Company must contribute to the compensation. This is a vital foresight to ensure the State is not financially responsible for any reason for the payment of compensation. These changes are necessary to allow the Snowy 2.0 project to move forward, without any unnecessary delays impacting the timely completion of the project. Governments need to be planning for the future with sustainable and cleaner energies to replace coal-fired energy. These amendments will help promote affordable and sustainable energy supply and help build the New South Wales economy through jobs and investment in infrastructure.

The New South Wales Transmission Infrastructure Strategy, which was released this week, highlights the need for investment in Snowy Hydro 2.0, assuming there is a favourable decision by the Snowy Hydro Board later this year. The strategy includes transmission projects that allow energy to be shared with major population

centres that have big energy demands and help to secure energy during peak times. The available energy will increase dramatically if Snowy Hydro 2.0 goes ahead. The New South Wales transmission strategy, along with Snowy Hydro 2.0, will help secure lower energy bills and reliable energy for New South Wales and will generate jobs and economic growth for regional New South Wales. We support the amendments to the legislation to allow Snowy Hydro 2.0 to work effectively and efficiently.

There is no doubt this bill will substantially help to address the future electricity demands of New South Wales. How will it be powered? We need to have a conversation about what will push the water up to generate the power. I have no doubt we will need more transmission lines if we are to capitalise on it through iteration 3.0, 4.0 or even 5.0. We have the capacity, but infrastructure is needed to take that energy to the various areas. On behalf of the Christian Democratic Party, I believe these amendments will be good for the people of New South Wales. I commend the bill to the House.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (17:47): In reply: I thank all honourable members for their contributions to the debate. I am very grateful for their comments. The Hon. Paul Green was correct when he said that this bill principally is about the transition that is taking place in our energy system and ensuring that we have energy security during that transition. Provided we maintain energy security during that transition, we can be sure that that will lead to downward pressure on prices as well.

The Hon. Penny Sharpe and Ms Cate Faehrmann made a number of comments about the national park. I re-emphasise that the Snowy Hydro Corporatisation Amendment (Snowy 2.0) Bill 2018 will enable Snowy 2.0 to proceed, but only if that project is approved under the Environmental Planning and Assessment Act 1979. It will not affect the rigorous environmental, social and economic assessment process required under that Act. Instead, the bill simply ensures that if planning approval is granted the project will be able to obtain the necessary approvals under the National Parks and Wildlife Act. I will respond directly during the Committee stage to the matters raised by Ms Cate Faehrmann, which led her to move amendments.

However, in relation to fauna, excavation and recreational interests, I offer the following comments in reply. One of the primary aims of the environmental assessment process is to identify threatened species and then avoid or minimise impacts during the design stage. Mitigation and management measures will also be considered as part of the planning approval process and, if approved, procedures will be established to avoid and minimise impacts during construction. Where impacts are unavoidable, the planning approval will include offsets as required by the Biodiversity Conservation Act 2016. In the long term, the lease, plan of management and road maintenance agreements will guide operations in a similar way to the current Snowy scheme. The planning approval process will also consider the impacts of the disposal and placement of excavated rock.

In relation to recreational users, community consultation is part of the assessment process for the Snowy 2.0 Exploratory Works critical State-significant infrastructure application. The Department of Planning and Environment has met with the Snowy Valleys Council and Roads and Maritime Services to ensure arrangements, while potentially changed, are in place to maintain access to the Talbingo Reservoir and other recreation facilities during the construction and operation of the project. In addition, the National Parks and Wildlife Service has been working with Snowy Hydro to ensure that mitigation measures, such as the upgrading of surrounding campgrounds, will be undertaken to minimise impacts on recreational users of the park. It is not correct for The Greens to argue that no consideration of other pumped hydro options has occurred. In fact, the New South Wales Government has done detailed work and commenced the process to seek expressions of interest for pumped hydro on WaterNSW assets. There will be more to say about that soon.

The Hon. Penny Sharpe made a number of points. In particular I will address the question of balancing the impacts of construction with the environmental values of the park. Finding a balance between enabling Snowy 2.0 and the environmental values of the park is no doubt challenging. That challenge will be met through a robust environmental assessment process; appropriate compensation that will enhance conservation and biodiversity values in the national park; and lease, plan of management and road maintenance agreements that will guide long-term operations in a similar way to the current scheme. We look forward to a final investment decision by Snowy Hydro in a matter of weeks. It is an important project, nevertheless, Snowy Hydro must undertake due diligence.

In conclusion, the amendments set out in this bill have been carefully designed to set out an approval pathway for the project should it receive planning approval. The bill does not pre-empt a planning approval for Snowy 2.0. The project will still need to proceed through a rigorous development assessment process under the Environmental Planning and Assessment Act 1979, including community consultation and a comprehensive environmental impact assessment. For a nation-building project of this scale, it is important that we have the approval pathway for the entire Snowy 2.0 project clearly detailed from the outset. That is what the bill delivers, and I commend it 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.

Ms CATE FAEHRMANN (17:55): By leave: I move The Greens amendments Nos 1, 2, 4, 5, 10, 12, 14 and 20 to 23 on sheet C2018-145B in globo:

No. 1 **Limiting works to Stage 1 exploratory geotechnical works or engineering investigations**

Page 3, Schedule 1 [1], lines 5–9. Omit all words on those lines. Insert instead:

> ***Snowy 2.0 project—Stage 1*** means the carrying out of exploratory geotechnical works or engineering investigations for the purposes of the pumped hydro and generation works to be known as Snowy 2.0 on land between Tantangara Reservoir and Talbingo Reservoir as referred to in clause 9 (3) of Schedule 5 to *State Environmental Planning Policy (State and Regional Development) 2011*, as in force on 1 September 2018, that is approved to be carried out under the *Environmental Planning and Assessment Act 1979*.

No. 2 **Limiting works to Stage 1 exploratory geotechnical works or engineering investigations**

Page 3, Schedule 1 [2] (proposed section 37A), line 12. Insert "**—Stage 1**" after "**Snowy 2.0 project**".

No. 4 **Limiting works to Stage 1 exploratory geotechnical works or engineering investigations**

Page 3, Schedule 1 [2] (proposed section 37A (1)), line 16. Insert "—Stage 1" after "Snowy 2.0 project".

No. 5 **Limiting works to Stage 1 exploratory geotechnical works or engineering investigations**

Page 3, Schedule 1 [2] (proposed section 37A (2)), line 19. Insert "—Stage 1" after "Snowy 2.0 project".

No. 10 **Limiting works to Stage 1 exploratory geotechnical works or engineering investigations**

Page 3, Schedule 1 [2] (proposed section 37A (5)), lines 32 and 33. Insert instead:

(5) A Snowy 2.0 lease expires 5 years after the day on which it was granted.

No. 12 **Limiting works to Stage 1 exploratory geotechnical works or engineering investigations**

Page 3, Schedule 1 [3] (proposed section 38 (4)), line 42. Insert "—Stage 1" after "Snowy 2.0 project".

No. 14 **Limiting works to Stage 1 exploratory geotechnical works or engineering investigations**

Page 4, Schedule 1 [4] (proposed section 39A), lines 7–26. Omit all words on those lines.

No. 20 **Limiting works to Stage 1 exploratory geotechnical works or engineering investigations**

Page 4, Schedule 1 [4] (proposed section 39B (1) (b)), line 37. Omit "or 39A".

No. 21 **Limiting works to Stage 1 exploratory geotechnical works or engineering investigations**

Page 4, Schedule 1 [4] (proposed section 39B (1) (c)), line 40. Insert "—Stage 1" after "Snowy 2.0 project".

No. 22 **Limiting works to Stage 1 exploratory geotechnical works or engineering investigations**

Page 4, Schedule 1 [4] (proposed section 39B (1) (d)), line 42. Insert "—Stage 1" after "Snowy 2.0 project".

No. 23 **Limiting works to Stage 1 exploratory geotechnical works or engineering investigations**

Page 5, Schedule 1 [6] (proposed Schedule 4, Part 5, clause 7 (1)), lines 24 and 26. Insert "—Stage 1" after "Snowy 2.0 project".

These amendments limit the power to grant leases, licences, easements or rights of way in contravention of the National Parks and Wildlife Act or existing plans of management to those works associated with the stage one exploratory works, which have been publicly exhibited. The amendments also ensure any lease granted under this provision expires after five years. Given the stage one works are expected to take 18 to 34 months, there will be ample time for the Government to bring a new bill regarding the subsequent stages once planning approval has been received or, at the very least, once the environmental impact statement has been exhibited.

While The Greens acknowledge the need for legislation now to allow stage one works to commence due to the parliamentary timetable, clearly there is no need for the legislation to extend to the other aspects of the proposed project, including transmission infrastructure, the 27-kilometre tunnel and the new power station. The final project will have significant impacts on the Kosciusko National Park, including the fragmentation of the park by new transmission and construction infrastructure, the removal and disposal of millions of cubic metres of excavated rock, potential changes to underground water flows, and transportation of noxious fish from Talbingo Reservoir into Tantangara Reservoir. This Parliament should not grant the Minister a blank cheque to override the National Parks and Wildlife Act without knowing what the project is and what its impacts will be. The

amendments will allow the Parliament to make an informed decision about the impact of the subsequent stages on the national park without slowing the construction of the project. I urge the House to support the amendments.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (17:57): Establishing the approval pathway for the entire Snowy 2.0 project is required at the outset to give Snowy Hydro, its investors and, importantly, the community the necessary certainty on the overall direction of the project. A piecemeal approach would not provide that assurance for any stakeholders. The concerns raised by The Greens about needing to understand the impacts of subsequent stages fail to take into account the rigour and transparency measures built into the environmental assessment processes under the Environmental Planning and Assessment Act.

Under the proposed framework, all stages of Snowy 2.0, including the transmission project, will need to obtain development approval. No lease or other approval can be granted until development approval is in place for that stage of the project. The development assessment process under the Environmental Planning and Assessment Act requires detailed community consultation and comprehensive environmental impact assessment. This is a robust, merit-based process that considers the project's environmental, social and economic impacts. Requiring parliamentary approval for further stages of the project is inefficient and unnecessary because the Government and the community will be able to make informed decisions about the impact of subsequent stages on the national park through the assessment process for any subsequent stage. It would be overly burdensome, resulting in increased administrative costs, and would cause unnecessary delays to the project. In relation to the lease, the term of the proposed lease is consistent with the term of the current lease that Snowy Hydro holds. Requiring the lease to expire after five years would undermine the project and remove the certainty required for the project to proceed.

The Hon. ADAM SEARLE (17:59): The amendments limit the power to grant the leases, licences, easements or rights of way necessary for Snowy 2.0 that may impact the national parks and wildlife legislation and the existing plans of management that works needed would interact with. I understand what Ms Cate Faehrmann is saying when she says this should be staged and dealt with only by legislation on a needs basis, but I think that is unduly restrictive. The Opposition agrees with the Government that Parliament should grant the scope of the powers sought rather than having to return to Parliament in respect of each different stage and giving narrow, limited—as it were—conditional approval for each stage of the project. It would cause unnecessary uncertainty and delays. We understand that these powers are significant and important, but we accept that the Government and whoever the Minister may be from time to time would use the powers being granted by Parliament only for the proper purposes and in support of the project, so we will not support this set of amendments.

The CHAIR (The Hon. Trevor Khan): Ms Cate Faehrmann has moved The Greens amendments Nos 1, 2, 4, 5, 10, 12, 14 and 20 to 23 on sheet C2018-154B. The question is that the amendments be agreed to.

The Committee divided.

Ayes 4
Noes 29
Majority.....25

AYES

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

NOES

Ajaka, 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
Green, Mr P	Harwin, Mr D	Houssos, Mrs C
MacDonald, Mr S	Maclaren-Jones, Mrs (teller)	Mallard, Mr S
Martin, Mr T	Mitchell, Mrs	Moselmane, Mr S
Nile, Revd Mr	Pearson, Mr M	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	

Amendments negatived.

The Hon. DON HARWIN: 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. DON HARWIN: I move:

That the report be adopted.

Motion agreed to.

Business of the House

ORDER OF BUSINESS

The PRESIDENT: Pursuant to a resolution of the House on Wednesday 14 November 2018, proceedings are interrupted to enable Ms Dawn Walker to make her valedictory speech. Does Ms Dawn Walker seek the call?

Ms Dawn Walker: Not at this time, Mr President.

Bills

SNOWY HYDRO CORPORATISATION AMENDMENT (SNOWY 2.0) BILL 2018

In Committee

Consideration resumed from an earlier hour.

Ms CATE FAEHRMANN (18:10): By leave: I move The Greens amendments Nos 3 and 15 on sheet C2018-154B in globo:

No. 3 **Snowy 2.0 leases only to be granted over prescribed land**

Page 3, Schedule 1 [2] (proposed section 37A). Insert after line 12:

(1) Despite subsections (2)–(8), this section applies only in relation to land in the Kosciuszko National Park, or other land reserved or dedicated under the NPW Act, that is prescribed by the regulations.

No. 15 **Snowy 2.0 leases only to be granted over prescribed land**

Page 4, Schedule 1 [4] (proposed section 39A). Insert after line 7:

(1) Despite subsections (2)–(7), this section applies only in relation to land in the Kosciuszko National Park, or other land reserved or dedicated under the NPW Act, that is prescribed by the regulations.

These amendments ensure that the Parliament retains some oversight over land impacted by the Snowy Hydro Corporatisation Amendment (Snowy 2.0) Bill 2018 by requiring such land to be identified by regulation and, if necessary, disallowed. This is an essential check on the Minister's power. The Government is asking the Parliament to grant a blank cheque to override the National Parks and Wildlife Act for a development that will have serious impacts on Kosciuszko National Park without any clarity as to which land will be used and the impacts this will have. The Minister said he would seriously consider the amendments unless the department had specific objections. At this point I thank the Hon. Don Harwin for meeting with me in my office to discuss these amendments in detail.

The Minister said he would consider each and every one of the amendments—and I appreciate that—and subsequently responded saying that advice from the Office of Environment and Heritage indicated that the ability to grant leases is not a new provision in the National Parks and Wildlife Act and no other leases need the land to be prescribed. This argument makes no sense. No other leases allow the plan of management and objects of the Act to be ignored. The Parliament and the public deserve to know what areas are part of the Snowy 2.0 project. The response is even more concerning given that the scope of the bill is alarmingly wide.

Under the bill, the Minister will have the power to grant one or more leases, licences, easements or rights of way over the Kosciuszko National Park or any other land, reserved or dedicated under the National Parks and Wildlife Act for the purposes of or in connection with the Snowy 2.0 project or for the purposes of enabling TransGrid to operate an electricity transmission system from the electricity generating works associated with the Snowy 2.0 project. The Snowy 2.0 transmission project includes the construction and operation of new electricity

transmission lines between the new substation at Nurenmerenmong and an existing substation at Bannaby north of Goulburn.

Between Kosciuszko National Park and Bannaby there are numerous other national parks, including the Brindabella National Park, the Namadji National Park and the Tarlo River National Park. If we pass this bill without this amendment we are granting the Government powers to override the National Parks and Wildlife Act for each of these parks. What was the Minister's response to these concerns? He said that the final route has not been settled and this will be dealt with in the planning process. Potentially it will impact more national parks—there is no confidence there. I urge the Committee to support the amendments.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (18:14): The Government opposes the amendments. They are unnecessary because the potential impacts on land will be assessed as part of the development assessment process under the Environmental Planning and Assessment Act. Under that framework, any application must specify the land to which it relates with sufficient specificity so there is no doubt about the land to which the proposed development relates. In addition, any development approval will include measures such as an environmental management strategy to avoid and minimise any adverse impacts on the national park. Regarding amendment No. 15, section 39A of the bill allows a lease, licence, easement or right of way for the transmission works to be granted over Kosciuszko National Park or any other land reserved or dedicated under the National Parks and Wildlife Act.

This section mirrors section 39 of the existing Snowy Hydro Corporatisation Act and does not in any way seek to broaden the existing power. This power is necessary to facilitate the changes required to the transmission network as a result of the expansion of the existing scheme. In addition, even in the absence of this power, the Minister for the Environment could grant an easement or right of way under section 153 of the National Parks and Wildlife Act for the transmission works upon such terms and conditions as she sees fit. I note that this is the current regulatory framework in place for the existing transmission lines.

The Hon. ADAM SEARLE (18:16): The Opposition does not support the amendments, essentially for the reasons outlined by the Leader of the Government.

The CHAIR (The Hon. Trevor Khan): Ms Cate Faehrmann has moved The Greens amendments Nos 3 and 15 on sheet C2018-154B. The question is that the amendments be agreed to.

The Committee divided.

Ayes 5
Noes 28
Majority.....23

AYES

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

NOES

Ajaka, 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
Green, Mr P	Harwin, Mr D	Houssos, Mrs C
MacDonald, Mr S	Maclaren-Jones, Mrs (teller)	Mallard, Mr S
Martin, Mr T	Mitchell, Mrs	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		

Amendments negatived.

Ms CATE FAEHRMANN (18:23): By leave: I move The Greens amendments Nos 6 to 9, 11 and 16 to 18 on sheet C2018-154B in globo:

No. 6 **Maximising use of existing easements and rights of way**

Page 3, Schedule 1 [2] (proposed section 37A). Insert after line 20:

(3) Despite subsection (2), the Minister administering the NPW Act must not grant a Snowy 2.0 lease that is an easement or a right of way unless the Minister has had regard to maximising the use of existing easements and rights of way.

No. 7 **Minister to publish reasons for determination of conditions**

Page 3, Schedule 1 [2] (proposed section 37A). Insert after line 31:

(5) The Minister administering the NPW Act must, as soon as practicable after determining the conditions (if any) that should be attached to any such grant, ensure that the Minister's reasons for that determination (including the regard had for the matters set out in subsection (3)) are published on the Office of Environment and Heritage's website.

No. 8 **Proposed leases etc to be publicly exhibited and granted leases to be published**

Page 3, Schedule 1 [2] (proposed section 37A). Insert after line 31:

(5) Before a Snowy 2.0 lease is granted, the Minister administering the NPW Act must:

(a) ensure the proposed Snowy 2.0 lease is publicly available for a period of at least 28 days, and

(b) seek public comment on the proposed Snowy 2.0 lease during the period of public exhibition and public comment may be made during that period, and

(c) have regard to any public comment received during the period allowed for public comment, and

(d) consult with the relevant regional advisory committee (within the meaning of the NPW Act) regarding the grant.

(6) After a Snowy 2.0 lease is granted, the Minister administering the NPW Act must, as soon as practicable, ensure that the Snowy 2.0 lease is published on the Office of Environment and Heritage's website.

No. 9 **Leases etc to be subject to rent, fee or charge**

Page 3, Schedule 1 [2] (proposed section 37A). Insert after line 31:

(5) A Snowy 2.0 lease is subject to a condition that the Snowy Hydro Company is to pay an annual market rent, fee or charge (as appropriate) determined by the Independent Pricing and Regulatory Tribunal in accordance with the following provisions:

(a) the Independent Pricing and Regulatory Tribunal must, before making a determination:

(i) ensure the proposed market rent, fee or charge (and the reasons for the proposed determination) is publicly available for a period of at least 28 days, and

(ii) seek public comment on the proposed determination during the period of public exhibition and public comment may be made during that period, and

(iii) have regard to any public comment received during the period allowed for public comment,

(b) the Independent Pricing and Regulatory Tribunal must re-determine the annual market rent, fee or charge every 5 years,

(c) when making a determination, the Independent Pricing and Regulatory Tribunal must determine a rent, fee or charge that includes compensation for any loss of environmental, recreational or cultural values.

No. 11 **Snowy 2.0 lease not transferable and terminated if Snowy Hydro ownership changes**

Page 3, Schedule 1 [2] (proposed section 37A). Insert after line 37:

(8) A Snowy 2.0 lease is not transferable.

(9) All Snowy 2.0 leases terminate on the occurrence of any change of ownership of the Snowy Hydro Company. However, nothing in this subsection prevents the grant of any new Snowy 2.0 lease to take effect after such a termination.

No. 16 **Maximising use of existing leases, licences, easements and rights of way**

Page 4, Schedule 1 [4] (proposed section 39A). Insert after line 16:

(3) Despite subsection (2), the Minister administering the NPW Act must not grant an easement or a right of way referred to in subsection (1) unless the Minister has had regard to maximising the use of existing easements and rights of way.

No. 17 **Proposed leases etc to be publicly exhibited and granted leases to be published**

Page 4, Schedule 1 [4] (proposed section 39A). Insert after line 16:

(3) Before a lease, licence, easement or right of way referred to in subsection (1) is granted, the Minister administering the NPW Act must:

(a) ensure the proposed lease, licence, easement or right of way is publicly available for a period of at least 28 days, and

(b) seek public comment on the proposed lease, licence, easement or right of way during the period of public exhibition and public comment may be made during that period, and

(c) have regard to any public comment received during the period allowed for public comment, and

(d) consult with the relevant regional advisory committee (within the meaning of the NPW Act) regarding the grant.

(4) After a lease, licence, easement or right of way referred to in subsection (1) is granted, the Minister administering the NPW Act must, as soon as practicable, ensure that the lease, licence, easement or right of way is published on the Office of Environment and Heritage's website.

No. 18 **Leases etc to be subject to rent, fee or charge**

Page 4, Schedule 1 [4] (proposed section 39A). Insert after line 17:

(4) A lease, licence, easement or right of way referred to in this section is subject to a condition that TransGrid (or the relevant holder of a transmission operator's licence) is to pay an annual market rent, fee or charge (as appropriate) determined by the Independent Pricing and Regulatory Tribunal in accordance with the following provisions:

(a) the Independent Pricing and Regulatory Tribunal must, before making a determination:

(i) ensure the proposed market rent, fee or charge (and the reasons for the proposed determination) is publicly available for a period of at least 28 days, and

(ii) seek public comment on the proposed determination during the period of public exhibition and public comment may be made during that period, and

(iii) have regard to any public comment received during the period allowed for public comment,

(b) the Independent Pricing and Regulatory Tribunal must re-determine the annual market rent, fee or charge every 5 years,

(c) when making a determination, the Independent Pricing and Regulatory Tribunal must determine a rent, fee or charge that includes compensation for any loss of environmental, recreational or cultural values.

First, I speak to amendments Nos 6 and 16. These amendments make it clear that the Minister must have regard to maximising the use of the existing easements and rights of way when granting a Snowy 2.0 lease. There are already a large number of existing easements and rights of way through the Kosciuszko National Park, including transmission lines and roads associated with the existing Snowy scheme. These amendments do not bind the Minister to use these areas, but they are an important safeguard to give the community additional confidence that options that will not cause unnecessary additional destruction have been seriously considered. The Minister indicated that he would seriously consider these amendments unless the department had any specific objections. Again, the Minister's office has indicated the Government will not support the amendments, with the excuse that "this will be dealt with through the environmental impact statement". That basically confirms we see the role of the Minister responsible for national parks and wildlife as a rubber stamp to whatever is approved by the planning department.

I speak now to amendment No. 7. The bill is asking the Parliament to grant the Minister the power to override the existing aims of the National Parks and Wildlife Act and the relevant plans of management, but there is no requirement for any transparency regarding these decisions. If the Minister is going to grant a lease that is detrimental to the park in some way then the least to be expected is that the Minister should publicly acknowledge the impacts and reasons for making such a decision. This amendment will ensure that transparency. Again, the Minister indicated that he would seriously consider the amendment unless the department had any specific objections. The response from the Minister's office was, "there is no existing requirement in the National Parks and Wildlife Act for the Minister to do this". That makes no sense. How could there be a requirement to publish reasons for overriding the objects of the National Parks and Wildlife Act when all other leases cannot do so by law? What is the Government hiding by refusing to accept this amendment?

I speak now to amendments Nos 8 and 17. These amendments will ensure that the conditions of the lease are public and the Minister must publicly exhibit the draft lease for 28 days prior to granting it. Again, the Government is asking for a blank cheque to override the National Parks and Wildlife Act without any transparency

or accountability. The Kosciuszko National Park is a public asset and the Snowy 2.0 is a wholly publicly owned monopoly in the park. The Greens believe it is unacceptable for the arrangements in the lease agreement not to be both publicly available and open for public comment. Once again, the Minister indicated that he would seriously consider these amendments unless the department had any specific objections. Sadly, it came back with the same answer: "This is inconsistent with the current arrangement for leases." Given that no other lease overrides the National Parks and Wildlife Act, that is plainly ridiculous.

This lease is different from all other leases. Indeed, that is why we are passing this legislation. If it were consistent with the current arrangements this legislation would not be needed. We are asking for transparency and accountability for such a significant decision. The Government told us that the lease will have to go to the relevant advisory council for comment and it has already been involved in preliminary discussions. Alarmingly, it also made clear that there will be no public exhibition or opportunity for public comment on the lease. We were also told that the final lease will not be published because of "commercial-in-confidence" considerations raised by the Commonwealth Government. The pubic is sick and tired of hearing the Government hide behind "commercial-in-confidence" every time it wants to avoid transparency and accountability. This is public land and a public company has a monopoly on the use of these assets. Alix Goodwin, the Chief Executive Officer of the National Parks Association of NSW, summed it up in a recent email to me. She said:

> It is entirely reasonable to expect that the highest level of transparency and accountability be afforded to this project. The public has the right to understand what the lease arrangements will be, any conditions that will apply, and to be afforded the opportunity to comment on these. To deny the publication of the lease on commercial-in-confidence grounds is unreasonable when a staggering $2-$4 billion in public funds will be appropriated for the construction of Snowy 2.0. We need to know that the public interest is being protected. I speak now to amendments Nos 9 and 18. These amendments designate the Independent Pricing and Regulatory Tribunal as the appropriate body to determine a fair annual rent or fee for a Snowy 2.0 lease over the national park and that compensation for the loss of the environmental, recreational and/or cultural values of the park is considered as part of that amount. Kosciuszko National Park is a public asset and the Snowy 2.0 project is a wholly publicly owned for-profit company. Snowy 2.0 involves the alienation of public land in a national park and will cause extensive environmental damage. The Greens believe that it is not acceptable for the New South Wales Government to grant a lease which reduces the environmental, recreational and/or cultural values of the park without seeking compensation. Similarly, Snowy 2.0 or TransGrid should not be granted access to public lands for free or below market value, given that they will be using them to make significant profits.

I mentioned earlier that the Snowy 2.0 transmission project includes the construction and operation of new electricity transmission lines between the new Snowy 2.0 substation and an existing substation at Bannaby, north of Goulburn. Between Kosciuszko National Park and Bannaby there are numerous other national parks, including the Brindabella National Park, the Namadgi National Park and the Tarlo River National Park. Without this amendment, it is clear that there will be no incentive to avoid fragmenting these national parks with powerlines, because it will be much cheaper than going through private land. Why is this subsidy being given to the Transurban Group? This is a clear policy failure.

Finally, I speak to amendment No. 11. This amendment would allow the New South Wales Government to renegotiate the lease agreement if the Snowy Hydro company is ever privatised by the Federal Government or even to refuse to grant a new lease and prevent the privatisation. This amendment is about retaining some power in New South Wales to prevent the sale of this public asset. The Greens oppose the privatisation of the Snowy Mountains Scheme because of its vital role in electricity generation and irrigation, and because of the environmental sensitivities involved.

The amendment is also about ensuring that New South Wales can take full advantage of such a sale in case it were to occur. In granting a lease to Snowy Hydro company the Government has made it clear that it being a publicly owned company is a factor in its determination of lease conditions, especially as regards costs for using public land. There is no reason not pass this amendment, to give a future government this power. Hopefully it never has to be used, but this amendment is clearly in the interests of the people of New South Wales. I urge all members to support all The Greens amendments.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (18:29): The Government opposes The Greens amendments Nos 6 and 16 related to maximising the use of existing easements and rights of way. The amendments are considered unnecessary because the location and merits of using existing easements and rights of way will be considered as part of the development assessment process under the Environmental Planning and Assessment [EPA] Act 1979. As part of this process, any development approval will include measures to avoid and minimise any adverse impacts on the national park. This will include maximising the use of existing easements and rights of way where possible. There is no need for the legislation to prescribe this, as it will already be considered in the environmental assessment process.

The Government opposes The Greens amendment No. 7, which seeks to insert a requirement that the Minister administering the National Parks and Wildlife Act 1974 publish reasons for her decision to impose certain conditions on any lease granted under that Act. Existing processes already allow for publication of reasons for decisions on the Snowy 2.0 project. Under the EPA Act consent authorities need to publicly notify their decisions.

That is outlined in schedule 1, section 20 (2) of that Act. The notification needs to include the decision, the date of the decision, the reasons for the decision and how community views were taken into account in making the decision. Any planning determination made on the Snowy 2.0 project would need to satisfy this legislative requirement, making the decision-making process transparent for the community and other stakeholders. The conditions of the lease will be consistent with conditions of any development approval.

While the bill allows a lease to be granted that is inconsistent with the objects of the National Parks and Wildlife Act 1974 in order to ensure the project can proceed if approved, the controls that are being put in place to facilitate Snowy 2.0 ensure that the project can go ahead only if it protects the values of the national park. It does this through the following transparent processes: first, planning approval under the EPA Act, which will impose necessary conditions for the construction phase and, secondly, leases and easements under the National Parks and Wildlife Act 1974, which will set out the environmental management obligations and controls for the operation phase and be consistent, but not duplicate, the environmental controls in any planning approval for the construction phase. These leases must be consistent with any conditions of any development approval.

Finally, the statutory plan of management developed specifically for Snowy 2.0 under the National Parks and Wildlife Act 1974 is also a transparent process. For this reason, The Greens amendments are considered unnecessary. They also go far beyond what is currently provided for in the National Parks and Wildlife Act 1974. There is currently no statutory requirement in that Act for reasons to be given where a lease is granted.

I refer to The Greens amendments Nos 8 and 17. The bill does not switch off the existing consultation processes in place under national parks legislation for granting a lease. This means that any proposed lease would still need be referred to the National Parks and Wildlife Service Advisory Council for advice, as required under section 151G of the National Parks and Wildlife Act. The National Parks and Wildlife Act also has a requirement for public consultation. This will be met by the public consultation process undertaken for the environmental impact statement [EIS] under the EPA Act. This is allowed for under section 151F (6) of the current National Parks and Wildlife Act. Under that section, public consultation does not need to be repeated if:

> … within the 2 years prior to the proposed grant of the lease or licence, a public consultation has occurred in relation to development or an activity that is substantially the same as the use of the land that is to be authorised by the proposed lease or licence.

The Government also opposes amendments Nos 9 and 18, which seek to have the Independent Pricing and Regulatory Tribunal [IPART] set the annual rent, fee or charge for any Snowy 2.0 lease. Any development approval will include offsets for biodiversity impacts as required by the Biodiversity Conservation Act 2016 and the Commonwealth Environmental Protection and Biodiversity Conservation [EPBC] Act. In addition, there will be compensation for factors such as heritage and recreation, with offsets and management and mitigation measures all focused on enhancing conservation and biodiversity values within the national park.

It is important to remember that Snowy Hydro is owned by the Commonwealth Government. While it is not a government agency, it is also not a private entity. Dividends are now paid to the Federal Government, not to private shareholders, while the company continues to pay taxes. Whilst it is appropriate that rent be paid, given the government ownership of the scheme, it is appropriate that this rental be determined by the parties, and not by IPART.

The Government opposes amendment No. 11, which seeks to ensure that the lease cannot be transferred and the lease is terminated if its ownership changes. There is no need to make the proposed changes as, irrespective of who the beneficiary of the lease is, the operator of Snowy 2.0 will have to comply with the conditions of any existing leases and any planning approvals in place. The Government is of the view that this issue is best dealt with through the terms of the lease, as currently occurs for the existing lease. National Parks will work to negotiate appropriate conditions in the lease regarding potential change of ownership of Snowy Hydro. Therefore, the amendment is unnecessary.

The Hon. ADAM SEARLE (18:37): The Opposition will be supporting the amendments moved by The Greens. In relation to maximising the use of existing easements and rights of way, this seems a sensible proposal. The proposition from the Government that this will already happen, and therefore is unnecessary, is not a good argument not to adopt these measures. Likewise, I refer to the publishing of the reasons for determination of conditions. If this is what will happen, there is no harm in it.

The Hon. Don Harwin: Reasonable.

The Hon. ADAM SEARLE: The Minister did not outline what that harm was. In any case, we think it is a transparency measure that ought to be adopted. In addition, the proposed leases should be publicly exhibited and published. There can be no good or sensible reason not to adopt this amendment. Given that we are dealing with essentially a monopoly public asset, I cannot see why there would be any commerciality or confidentiality as a result. I refer to the leases and the Independent Pricing and Regulatory Tribunal setting the charge or fee.

I hear what the Government has said. If amendments Nos 9 and 18 were standing by themselves, it is possible that the Opposition may not support them. However, The Greens have advanced a finely balance argument. As it is part of the bundle, on balance we will support the bundle of amendments.

Amendment No. 11 is the safeguard against the privatisation of the now nationalised Snowy Hydro. The Opposition's support for the State Government divesting its ownership or part ownership of the Snowy Hydro scheme was on the basis that it was going to the Commonwealth and would remain in public hands. This is a suitable and appropriate mechanism to ensure that if there were a privatisation of what is now the fourth largest power company in the nation, it would provide a mechanism by which the State could seek to renegotiate or possibly even refuse a lease. The refusal of a lease would be contemplated in only the most extreme case. It is the terms of the renegotiation that the State Government might wish to revisit. It is one thing to give a publically owned corporation certain latitudes for public purposes, but if it were to become a private and for-profit body, the State might take a different view about the commercial arrangements. With those short comments, the Opposition supports the bundle of amendments.

The CHAIR (The Hon. Trevor Khan): Ms Cate Faehrmann has moved The Greens amendments Nos 6 to 9, 11 and 16 to 18 on sheet C2018-154B. The question is that the amendments be agreed to.

The Committee divided.

Ayes 14
Noes 18
Majority.....4

AYES

Donnelly, Mr G	Faehrmann, Ms C (teller)	Field, Mr J
Graham, Mr J	Moselmane, Mr S	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 (teller)	

NOES

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

PAIRS

Houssos, Mrs C	Amato, Mr L
Mookhey, Mr D	Blair, Mr N
Wong, Mr E	Mason-Cox, Mr M

Amendments negatived.

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

Motion agreed to.

The CHAIR (The Hon. Trevor Khan): I have been advised that there will be a division on the third reading. I ask that members remain in the Chamber.

The Hon. DON HARWIN: I move:

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

Motion agreed to.

Adoption of Report

The Hon. DON HARWIN: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. DON HARWIN: I move:

That this bill be now read a third time.

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

Leave granted.

The House divided.

Ayes 28
Noes 4
Majority.....24

AYES

Clarke, Mr D	Colless, Mr R	Cusack, Ms C
Donnelly, Mr G	Fang, Mr W (teller)	Farlow, Mr S
Franklin, Mr B	Graham, Mr J	Green, Mr P
Harwin, Mr D	Khan, Mr T	MacDonald, Mr S
Maclaren-Jones, Mrs (teller)	Mallard, Mr S	Martin, Mr T
Mitchell, Mrs	Moselmane, Mr S	Nile, Revd Mr
Pearson, Mr M	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		

NOES

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

Motion agreed to.

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

Petitions

RESPONSES TO PETITIONS

The Hon. SARAH MITCHELL: I lodge a response to the following petition signed by more than 500 persons:

Tweed Valley Hospital—lodged 16 October 2018—(Ms Dawn Walker)

I move:

That the petition be printed.

Motion agreed to.

Bills

RETIREMENT VILLAGES AMENDMENT BILL 2018

BUILDING AND CONSTRUCTION INDUSTRY SECURITY OF PAYMENT AMENDMENT BILL 2018

FAIR TRADING LEGISLATION AMENDMENT (MISCELLANEOUS) BILL 2018

PROTECTION OF THE ENVIRONMENT OPERATIONS AMENDMENT (ASBESTOS WASTE) BILL 2018

Second Reading Debate

Debate resumed from 24 October 2018.

The Hon. PETER PRIMROSE (20:01): I lead for the Opposition in response to the Retirement Villages Amendment Bill 2018 and cognate bills. I state at the outset that the Opposition will be moving amendments but will not be opposing the bills. The Retirement Villages Amendment Bill 2018 introduces a number of changes which were recommended in the Government's Greiner review report into the retirement village sector. The Parliamentary Secretary, on behalf of the Minister, went through the changes in some detail so I will not repeat them. However, I will be seeking clarification from him concerning some matters.

New section 101A establishes a requirement that village operators maintain an asset management plan for a village's capital items. So far the Government's response does not make it clear that the cost of preparing and maintaining this plan should be met by operators and not passed on to residents. This new requirement is no more and no less than a prudent measure that would be adopted by any responsible owner of a large building complex, as demonstrated in the strata titles sector. The Retirement Villages Residents Association [RVRA] is concerned to ensure that the same principle is adopted in the retirement village sector.

The Opposition proposes that clause 26 of the Retirement Villages Regulation 2017 be amended to specify that the costs of preparing and maintaining the asset management plan referred to in section 111, or proposed new section 101A of the amendment bill, be included as an item that may not be financed by way of recurrent charges. Whilst the proposal to allow residents to select an auditor of their choice is very welcome, the remarks by the Parliamentary Secretary in the second reading speech have caused concern for retirement villages and leave open the possibility that the intent of this proposed amendment could be thwarted by the operators. The Hon. Scot MacDonald said:

> The reason the operator proposes the auditor is because this process will often be more convenient for all parties and because the auditor will have access to sensitive financial information.

He said further:

> Clause 118D (3) of the bill provides that the tribunal cannot consent to the appointment of the auditor proposed by the operator unless satisfied that there are exceptional circumstances for doing so. Residents pay for the running costs of the village. The auditor's role is to safeguard the residents by reporting on how residents' money is spent. Where residents pay for the auditor, they should be able to choose the auditor. It is important that this right is not overturned by the tribunal unless there is good reason—and there may be good reason, especially as the auditor will be reviewing the operator's financial records.

The RVRA advised that it was alarmed that the Parliamentary Secretary mentioned sensitive financial records not once but twice in his speech, as did the Minister in the other place. Residents do not want to see an operator's confidential financial records, but the fact that an auditor may have access to such records to enable him or her to do the job they are tasked with must surely not constitute a good reason for the operator's nomination to prevail. The RVRA is concerned that this may in fact create a built-in loophole that some operators will use to circumvent the Government's stated view, namely, where residents pay the auditor, they should be able to choose the auditor. I seek the Parliamentary Secretary's clarification on these comments in his reply.

Emergency plans are critical to ensuring the safety of retirement villages and no room for ambiguity should be countenanced. This Parliament should be ensuring that residents have access to this information readily. With that in mind, the Combined Pensioners and Superannuants Association of New South Wales [CPSA] has raised concerns about the vagueness of some of the provisions regarding reasonable steps. I seek clarification on what "reasonable steps" would entail in new section 58B (1) of the bill, which deals with emergency management plans. Labor proposes to move an amendment to new section 58B (1) (c), namely, the Act should include a provision to ensure that information is provided in more than one format or in a format other than digital—for example, paper-based and posted to the resident. Given that we are dealing with elderly people, to simply rely on information that may be provided electronically would be foolish and they may miss vital information about their village or property.

Besides those clarifications, the shadow Minister has indicated disappointment as to the refusal to introduce a retirement village ombudsman. This bill would have been a good opportunity for the Minister to say, "I got it wrong. No-one knows what a retirement village ambassador is, what he or she will do, and I acknowledge Labor's initiative and back it in 100 per cent." These policies, bills and subsequent legislation should be about reforming and ensuring that the Parliament meets the needs and expectations of the people. We are not concerned, and nor is anybody to whom we have spoken, that the ambassador meets the expectations of the people concerned. Residents tell us that they want the protections and remedies that come with an ombudsman. Labor in government will deliver this to residents of retirement villages. Labor will need to come back next year to make this reform to strengthen the rights of those living in retirement villages and residential home parks.

The Fair Trading Legislation Amendment (Miscellaneous) Bill 2018 also makes a number of important changes to the Fair Trading Act. It amends the Act to establish a rental bond rollover scheme, which will allow tenants to roll over a bond from one rental property to another. This is a welcome initiative that has the support of rental advocates and will be appreciated by renters across New South Wales. Once the next New South Wales Labor government removes unfair evictions, renters in New South Wales will have a suite of reforms to benefit them and make renting safe and secure. It will also take the hassle out of moving from one rental property to another. The bill grandparents a number of cooperative housing societies and Starr-Bowkett societies. This legislation has well and truly passed its use-by date. In particular, cooperative housing will be covered at a national level, which will, we hope, make such ventures easier to navigate for those wishing to start up these initiatives in our community.

The bill brings provisions relating to the disposal of abandoned and uncollected goods into a single Act and reforms and simplifies those provisions. The Opposition will be proposing an amendment to rule out someone's home from being caught up in the new legislation. Whilst it is unlikely that a home would be worth less than $20,000, Labor would like to put the matter beyond doubt and ensure that homes—specifically we point to the example of homes in residential land lease communities—are considered "high-value goods". Then they cannot be disposed of without the proper due process.

The bill also removes through repeal a number of Acts such as the Innkeepers Act 1968, the Prices Regulation Act 1948 and the Landlord and Tenant Amendment Act 1948. The latter Act, whilst repealed, saves provisions that continue to have effect in relation to certain premises until the death of the lessee or their spouse or de facto partner. After consulting with stakeholders, Labor will move an amendment to ensure these provisions will also continue to operate around succession rights for children, not just for spouses. This is an important amendment that I hope the House will support. We have heard from advocates that the children of those that fall under this legislation may be vulnerable. They are older and may be unable to find suitable, reasonably priced accommodation should their parent die. We know that our public housing system is strained and that it will be difficult, almost impossible, to accommodate this group. We urge the Government to carefully consider this amendment.

In relation to the Building and Construction Industry Security of Payment Amendment Bill 2018, the building and construction industry employs more than 300,000 people in New South Wales and underpayment and non-payment for services to subcontractors is a significant issue. This bill seeks to provide greater protection for subcontractors, suppliers and workers in the building and construction industry by increasing the penalties for offences and changing the Act to promote quicker payments of contractors. I am not going to read through all of the various provisions in the legislation, as the shadow Minister has done so in the other place.

Whilst we support the bill, it is telling that it has taken until the final weeks of this term for the Government to do something about subcontractors being ripped off. The Government's response has been lacklustre, to say the least, and it took persistent pressure from the Opposition and the community to highlight the trail of devastation being left by unscrupulous contractors. The fact that this was occurring on the Government's own projects makes it worse. Even with the assistance and advocacy of the Small Business Commissioner, the Government has not been able to get the statutory trusts in place. We have billions of dollars of infrastructure projects in train in this State, yet the Government has failed to ensure that those who are responsible for the hard work to get them completed will get paid.

In relation to the Protection of the Environment Operations Amendment (Asbestos Waste) Bill 2018, the bill seeks to transfer certain asbestos waste provisions from the regulation to the Act, increase penalties for such offences, and increase the penalties for other waste offences, such as land pollution that involved asbestos waste, and makes the presence of asbestos a sentencing consideration. The scourge of asbestos will be with us for many years to come. The bill intends to increase deterrence against dumping asbestos and waste containing asbestos by inserting standalone asbestos waste offences into the Protection of the Environment Operations Act; doubling maximum fines for existing land pollution and waste offences to $2 million for corporations and $500,000 for individuals where the offence involves asbestos waste; and ensuring that the presence of asbestos is considered

by the courts when sentencing offenders. The new asbestos waste offences will also apply to directors and persons concerned in the management of corporations consistent with other offences in the Act.

The bill responds to recommendation No. 13—to enact a specific and serious standalone offence for the disposal of asbestos waste—of the Independent Commission Against Corruption report of June 2017 entitled "Corruption Investigation into the Conduct of a Regional Illegal Dumping Squad Officer and Others". The Minister for the Environment and the Environment Protection Authority [EPA] are in a state of chaos at the moment, with the Minister recently standing down the acting chief executive officer of the EPA. The Government's response to these longstanding asbestos issues has been slow. It is playing catch-up, with the corresponding recent release of a Draft Asbestos Waste Strategy 2018-22 and a further package of regulatory changes to crack down on rogue construction and demolition waste operators as well as incentives for good behaviour.

While the bill will not solve multiple other mounting crises within the State's waste and recycling industries, measures to highlight the particularly detrimental nature of asbestos and to further deter asbestos dumping and pollution are very welcome. Bills that toughen our approach to protecting the community, our friends and family members against shonks and those willing to risk lives due to the dangerous nature of asbestos will always be supported by the Labor Opposition. Accordingly, Labor will not oppose these bills.

The Hon. COURTNEY HOUSSOS (20:14): I make a contribution to the debate on the Retirement Villages Amendment Bill 2018, which is cognate with the Fair Trading Legislation Amendment (Miscellaneous) Bill 2018, the Protection of Environment Operations Amendment (Asbestos Waste) Bill 2018 and the Building and Construction Industry Security of Payment Amendment Bill 2018. I note from the outset that Labor will not be opposing the bills. I restrict my comments this evening to the Retirement Villages Amendment Bill 2018 and the Protection of Environment Operations Amendment (Asbestos Waste) Bill 2018.

The Retirement Villages Amendment Bill makes a number of changes to the Retirement Villages Act 1999 to give residents the opportunity of more transparency within the retirement villages in which they live. NSW Labor's policy is to introduce a retirement villages and residential land lease communities ombudsman. I believe an ombudsman will provide a greater level of oversight in the industry, a robust complaint mechanism for residents and formal data reporting on issues arising in villages to Fair Trading NSW and to government. This announcement was welcomed by the Retirement Villages Residents Association. Residents overwhelmingly have been calling for an ombudsman. As we continue to deal with an ageing population, it is important that we provide a fair and transparent method for residents who live in retirement villages to have access to Fair Trading NSW. Therefore, this is a welcome announcement.

I turn now to the Protection of Environment Operations Amendment (Asbestos Waste) Bill 2018. This bill will increase deterrents against dumping asbestos and waste containing asbestos by inserting standalone asbestos waste offences in the Protection of the Environment Operations Act; doubling maximum fines for individual land pollution and waste offences to $2 million for corporations and $500,000 for individuals, where the offence involves asbestos waste; and ensuring that the presence of asbestos is considered by the courts when sentencing offenders. Recently I had the opportunity to visit the Asbestos Diseases Foundation Australia [ADFA] and to meet with its executive committee. I particularly mention the president, Barry Robson, who is a passionate advocate for those who are suffering from asbestos-related diseases and their families. I also pay tribute to the women on the executive committee, who all lost their husbands to asbestos-related diseases.

The foundation told me about the ongoing proliferation of asbestos around the world and, of more concern, the increased challenge that we face managing asbestos in New South Wales. Although asbestos has been banned in building products in New South Wales since 1 January 1988 and the import, manufacture, use, reuse, transport, storage or sale was banned on 31 December 2003, we occasionally continue to see products that contain asbestos. The ADFA gave me examples of how asbestos has been able to sneak into the country in recent years in various products, including in tugboats, railway wagons and even, horrifyingly, a case of children's crayons. We must remain vigilant. Research is being undertaken, especially at the Asbestos Research Institute at Concorde Hospital.

While I was at the ADFA I met with Tom, a PhD student, who is undertaking his research at the Asbestos Research Institute and is being supported by the ADFA to do his PhD. We must continue to address asbestos-related diseases because for the 700 people who are diagnosed every year there is still no cure, and, disturbingly, those rates are on the increase. On average, there is 155 days from diagnosis of mesothelioma to death. The point that the ADFA made is that many more people go undiagnosed because there are difficulties in diagnosing asbestos-related diseases.

Many questions remain unanswered, such as the level of exposure that leads to diseases such as mesothelioma and why people are affected differently. Some people have only a slight exposure to asbestos and

suffer devastating consequences while others who worked in factories for years might not have the same response, and some may have a genetic predisposition to the disease. Those affected are treated with traditional chemotherapy and non-specific treatment, which means that they suffer the devastating side effects of chemotherapy, such as losing their hair, and the disease still takes their life in a short time. I welcome the opportunity to raise those important issues in this House. Labor will not oppose these bills; however, it will move amendments. I commend the bills to the House.

The Hon. PAUL GREEN (20:20): On behalf of the Christian Democratic Party, I speak in debate on the Retirement Villages Amendment Bill 2018 and cognate bills, the Building and Construction Industry Security of Payment Amendment Bill 2018, the Fair Trading Legislation Amendment (Miscellaneous) Bill 2018 and the Protection of the Environment Operations Amendment (Asbestos Waste) Bill 2018. The Australian Bureau of Statistics projects that by 2064 more than 23 per cent of the population will be over the age of 65, which will increase the pressure on the healthcare system and the need to develop strategies to care for older generations in the future.

Retirement village living offers a range of lifestyle opportunities so that we can enjoy everyday life without the impending life challenges that face the elderly. The Retirement Villages Amendment Bill 2018 stems from the Greiner review report into the retirement village sector. It will give effect to some of the recommendations outlined in that review. Village operators will need to prepare and maintain an emergency plan for a village and ensure that all residents and staff are familiar with the plan. All emergency plans will need to include prescribed matters, as amended under section 58A. Provisions relating to an annual safety inspection and reporting to residents have been tightened.

Under new section 58B, village operators will be required to undertake an evacuation exercise for residents at least once each calendar year and to display and provide key safety information about the village to each resident relating to their residential premises. Having worked in retirement villages, I know the benefit of evacuation rehearsals. But if a place is going up in smoke, it does not take long for people to be disoriented, especially the aged. While evacuation rehearsals are helpful, village operators should ensure that the healthcare professionals understand the burden of evacuating people. It takes much longer to evacuate frail and aged people, rather than able-bodied people, from a fire or an emergency situation.

Residents will be able to request a village contract information meeting with the contractor at least once every calendar year to explain the residents' current village contract information and a written summary of the explanation. Under new section 69A, operators are required to hold a meeting with residents within 30 days of receiving a request for a meeting. Matters that must be covered at the meeting include the requirements for terminating a village contract; the estimated departure fee; the estimated sale price for the premises; the estimated amount that would be payable by the operator to the resident following the sale of premises; and estimates of any other amounts payable by the residents under the village contract, including capital gains shared with the operator. Any estimates provided at the meeting must be reasonable and calculated as if a resident's right to occupy the premises were terminated on the day of the meeting or no later than 30 days after the meeting.

The Portfolio Committee No. 2 inquiry into elder abuse received a lot of evidence about relatives who believe they have a right to access their parents' bank account and assets. Sadly, the statistics of family members trying to secure these assets was quite deplorable. It is even more deplorable to think that organisations running retirement villages would take advantage of the elderly and the vulnerable. Those issues have no doubt been addressed in the bill. An explanation of entitlements to is well overdue because it seems that those entitlements have been in favour of the village operator rather than the resident.

The bill introduces a new division 5A in part 6 of the Act entitled "Rules of conduct for operators". Under new section 83B the regulations may prescribe rules of conduct for operators for or with respect to professionalism, training, competencies, performance and behaviour in connection with the management or operation of retirement villages. Those rules of conduct will include standards of honesty and fairness; conduct in relation to the marketing of retirement villages, including the use of terminology; and internal dispute resolution measures. Under new section 101A, village operators will be required to prepare and keep up to date an asset management plan for items of capital at the village for which the operator is responsible. The form and content of the asset management plan may be prescribed by the regulations and may extend to the information to be recorded, including the costs associated with the maintenance and replacement of items of capital.

The bill introduces new subdivision 1, which relates to the consent of appointing auditors and auditing of accounts in division 6 of part 7 of the Act. Currently operators are required to seek the residents' consent to the appointment of an auditor of the village's accounts only if the audit fees are to be paid by the residents and the auditor did not audit the accounts for the previous financial year. Under new section 118B, only a qualified auditor who has received the consent of residents may audit the village's accounts. New section 118C outlines the information to be provided, such as the process that must be followed by an operator each calendar year when

seeking the consent of residents before appointing an auditor. The period of appointment of an auditor may be up to three years if the residents agree.

New section 197B will enable the regulations to make provisions with respect to the provision of relevant village information to Fair Trading, the publication of relevant village information, and the exchange and sharing of relevant village information by government agencies. New section 203 will enable the regulations to make provision for the mediation of disputes arising under the Act, including circumstances where mediation will be mandatory. Proposed new section 189B will enable Fair Trading to issue guidelines to assist operators of retirement villages to comply with their obligations under certain provisions being introduced by the bill. Further, the tribunal may take into account these guidelines.

The Building and Construction Industry Security of Payment Amendment Bill 2018 is designed to ensure that a person can receive payments under a construction contract for carrying out construction work, or providing goods and services related to construction work. The Act aims to ensure that contractors and subcontractors are paid promptly, that cash is moved down the contracting train faster and that disputes over payments are resolved fairly and quickly. In response to a full review of the Act commencing in 2015, NSW Fair Trading released an exposure draft bill with an accompanying explanatory statement and a consultation paper on the proposal for a statutory trust for public consultation. The Building and Construction Industry Security of Payment Amendment Bill 2018 seeks to strengthen the security payment framework whilst improving the operation of the Act and facilitating greater confidence within the industry of the Act's ability to facilitate cash flow along the construction chain.

Key reforms include: providing a statutory minimum entitlement to make a payment claim against at least once per month for work done within that month; reinserting the requirement for the endorsement of payment claims; allowing claimants to make a final payment claim where a contract has been terminated; shortening payment due dates; enabling subcontractors to be able to inspect the retention of money in trust account records; enabling the Minister to make a code of practice for authorised nominating authorities; and new investigative and enforcement powers to investigate, monitor and enforce compliance with the Act.

The Fair Trading Legislation Amendment (Miscellaneous) Bill 2018 aims to amend the Residential Tenancies Act 2010 to enable the regulations to establish a rental bond rollover scheme; to amend the Co-Operative Housing and Starr-Bowkett Housing Societies Act 1998 to prohibit the formation of registration of new cooperative housing societies and Starr-Bowkett societies; to repeal the various Acts and transfer certain provisions with ongoing effect to other legislation; and to amend the Uncollected Goods Act 1995 and other Acts and regulations to bring provisions relating to the disposal of abandoned and uncollected goods into a single Act, and to reform and simplify those provisions.

The Tenants' Union of NSW is the peak body representing the interests of tenants in New South Wales. It has drawn upon experience, with more than 25,000 people in residential tenancies and residential land lease communities who seek advice from the network each year. The Tenants' Union supports the creation of the rental bond rollover scheme as sufficient at this stage. It reduces financial pressures that may push people to expensive payday lenders, bond loans and other bond replacement products. The Real Estate Institute [REI] of New South Wales warns the Government that it should be mindful of the impact of removing succession rights. The REI supported repeal but said that the Government must:

> … be prepared to immediately provide re-housing for those living in the protected properties. If succession rights are removed and the Act repealed, the department must be conscious of the fact that some of the affected individuals depend on protected (or cheap) rent in order to survive.

The REI recommends property placement in social housing for those affected. The Tenants' Union agrees and recommends that the bill clearly preserves succession rights for children and protected tenants. Regarding schedule 3, "Uncollected goods", the Tenants' Union recommends that the bill be amended to ensure a home on a residential site subject to the Residential (Land Lease) Communities Act is always considered high value. The union recommends that the tribunal provide direction to co-tenants whose goods are left behind but in the possession of their landlord, and the inclusion of an amendment to section 29 of the Uncollected Goods Act, similar to section 13O (4), requiring sale of proceeds left behind but in the possession of their landlord.

The Protection of the Environment Operations (Asbestos Waste) Bill 2018 contains two schedules that make changes to the laws and penalties surrounding the unlawful movement and abandoning of asbestos waste. Schedule 1 to the bill denotes amendments to the current legislation, raising the maximum penalty for the unlawful movement of asbestos waste and or any subsequent relocation. It also makes provision for the special liability of executive offenders and corporations. In March 2018 Portfolio Committee No. 6 - Planning and Environment made recommendations nine to 13 in its report No. 7. It is my hope that the increased revenue as a result of the 100 per cent increase in maximum penalties for the dumping of asbestos will go into the resource for tackling illegal asbestos dumping rather than being returned to State Government coffers.

In the past few years Australia has seen a resurgence in asbestos-related illness due to the latent nature of the effects of asbestos exposure. We believe the unlawful and irresponsible dumping of asbestos is a serious offence that puts our environment and communities at significant risk, and is unacceptable in the State of New South Wales. Schedule 2 to the bill makes consequential amendments via the new regulations to ensure consistency between the bill and existing regulation. Local Government NSW has contacted me regarding the bill and expressed concern about the lack of consultation with local councils. Despite this, Local Government NSW has advised me that it supports the bill but will require time to implement new standards and facilities at its waste operation centres in order to be efficient. That will take time, particularly for regional councils that own waste facilities.

I foreshadowed an amendment to the Minister that will give councils 12 months from the date of assent to ensure implementation of the new standards at their waste operations and waste facilities. The Minister and the Environment Protection Authority have agreed to give councils 12 months to ensure that minimum standards are met. I encourage the Minister to hold true to that agreement. The Christian Democratic Party will move these amendments because if there is a change in government we want to ensure that the amendments carry over to a new government. Local councils will have an each-way bet, so to speak. Asbestos is dangerous, and we can see that an urgent response is required. However, at the same time we need to ensure that local councils are given time to get on board.

I put on record the concern of the waste industry about new section 144AAB, "Unlawful disposal of asbestos waste". It notes that it has major problems with the new section. The interpretation is that if the recycler of any waste stream, commercial and industrial waste or compost or construction and demolition [CD] has asbestos detected in a finished product they will be deemed to have recycled asbestos waste and will be liable for the penalty, together with management and directors. It goes on to say that the environment Minister has announced the impending gazettal of the Protection of the Environment Operations Amendment (Asbestos Waste) Regulation 2018, which will not be made available for comment, but it is understood that this legislation will impose more rigorous requirements on the operation of CD facilities by way of mandatory inspections during the receipt, unloading, stockpiling and processing of CD waste. The purpose of these inspections is to decrease the likelihood of asbestos being present in the final product.

This new asbestos bill is taking a position totally contrary to that in the new regulation and, even though an operator may have exercised all due diligence in their receipt, storage and processing of the waste, they can be held liable for the processing of asbestos if there is an "unexpected find" of a random piece of asbestos. This will render the industry unviable because of the financial and personal risk. The industry has been working with the Environment Protection Authority and SafeWork NSW for more than 10 years to agree on the protocol to handle the unexpected find of a piece of asbestos in either an unprocessed stockpile or a processed stockpile at the recycler's premises or at a site where the processed material has been delivered for beneficial re-use. The new regulation proposed by the Minister will provide a mechanism whereby a recycler will not be unduly penalised if it can demonstrate that it is in compliance with the regulation.

I understand what the Government is trying to do in terms of dealing with asbestos. But a board member of a waste management business—who is not running the business—might have a truck driver picking up the stuff. They are exercising due diligence, they are in receipt of the waste and they have stored and processed it. Yet they can be held liable somewhere down the track if some asbestos is found. It is nearly ludicrous. People might sabotage the load for competitive reasons, yet the business will be held to account. It is a real concern. [*Time expired.*]

The Hon. SCOT MacDONALD (20:40): On behalf of the Hon. Sarah Mitchell: In reply: I thank the Hon. Peter Primrose, the Hon. Courtney Houssos and the Hon. Paul Green for their contributions to debate on the Retirement Villages Amendment Bill 2018 and the cognate Building and Construction Industry Security of Payment Amendment Bill 2018, Fair Trading Legislation Amendment (Miscellaneous) Bill 2018, and Protection of the Environment Operations Amendment (Asbestos Waste) Bill 2018.

As members have heard, the Retirement Villages Amendment Bill 2018 delivers the first tranche of legislative reforms emerging from the Government's response to the Greiner review report into the retirement village sector. The provisions of the bill are common-sense changes that respond directly to the issues and concerns raised by retirement village residents. The bill will deliver significant improvements for people living in retirement villages, while raising standards within the industry to help ensure the future viability of the sector. This Government is committed to ensuring that retirement villages offer the best care to their residents and continue to play a crucial role in providing suitable housing options for New South Wales' ageing population.

The Building and Construction Industry Security of Payment Bill 2018 delivers on the Government's commitment to review the operation of the Act. The review was conducted through Fair Trading NSW, which consulted extensively with businesses large and small, adjudicators, academics, industry associations and

government agencies. The New South Wales review coincided with the federally commissioned national Review of Security of Payment Laws, which provided greater opportunity to understand the needs of our stakeholders. The amendments in the bill are the result of the State Government's continuing engagement with the people of New South Wales. When stakeholders requested modifications to improve the operation of the scheme, the Government listened and acted.

The reforms in the bill seek to further improve the operation of this scheme by providing greater protections for workers and to further promote cash flow and transparency in the contracting chain. The bill will provide a clear, consistent and strong regulatory framework, and the amendments are necessary to ensure the scheme operates as intended for the benefit of workers in the building and construction industry in New South Wales. To be absolutely clear, the continued operation of the security of payments legislation is a key part of the New South Wales Government's strategy to improve confidence in the building and construction sector. This bill will be a major step towards further enhancing that level of confidence. I am confident that the provisions of the bill will clarify and improve the operation of the building and construction industry security of payment scheme.

The Fair Trading Legislation Amendment (Miscellaneous) Bill 2018 completes the package of Better Business Reforms passed by this Parliament last month, delivering on major objectives of the Innovation and Better Regulation portfolio. This second bill in the Better Business Reforms package once again demonstrates a stewardship approach to legislation. The bill contains three reforms to reduce red tape, enhance consumer choice and ensure that the legislation within the Innovation and Better Regulation portfolio remains fit for purpose. The reforms establish the framework for a rental bond rollover scheme; repeal outdated statutes while transferring substantive provisions that are still needed into other legislation; and streamline, modernise and harmonise the disposal of uncollected goods regime. These reforms will empower everyday people by cutting red tape and giving consumers the information they need to make meaningful decisions about their future.

The Protection of the Environment Operations Amendment (Asbestos Waste) Bill 2018 will impose stricter sanctions for asbestos-related offences. It is designed to minimise impacts on legitimate operators. The amendments in the bill will send a strong deterrent message to those who illegally dump asbestos and waste containing asbestos. The bill responds to recommendation No. 13 of the Independent Commission Against Corruption report entitled "Investigation into the conduct of a regional illegal dumping squad officer and others", published in June 2017, and recent reports by the Ombudsman, including in particular "Asbestos—How NSW government agencies deal with the problem", published in April 2017.

The bill introduces specific, clear and serious standalone asbestos waste offences under the Protection of the Environment Operations Act for the illegal disposal and handling of asbestos waste. These provisions have been taken from the waste regulation and elevated to the Act. This approach provides continuity for legitimate operators who are familiar with the current provisions in clauses 80 and 81 of the regulation. That ensures a strong deterrent message is sent to rogue operators and makes it clearer that the Government is serious about protecting the environment of New South Wales and the health of its citizens. The new provisions will be enforced in line with the Environment Protection Agency's compliance policy and prosecution guidelines. The new asbestos waste offences will also apply to directors and persons concerned in the management of corporations. This is consistent with existing offences in the Act.

The bill also amends the sentencing considerations under section 241 of the Protection of the Environment Operations Act to list the presence of asbestos as a factor that a court must consider when sentencing offenders under the Act. I note the concerns raised by the Hon. Paul Green about the commencement of this provision. The Government will support the delayed commencement of schedule 1 [11] as proposed by the Christian Democratic Party. The Hon. Peter Primrose raised two issues in his speech. The first was in relation to the exceptional circumstances test set out in the bill for when the tribunal may appoint an auditor proposed by an operator instead of the auditor proposed by the village residents. In my second reading speech, I explained that the fact that the auditor has access to an operator's sensitive financial information may give rise to exceptional circumstances sufficient to justify the tribunal making that appointment. I did not say that access to sensitive financial information alone constituted exceptional circumstances to justify the tribunal appointing the operator's preferred candidate.

Access to such information is required to perform the role of auditor and does not of itself constitute exceptional circumstances. However, the fact that an auditor has access to sensitive financial information may, with other circumstances, satisfy the exceptional circumstances test. For example, if it were established that an auditor had previously misused such sensitive financial information or otherwise engaged in misconduct involving such information, that may in all the circumstances be properly regarded as satisfying the exceptional circumstances test. Ultimately, the tribunal will need to make a decision based on all the circumstances of the case. The exceptional circumstances test is set deliberately high because its primary purpose is to protect the interests of residents.

The second issue raised by the Hon. Peter Primrose was how the new emergency plans and procedures will work. The new emergency plans work through providing residents with better access to improved emergency and safety information. Under new section 58B, operators will have to undertake yearly evacuation exercises. This means that residents will now have a clear opportunity to take part in and be aware of the evacuation procedures of their village. Additionally, operators are compelled to display key safety information such as maps indicating the location of safety equipment and assembly points, as well as evacuation instructions within the communal areas of a retirement village. Residents will also be provided with safety information tailored to their residential premises and their personal circumstances. This means that in the event of an emergency residents will have personalised information on exactly how they should act and the procedures that they need to follow. I commend the bills to the House.

The PRESIDENT: The question is that these bills 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 Retirement Villages Amendment Bill 2018 as a whole.

The Hon. PETER PRIMROSE (20:51): I move Opposition amendment No. 1 on sheet C2018-161:

No. 1 **Form for provision of key safety information**

Page 4, Schedule 1 [8] (proposed section 58B (1) (c)), line 24. Insert "in written form and also in any other form (for example, electronic form) as may be prescribed by the regulations" after "village".

As I indicated in my speech during the second reading stage, the Opposition believes the Act should include a provision to ensure that information is provided to residents in more than one format or in a format other than digital—for example, paper based and posted to the residents. Given that the residents are often elderly people, to simply rely on information being provided electronically would be foolish and vital information about their village or property may miss being communicated.

The Hon. SCOT MacDONALD (20:52): The Government does not support the Opposition's amendment to the Retirement Villages Amendment Bill 2018. The bill introduces a new section requiring operators of retirement villages to provide key safety information to residents. It is unnecessary to include a further requirement that this information is provided in written form and also in any other form. This provision would be overly prescriptive and duplicative and would introduce unnecessary red tape, something that this Government is committed to reducing. For this reason, the Government does not support the amendment.

The Hon. PETER PRIMROSE (20:53): I seek an assurance accordingly from the Parliamentary Secretary that the information will be provided in a form that will be readily accessible to residents. For example, simply emailing—which is the cheapest form of communication—residents who do not have computers or emails seems facetious. Hence the Opposition has moved this amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. Peter Primrose has moved Opposition amendment No. 1 on sheet C2018-161. The question is that the amendment be agreed to.

The Committee divided.

Ayes 13
Noes 18
Majority.....5

AYES

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

NOES

Ajaka, Mr	Clarke, Mr D	Colless, Mr R
Cusack, Ms C	Fang, Mr W (teller)	Farlow, Mr S
Franklin, Mr B	Green, Mr P	Harwin, Mr D

NOES

MacDonald, Mr S	Maclaren-Jones, Mrs (teller)	Mallard, Mr S
Martin, Mr T	Mitchell, Mrs	Nile, Revd Mr
Phelps, Dr P	Taylor, Mrs	Ward, Mrs N

PAIRS

Mookhey, Mr D	Amato, Mr L
Veitch, Mr M	Blair, Mr
Wong, Mr E	Mason-Cox, Mr M

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): The question is that the Retirement Villages Amendment Bill 2018 as read be agreed to.

Motion agreed to.

The CHAIR (The Hon. Trevor Khan): We now move to the Building Construction Industry Security of Payment Amendment Bill 2018. There being no objection, the Committee will deal with the bill as a whole. I have one set of amendments: Christian Democratic Party amendments on sheet C2018-173A.

The Hon. Walt Secord: Follow the notes carefully.

The CHAIR (The Hon. Trevor Khan): Before the Hon. Paul Green moves his amendments, I note that everything has been going along famously up to this point. I remind the Hon. Walt Secord that he is on two calls to order. He should not provoke me.

The Hon. PAUL GREEN (21:02): By leave: I move Christian Democratic Party amendments Nos 1 to 3 on sheet C2018-173A in globo.

No. 1 **Exempt residential construction contracts**

Page 3, Schedule 1 [1], lines 5–8. Omit all words on those lines. Insert instead:

Insert in alphabetical order:

exempt residential construction contract means:

(a) a construction contract that is connected with an owner-occupier construction contract, or

(b) any other type of construction contract for the carrying out of residential building work that is prescribed by the regulations for the purposes of this definition.

owner-occupier construction contract means a construction contract for the carrying out of residential building work within the meaning of the *Home Building Act 1989* on such part of any premises as the party for whom the work is carried out resides or proposes to reside in.

No. 2 **Exempt residential construction contracts**

Page 3, Schedule 1 [2], lines 9 and 10. Omit all words on those lines. Insert instead:

[2] Section 4 (2)

Omit the subsection. Insert instead:

(2) A reference in this Act to a contract that is connected with an owner-occupier construction contract is a reference to a construction contract to carry out construction work or supply related goods and services as part of or incidental to the work or goods and services carried out or supplied under the owner-occupier construction contract.

No. 3 **Exempt residential construction contracts**

Page 3, Schedule 1. Insert after line 20:

[6] Section 11 (1B) and (1C)

Omit "a construction contract that is connected with" wherever occurring.

Schedule 1 [3] of the bill seeks to remove the owner-occupier exemption from the Act and allow the regulations to determine whether the exemption is applied. I understand that the Government intends to continue to exempt these construction contracts from the operation of the Act. The purpose of the amendment is to provide flexibility

to remove the exemption if it is considered appropriate in the future. The Christian Democratic Party has moved these amendments to help further refine the operation of the Act in the event that the owner-occupier exemption is removed in the future. If this were to occur, we are concerned that in its current form the bill would have the unintended consequence of continuing to exempt a head contractor from the prompt payment provisions of the Act but not equally exempt an owner-occupier from these provisions.

Currently section 11 (1C) of the Act provides a limited exemption for a head contractor from the maximum payment period of 30 business days for a progress payment to a subcontractor. It does this by providing specific payment terms for a construction contract that is connected with an exempt residential construction contract—that is, a contract to carry out work or supply related goods and services as part of or incidental to the work or goods and services carried out or supplied under the exempt residential construction contract. The effect of section 11 (1C) is that a progress payment to be made under these contracts is due and payable in accordance with the terms of the contract where the contract makes no express provision about the matter and a default of 10 business days after a payment claim is made will apply.

This limited exemption was included in the response to concerns about the potential impact of the prompt payment reforms on small business in the residential sector. The Act has always excluded construction contracts for residential building works, as defined in the Home Building Act 1989, where the principal—in this case, a consumer—resides or proposes to reside in the premises where the work is undertaken. However, contracts between the head contractor and subcontractors working on those premises have always been covered by the Act. Accordingly, the exemption in section 11 (1C) is necessary to avoid hardship for small business in the residential sector who are subject to the prompt payment provisions for payments made to their subcontractors but do not equally receive the benefit of prompt payment themselves from a consumer. These amendments are necessary to ensure that the exemption in section 11 (1C) operate effectively and fairly if the owner-occupier exemption is removed in the future. These amendments will ensure that everyone within the residential building construction chain is operating on equal footing.

I now turn to the provisions of the amendments to the bill. The primary amendment to the bill is the new definition of "exempt residential construction contract". That is the term used in section 11 (1C) of the Act and it determines the circumstances in which that exemption applies. I refer to section 7 (2) (b) of the Act and note that the bill repeals it. These amendments will ensure that section 11 (1C) of the Act continues to apply to the contracts it captures today. That is the purpose of paragraph (a) of the definition and the proposed definition of the term "owner-occupier construction contract".

I note that the definition of the term "owner-occupier construction contract" employs the same language as section 7 (2) (b) of the Act. We seek to ensure that any jurisprudence that has developed regarding this text survives these amendments. Paragraph (b) on the definition of "exempt residential construction contract" seeks to allow the regulations to extend to section 11 (1C) exemption to contracts between owner-occupiers and their head contractors, if the exemption currently set out in section 7 (2) (b), which will be moved to the regulations, is abolished. The balance of the amendments makes consequential changes to the Act to accommodate the new definitions of "exempt residential construction contract" so it maintains its current effect with the additional flexibility to extend the exemption in the manner I described earlier. I commend the amendments to the Committee.

The Hon. SCOT MacDONALD (21:08): The Government supports the Christian Democratic Party amendments on sheet C2018-173A for the reasons set out. The amendments will allow the regulations to extend the operation of section 11 (1C) of the Act, which would be necessary if owner-occupiers become subject to the operation of the Act in the future. The amendments are sensible. They are consistent with the Government's intent to reform the Act so its applications can be extended into the residential sector if that is deemed appropriate. The amendments will make it possible for the payment terms provided in section 11 (1C) to apply to a construction contract with owner-occupiers as well as contracts that are connected to these contracts.

The CHAIR (The Hon. Trevor Khan): The Hon. Paul Green has moved Christian Democratic Party amendments Nos 1 to 3 on sheet C2018-173A. The question is that the amendments be agreed to.

Amendments agreed to.

The CHAIR (The Hon. Trevor Khan): The question is that the Building and Construction Security of Payment Amendment Bill 2018 as amended be agreed to.

Motion agreed to.

The CHAIR (The Hon. Trevor Khan): We now move to the Fair Trading Legislation Amendment (Miscellaneous) Bill 2018. There being no objection, the Committee will deal with the bill as a whole. I have one set of amendments: Opposition amendments on sheet C2018-153.

The Hon. PETER PRIMROSE (21:09): By leave: I move Opposition amendments Nos 1 to 4 on sheet C2018-153 in globo:

No. 1 **Continuing application of protection provisions to children and parents**

Page 7, Schedule 2.3, lines 18 and 19. Omit ", subject to the modifications specified in subclause (2),".

No. 2 **Continuing application of protection provisions to children and parents**

Page 7, Schedule 2.3, lines 26–33. Omit all words on those lines.

No. 3 **Continuing application of protection provisions to children and parents**

Page 7, Schedule 2.3, line 40. Omit ", subject to certain modifications,".

No. 4 **High value uncollected goods—homes in residential (land lease) communities**

Page 12, Schedule 3.1 [9], (proposed section 22 (1)), line 13. Insert "or are homes on residential sites (within the meaning of the *Residential (Land Lease) Communities Act 2013*)" after "$20,000".

These amendments will ensure that someone's home is not caught up in the new legislation. Whilst it is unlikely that a home would be worth less than $20,000, Labor would like to put the matter beyond doubt and ensure that homes—specifically, here we point to the example of homes in residential land lease communities—are considered "high value goods". Should a resident leave their house in a residential land lease community and for some reason or other reason be able to move that home for some time, we would like to put it beyond reasonable doubt that it is a "high value good" and that it cannot be disposed of without the proper due process.

The Hon. SCOT MacDONALD (21:11): The Government does not support the Opposition's amendments Nos 1 to 4. First, I speak to Opposition amendments Nos 1 to 3. The Government does not support these amendments, which propose continuing application of protection provisions to children and parents. The system of protected tenancies under the Landlord and Tenant (Amendment) Act 1948 was a post-war measure now long past its use-by date. A very small number of elderly protected tenants still live in the premises quarantined by this 1948 Act. This bill maintains the protected status of these tenants by maintaining and transferring provisions to the Fair Trading Act.

The current law gives succession rights only to the eldest child, and then only if they are dependent and receiving a pension themselves. This means that any other children, any other family members or any other person sharing the property with that protected tenant has no succession rights. This bill will put all occupants living with a protected tenant, other than their spouse, on an equal footing. The New South Wales Government is confident that the bill strikes an appropriate balance between repealing outdated laws and maintaining protections. This bill will ensure that those elderly tenants who still have a legitimate claim under the 1948 Act will continue to be able to reside in their homes for as long as they live.

The Government also does not support Opposition amendment No 4, which proposes to include homes in residential land lease communities. The purpose of amendments to laws regulated for abandoned goods was to create an equitable, streamlined and harmonised regulatory system. To achieve this purpose the actual value of the goods must be the determinant of how they will be de dealt with, not a value judgement about the importance of the goods. Making a special exemption for caravans and manufactured homes undermines the rationale for having thresholds in the first place. Further, park operators and real estate agents have the necessary expertise to estimate the values of such homes. Some very old caravans could be worth little more than scrap metal value. To make the operator seek an order from the New South Wales Civil and Administrative Tribunal and to lose out on site fees in the interim would be an unreasonable business cost to impose.

The CHAIR (The Hon. Trevor Khan): The Hon. Peter Primrose has moved Opposition amendments Nos 1 to 4 on sheet C2018-153. The question is that the amendments be agreed to.

Amendments negatived.

The CHAIR (The Hon. Trevor Khan): The question is that the Fair Trading Legislation Amendment (Miscellaneous) Bill 2018 as read be agreed to.

Motion agreed to.

The CHAIR (The Hon. Trevor Khan): We now move to the Protection of the Environment Operations Amendment (Asbestos Waste) Bill 2018. There being no objection, the Committee will deal with the bill as a whole. I have one amendment: Christian Democratic Party amendment No.1 on sheet C2018-176.

The Hon. PAUL GREEN (21:13): I move Christian Democratic Party amendment No. 1 on sheet C2018-176:

No. 1 **Commencement**

Page 2, clause 2. Insert after line 6:

(2) A day may not be appointed under subsection (1) that commences Schedule 1 [11] earlier than 12 months after the date of assent to this Act.

This amendment is the result of representations from Local Government NSW. It seeks that new section 241 (1) (f) in schedule 1 [11] of the Protection of the Environment Operations Amendment (Asbestos) Waste Bill 2018 not be commenced until minimum standards for screening waste for asbestos contamination at waste operations and waste facilities are made and councils are given sufficient time and funding to implement the new standards at their waste operations and waste facilities. An example of such a standard appears in the standards for managing construction waste in the Protection of the Environment Operations Legislation Amendment (Waste) Regulation 2018. We ask that similar standards also be developed for municipal waste and commercial and industrial waste before new section 241 (1) (f) in schedule 1 [11] commences.

We have called for the commencement of new section 241 (1) (f) in schedule 1 [11] to be delayed for 12 months to enable the standards to be developed and implemented, and for the standard for screening identified asbestos at waste recycling facilities to be gazetted and referred by the protection of the environment regulation or conferred by licence such that it is a defence to the offence of land pollution in part 5.6 of the Act. Why is it needed? Councils are concerned that they could be unfairly prosecuted under the new provisions of this bill as a result of receiving asbestos that cannot be identified under current safeguards at council-operated waste operations and licensed waste facilities. This could occur if councils were found to be managing or transporting asbestos waste unknowingly and therefore if they received it unknowingly as hidden loads, either by accident or on purpose, despite best practice load checking and safeguards being carried out.

The amendments proposed in this bill impose penalties that include the potential for individuals, including potential jail time. That means that council staff could go to jail for unwittingly transporting or receiving a load of waste with a small amount of asbestos hidden in it. This could lead to councils refusing to take waste as a way of mitigating that risk. Indeed, this would see more waste going to landfill, which would be a terrible outcome. The Government's original amendment particularly affects rural and regional councils that manage their own waste facilities and have no other option. These councils and their staff should not have to bear this risk. Most small councils cannot afford to make the changes needed to protect their staff from this unintended consequence without more time and support. For that reason council and industries need more time before the commencement of this amendment.

The Christian Democratic Party supports the intent of dealing with asbestos-containing materials but the proposed measures must be introduced in a sensible and practical way so that they can be implemented by council and industries properly, and appropriate standards for dealing with materials containing asbestos can be developed. A 12-month reprieve before the commencement of this amendment will allow the changes to be understood and made properly so that waste services in New South Wales are not disrupted and so that innocent people are not fined or sent to jail for simply doing their job.

The need for appropriate standards for dealing with material containing asbestos is supported by the recent report of the New South Wales Ombudsman titled, "Asbestos—How NSW government agencies deal with the problem". The report found that many operators of waste facilities had commented that their customers were either unaware of the problems in mixing asbestos-containing material with other waste, or they were fully aware of the problems but failed to act appropriately. The Ombudsman also found that there is considerable variation in systems for managing asbestos among the waste facilities. This is a recognition that there is still no appropriate industry-wide standard. I commend the amendment to the Committee.

The Hon. SCOT MacDONALD (21:19): The Government does not oppose Christian Democratic Party amendment No. 1 on sheet C2018-176. The bill amends the sentencing factors in section 241 of the Protection of the Environment Operations Act to list the presence of asbestos as a factor a court must consider when sentencing offenders under that Act and the regulations. The Hon. Paul Green has raised concerns that the change to the sentencing factors has the potential to impact on local government. It should be noted that legitimate operators have nothing to fear from these changes. The Environment Protection Authority's guidelines strongly focus the EPA's prosecutions on matters involving a deliberate flouting of the law or where operators fail to put in place measures to prevent serious environmental harm. The existing sentencing factors currently in the Act will apply to court sentencing hearings that occur in the meantime.

The Hon. PETER PRIMROSE (21:20): For the reasons outlined by the Hon. Paul Green, the Opposition also believes that this is a sensible amendment. Simply making and placing an obligation on local government does not mean that local government is immediately in a position to fulfil that obligation. It is a sensible proposal to allow it the time to train, to be ready and aware, and to put in place the processes required. I do not think anyone in this Chamber would believe that allowing asbestos to be dumped or to be in our environment for any longer than is required is allowable. Allowing agencies and local government the opportunity

to deal with the obligation imposed upon them is a sensible measure. The Opposition will not oppose this amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. Paul Green has moved Christian Democratic Party Amendment No. 1 on sheet C2018-176. The question is that the amendment be agreed to.

Amendment agreed to.

The CHAIR (The Hon. Trevor Khan): The question is that the Protection of the Environment Operations Amendment (Asbestos Waste) Bill 2018 as amended be agreed to.

Motion agreed to.

The Hon. SCOT MacDONALD: I move:

That the Chair do now leave the chair and report the Retirement Villages Amendment Bill 2018 and the Fair Trading Legislation Amendment Miscellaneous Bill 2018 without amendment, the Building and Construction Industry Security of Payment Amendment Bill 2018 with amendments and the Protection of the Environment Operations Amendment (Asbestos Waste) Bill 2018 with an amendment.

Motion agreed to.

Adoption of Report

The Hon. SCOT MacDONALD: On behalf of the Hon. Sarah Mitchell: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. SCOT MacDONALD: On behalf of the Hon. Sarah Mitchell: I move:

That these bills be now read a third time.

Motion agreed to.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. SCOTT FARLOW: I move:

That Government Business Orders of the Day Nos 4 and 5 be postponed until a later hour of the sitting.

Motion agreed to.

Bills

JUSTICE LEGISLATION AMENDMENT BILL (NO 3) 2018

CRIMES LEGISLATION AMENDMENT (VICTIMS) BILL 2018

GOVERNMENT INFORMATION (PUBLIC ACCESS) AMENDMENT BILL 2018

Second Reading Speech

The Hon. SCOTT FARLOW (21:26): On behalf of the Hon. Don Harwin: I move:

That these bills be now read a second time.

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

Leave granted.

The Government is pleased to introduce the Justice Legislation Amendment (No 3) Bill 2018; Crimes Legislation Amendment (Victims) Bill 2018; and the Government Information (Public Access) Amendment Bill 2018.

JUSTICE LEGISLATION AMENDMENT (NO 3) BILL 2018

I will begin with the Justice Legislation Amendment Bill (No 3) 2018.

The Government introduces legislation of this kind — that is, bills containing a range of miscellaneous amendments — on a regular basis as part of a program of continuous improvement to Justice legislation. These bills make miscellaneous amendments that are critical for the New South Wales justice system to function efficiently and effectively.

Schedule 1 contains the main amending provisions.

Schedule 2 contains amendments relating to the retirement age for judicial officers and the Director of Public Prosecutions and the Solicitor General.

Schedule 3 contains amendments to the Legal Profession Uniform Application legislation and regulation.

Turning to the detail of Schedule 1, I will now outline the substance of each of the amendments.

Anzac Memorial (Building) Act 1923

Schedule 1.1 amends the Anzac Memorial (Building) Act 1923.

As Australia marks the 100th anniversary of the First World War, the New South Wales Government, together with the Anzac Memorial Building Trustees, have enhanced the Anzac Memorial in Sydney's Hyde Park. This undertaking has been referred to as the "Centenary Project" and will be an enduring legacy of New South Wales commemorations.

To allow for the enhancement of the Anzac Memorial, the description of the land on which the Memorial is built has had to be amended to reflect the increased footprint. In addition, in recognition of our current serving Australian Defence Force, the Trustees have determined to appoint a representative of the ADF as a member of the Trustees of the Anzac Memorial Building (**Trustees**).

Item [11] of Schedule 1.1 amends the Schedule to the Anzac Memorial (Building) Act 1923 to reflect the total land of the Memorial following completion of the extension to ensure the Trustees are legally responsible for the operation and maintenance of the Memorial (including its extension) post completion of the extension.

There are also some minor consequential amendments to the Act as a result in items [1] and [7] of **Schedule 1.1**.

Item [3] of Schedule 1.1 amends section 3 of the Act to appoint a representative of the Australian Defence Force (**ADF**) as a Trustee in addition to the current Trustees.

Item [6] of Schedule 1.1 inserts a new section to allow each branch of the ADF to be represented in the Anzac Memorial Building. The appointment of an ADF representative will rotate after a minimum of 2 years, but no longer than every 3 years between:

- Commander Forces Command;
- Commander Australian Fleet; and
- Air Commander Australia.

It is proposed that the first rotation begins with Commander Forces Command.

Item [10] of Schedule 1.1 amends the Act to insert a new Section 12, which contains a limitation of liability provision in favour of the Trustees. This provision protects the Trustees (when acting in good faith for the purposes of executing the Act) from any action, liability, claim or demands made against them and is a customary provision to include in legislation establishing statutory trusts or committees.

Bail Act 2013

Items [1] and [2] of Schedule 1.2 amend Section 16B of the Bail Act 2013 in order to ensure that the show cause requirement will apply to an accused person who commits a serious indictable offence while on bail or parole, whether that bail or parole was granted under a law of New South Wales or the law of another jurisdiction.

Without the amendment, an accused person may be subject to bail or parole granted under a law of another jurisdiction, commit a serious indictable offence in New South Wales, but not be subject to the show cause requirement simply because bail or parole was not granted in New South Wales. This issue has direct consequences for those towns in border locations of New South Wales, where individuals travel between, and commit offences in, multiple jurisdictions.

Item [3] of Schedule 1.2 amends Section 18 of the Bail Act 2013 in a similar way in relation to the existing requirement for a bail authority to consider whether an accused person has previously committed a serious offence whilst on bail such that the requirement applies whether the bail was granted in New South Wales or another jurisdiction. **Item [4] of Schedule 1.2** updates cross-references in relation to the Criminal Procedure Act 1986.

Children (Criminal Proceedings) Act 1987

Schedule 1.3 amends section 41 of the Children (Criminal Proceedings) Act 1987. It will remove the requirement for juvenile justice officers to provide reports to courts on oath when reporting a breach of a good behaviour bond, probation order, or outcome plan to a court.

This amendment will align and streamline procedures with other community based orders supervised by Juvenile Justice NSW including for breaches of parole, community service orders, and community clean up orders where there is no legislative requirement for reports to be sworn at court.

The change will align Juvenile Justice and Corrective Services practice in providing breach information to the court and allow for consistent court registry practices.

Children (Detention Centres) Act 1987; Children (Detention Centres) Regulation 2015

Schedule 1.4 of the bill amends the Children (Detention Centres) Act 1987.

Item [2] amends section 55 of the Act to provide that the period of supervision of a juvenile offender on a parole order will be prescribed by the regulations.

This amendment does not affect the power of courts to set the non-parole period of a juvenile offender's custodial sentence and the period during which the offender may be released on parole.

It will provide that once a juvenile offender has been released on parole, the regulations will prescribe the duration of a supervision condition of the parole order. This period has already been prescribed in clause 95(2) of the Children (Detention Centre) Regulation 2015 as the lesser of two years or the period that the order is in force, and in the case of detainees who are classified persons, the lesser of 3 years or the period that the order is in force.

This amendment is consistent with the Government's reforms to parole introduced by the Parole Legislation Amendment Act 2017.

Item [3] of Schedule 1.4 will authorise juvenile detention centre managers to delegate their functions.

Centre managers have a wide range of statutory functions. The new provision will enable them to get on with their work and promote the effective operation of juvenile detention centres.

Centre managers will be subject to the direction and control of the Secretary of the Department of Justice in the exercise of their functions, including delegation of their functions. The Secretary's new power will be used to set state-wide policies and procedures for the exercise of centre manager functions, including the delegation of functions to staff and the exercise of delegated functions. This is a new safeguard to ensure that centre manager functions are appropriately delegated and exercised.

Item [4] of Schedule 1.4 introduces a new legislative framework to allow Juvenile Justice NSW to share more information in appropriate circumstances, particularly with other Government agencies. The new framework aims to ensure that sensitive juvenile justice information is protected, but at the same time gives Juvenile Justice capacity to share necessary information to carry out its functions and facilitate the functions of other agencies.

Item [1] of Schedule 1.4 omits the current Juvenile Justice secrecy provision in section 37D of the Children (Detention Centres) Act 1987, which will be moved to a new section 102, as provided for by **Item [4] of Schedule 1.4**, and amended to be more flexible and fit for purpose.

Section 37D currently provides that it is an offence for a person to disclose information obtained in connection with the administration or execution of the Children (Detention Centres) Act except in very limited circumstances. The current provision routinely prevents Juvenile Justice from sharing information where necessary for the effective operation of the justice system and the public sector more broadly.

For example, providing information about an adult offender, who was in Juvenile Justice custody as a child, to the High Risk Offenders Assessment Committee for the purpose of assessing whether to make an application for an extended supervision or continuing detention order under the Crimes (High Risk Offenders) Act 2006 does not fall within the scope of the exceptions to section 37D, unless a subpoena or other compulsory disclosure process is followed.

Another example is disclosure for the purposes of the "Their Futures Matter" initiative. This is a landmark New South Wales Government reform to create a service system that delivers coordinated, wrap-around and evidence-based supports for vulnerable children, young people and their families to transform their life outcomes.

Section 37D currently prohibits Juvenile Justice disclosing information for the purposes of "Their Futures Matter", despite the Privacy Commissioner having made a public interest direction under section 41 of the Privacy and Personal Information Protection Act 1998 to facilitate the sharing of personal information for the initiative.

In moving section 37D to a new section 102, a new sub-section will be added to provide additional flexibility, so it no longer criminalises disclosures permitted by the Secretary of the Department of Justice or an official policy made by the Secretary.

For example, a policy made by the Secretary might provide that disclosure of information is not prohibited by new section 102 where a privacy code of practice or a public interest direction has been made by the Privacy Commissioner to enable disclosure of personal information by Juvenile Justice, such as the public interest direction relating to "Their Futures Matter".

In addition, the current exception in paragraph (c) of the provision will be amended to enable the disclosure of information for the purposes of any legal proceedings, instead of confining it to legal proceedings arising under the Children (Detention Centres) Act 1987.

This will make it clear that Juvenile Justice officers will be able to lawfully include information obtained in connection with the administration or execution of the Children (Detention Centres) Act in reports to courts in proceedings under other Acts, such as sentencing proceedings under the Children (Criminal Proceedings) Act 1988, the Children (Community Service Orders) Act 1987 and the Crimes (Sentencing Procedure) Act 1999, without having to go through the cumbersome process of being subpoenaed to provide that information.

The Juvenile Justice secrecy provision will continue to prohibit improper disclosure of sensitive juvenile justice information. A person who has obtained information in connection with the administration or execution of the Children (Detention Centres) Act who discloses it in a way contrary to the new section 102 - that is, in a way that does not fall into one of the exceptions, is not authorised by the Secretary and is not authorised by any official Department policy - will commit an offence. The offence will remain punishable by up to 10 penalty units or 12 months imprisonment or both.

Item [4] of Schedule 1.4 inserts a new section 102A into the Children (Detention Centres) Act 1987. It will allow the Secretary to disclose information to any person (notwithstanding privacy legislation) on a case by case basis for specific purposes to be prescribed by the regulations. This will allow Juvenile Justice to disclose information in appropriate cases for purposes such as law enforcement, administering sentences or court orders and providing services and programs to young offenders. Before making a regulation under the new section 102A, the details of the Regulation and the prescribed purposes for which information may be disclosed will be settled in consultation with relevant stakeholders, including the Privacy Commissioner, to ensure they are appropriate.

The provision for an information sharing arrangement with the Commissioner of Fines Administration will be moved to a new section 102B. It will be expanded to allow the Secretary to enter into information sharing arrangements with prescribed public sector agencies to facilitate the regular exchange of information prescribed by the regulations.

Schedule 1.5 makes amendments to the details of the current information sharing arrangement with the Commissioner of Fines Administration under existing section 102 of the Children (Detention Centres) Act in clause 148A of the Children (Detention Centres) Regulation 2015. The details of any other information sharing arrangements between the Department and a prescribed agency will be prescribed by the Regulations following consultation with key stakeholders, including the Privacy Commissioner, to ensure that they are necessary, proportionate and appropriate.

Civil and Administrative Tribunal Act 2013

Schedule 1.6 amends the Civil and Administrative Tribunal Act 2013 by transferring the administrative review jurisdiction of the NSW Civil and Administrative Tribunal [NCAT] for the Point to Point Transport (Taxis and Hire Vehicles) Act 2016 and the Tattoo Parlours Act 2012 from the Administrative and Equal Opportunity Division to the Occupational Division.

Civil Liability Act 2002

Schedule 1.7 amends the Civil Liability Act 2002 by inserting savings and transitional provisions relating to the definition of "offender in custody" and "offender" in section 26A of the Act.

These savings and transitional provisions were originally intended to be inserted into the Civil Liability Act by schedule 4.8 of the Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017 on 24 September 2018; however, due to an inadvertent drafting error in the Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017, that did not happen.

These savings and transitional provisions are being inserted into the Civil Liability Act by schedule 1.7 with retrospective effect from 24 September 2018.

Crimes Act 1900

Item [2] of Schedule 1.8 amends Section 61J of the Crimes Act 1900, which relates to the offence of aggravated sexual assault, to create a new circumstance of aggravation that the alleged offender threatened to inflict grievous bodily harm or wounding on the alleged victim or any other person present or nearby at the time of, or immediately before or after, the commission of an offence of sexual assault.

This amendment reflects the fact that significant fear and trauma can be caused to victims when threats of the infliction of grievous bodily harm or wounding are made in the context of the commission of an offence of sexual assault.

Items [3] to [9] of Schedule 1.8 amend section 545B of the Crimes Act to update the language in that provision. Section 545B of the Crimes Act provides for an offence of intimidation or annoyance by violence or otherwise. The amendments remove gendered language and ensure that the offence captures an appropriately wider range of domestic relationships, including de facto relationships.

Crimes (Administration of Sentences) Act 1999

Schedule 1.9 amends the Crimes (Administration of Sentences) Act 1999.

Item [2] amends the Act to provide inmates with the option of delaying their release from custody up to four days after a sentence expires where there is a good reason, such as a lack of transport to return home, and where the inmate requests or consents to the delay.

Items [3] and [4] amend the Act to provide for action to be taken with respect to breaches of a community correction order or conditional release order that occurred during the term of the order after the order has expired. This will enable courts to hold offenders accountable for breaches where the court learns about the details of the breach after the term of the order has expired.

Item [5] amends section 1280 of the Act provides that the period of supervision of an offender on a parole order will be prescribed by the regulations. It complements the amendment to section 5F, of the Children (Detention Centres) Act 1987 in **Item [2] of Schedule 1.4** of the bill, which I addressed earlier in this speech.

Again, this provision will not affect the power of courts to set the non-parole period of an offender's custodial sentence and the period during which the offender may be released on parole. It will provide that once an offender has been released on parole, the regulations will prescribe the duration of supervision under the parole order.

The amendment is consistent with the Government's reforms to parole introduced by the Parole Legislation Amendment Act 2017.

Items [6], [7] and [8] reinsert powers that the State Parole Authority previously had under section 163 of the Act to revoke an intensive correction order for reasons in addition to breach of the order. These powers were inadvertently not carried forward when the Crimes (Sentencing Procedure) Amendment (Sentencing Options) Act 2017 amended the Act as part of the Government's sentencing reforms. These items of the bill correct that unintentional error.

Item [9] extends the powers of community corrections officers and the Commissioner of Corrective Services under sections 163 and 170 of the Act to deal with breaches of intensive correction orders and parole orders to breaches of reintegration home detention orders. This will provide a statutory basis for Corrective Services NSW to deal with low level breaches of reintegration home detention orders in the community, where appropriate, as well as referring the offender to the State Parole Authority for action under section 168D of the Act, including revocation.

Items [10] and [11] will amend the Act to require the State Parole Authority to provide reasons if it makes any decision following a submission or recommendation from the State or the Commissioner of Corrective Services. This will ensure that the Authority's reasons for all such decisions are clearly ventilated and facilitate judicial reviews of the Authority's decisions by the Supreme Court under section 69 of the Supreme Court Act 1970.

Items [1], [12] and [13] remove references to compliance and monitoring officers in the Act. **Schedules 1.12 and 1.21** of the bill also remove references to these officers from other Acts and statutory instruments.

These officers no longer exist having been transferred to the Community Corrections division of Corrective Services NSW.

Out-dated references to probation and parole officers are also being amended by the bill given they are now known as community corrections officers. **Schedules 1.8[1], 1.12, 1.13[1], 1.17[2]-[3] and 1.21** update or remove references to them in a number of Acts.

Crimes (Appeal and Review) Act 2001

Schedule 1.10 amends section 63 of the Crimes (Appeal and Review) Act 2001 to ensure the stay provisions apply in both sentencing and conviction appeals to automatic licence disqualification periods imposed under the Road Transport Act 2013.

The recent Court of Appeal decision in *Director of Public Prosecutions (NSW) v Kmetyk (No 2)* [2018] NSWCA 195 has interpreted section 63 to mean that licence disqualification periods arising as a consequence of a conviction are only stayed by a conviction appeal, not by a sentencing appeal. The amendment in this bill removes this distinction and restores the status quo as it was understood previously. This will ensure licence disqualification periods are stayed regardless of whether the appeal is against conviction or sentence.

The distinction the case law draws between different types of appeals is unnecessary and has the potential to lead to confusion and unnecessary conviction appeals lodged purely to obtain a stay. It is also difficult for Roads and Maritime Services NSW to implement within existing systems.

It is important to note that these amendments do not relate to offences sufficiently serious to warrant a police officer giving a driver an immediate suspension notice under the Road Transport Act 2013. Those matters are explicitly excluded from the stay pending appeal provisions by s 63(2A) of the Crimes (Appeal and Review).

Crimes (Domestic and Personal Violence) Act 2007

Items [1] and [2] of Schedule 1.11 amend the definition of domestic relationship in Section 5 of the Crimes (Domestic and Personal Violence) Act 2007 by inserting a new provision specifically in relation to paid carers and their dependants.

Currently, a relationship between a dependent and a paid carer is treated as a domestic relationship under the Crimes (Domestic and Personal Violence) Act. This has a number of implications for the dependent, who may be a child or a person with a disability living in residential out of home care facilities.

Under Section 49 of the Crimes (Domestic and Personal Violence) Act, a police officer must make an application for an apprehended domestic violence order if, relevantly, the police officer believes that a domestic violence offence has recently been committed, is being committed, is imminent, or is likely to be committed.

A domestic violence offence currently includes a personal violence offence committed by a person who has or had a relationship involving his or her dependence on the ongoing paid care of another person. This means that police are very limited in exercising any discretion in relation to applications for apprehended domestic violence orders when responding to circumstances where a dependant is alleged to have committed, or is likely to commit, a domestic violence offence against a paid carer. The making of such an application against a dependent may have significant consequences, including court proceedings.

The amendment will change the definition of domestic relationship such that a paid carer and a dependant will be treated as having a domestic relationship for the purposes of any offence committed by a paid carer against a dependant, but not for the purposes of an offence committed by a dependant against a paid carer. Further, an apprehended domestic violence order will still be able to be made against a paid carer for the protection of a dependant, but not against a dependant for the protection of a paid carer. This amendment recognises the difference that often exists in the power dynamic between paid carers and dependents.

The amendment will still allow paid carers to seek assistance in managing the behaviour of a dependent by way of an apprehended personal violence order, without requiring police to apply for an apprehended domestic violence order, and will allow all relevant circumstances to be taken into account, including a dependent's disability or vulnerability, when applying for an apprehended personal violence order on a paid carer's behalf. This will also enable such applications to be referred for mediation.

The amendment addresses paid care relationships, including those where a paid carer stays overnight in the course of their employment at a residential care facility, but does not change the current position in relation to unpaid care or circumstances where a domestic relationship exists between a paid carer and a dependent outside of the dependency relationship.

Item [3] of Schedule 1.11 inserts a new section into Part 13A of the Crimes (Domestic and Personal Violence) Act 2007 to ensure that information shared under that part that would constitute a protected confidence under the existing sexual assault communications privilege scheme does not amount to a waiver of that privilege.

Part 13A of the Crimes (Domestic and Personal Violence) Act allows for information sharing between government and non-government agencies in the case of domestic violence. These information sharing arrangements assist to facilitate access for victims to domestic violence support services and help to reduce or prevent serious threats to the life, health, or safety of a victim. Information shared in accordance with Part 13A (for example, in the course of developing a safety action plan for a victim) may include, relevantly, information provided to a counsellor in relation to a sexual assault.

Division 2 of Part 5 of Chapter 6 of the Criminal Procedure Act 1986 provides for the sexual assault communications privilege scheme. The scheme protects the counselling records of sexual assault complainants from being compelled to be produced, including by subpoena on behalf of a defendant, and adduced in criminal proceedings without leave of the court. This is an important protection for sexual assault complainants.

The amendment ensures that the disclosure of a protected confidence for the purposes of Part 13A of the Crimes (Domestic and Personal Violence) Act will not result in the loss of sexual assault communications privilege that attaches to the protected confidence.

Crimes (Sentencing Procedure) Act 1999

Item [2] of Schedule 1.13 amends section 170 of the Crimes (Sentencing Procedure) Act 1999 to make it clear that courts dealing with sentence appeals may request sentencing assessment reports.

Criminal Appeal Act 1912

Schedule 1.14 amends Section 5DA of the Criminal Appeal Act 1912 to clarify that the Attorney General or Director of Public Prosecutions may appeal against a sentence that was varied or imposed by the District Court, on appeal from the Local Court or the Children's Court, if the sentence was reduced because the person undertook to assist law enforcement authorities and the person failed, either wholly or in part, to fulfil that undertaking.

Section 5DA of the Criminal Appeal Act already provides for a right for the Attorney General or Director of Public Prosecutions to appeal to the Court of Criminal Appeal against any sentence imposed on a person that was reduced because the person undertook to assist law enforcement authorities if the person failed, wholly or in part, to fulfil the undertaking.

This amendment clarifies that the right is available in relation to a sentence that was varied or imposed on appeal by the District Court and reflects the community interest in persons who receive discounts on sentence for providing assistance to law enforcement authorities being held to account if that assistance is not provided.

Criminal Procedure Act 1986

Items [1] and [2] of Schedule 1.15 amend section 179 of the Criminal Procedure Act 1986 to extend the time limit for the commencement of summary proceedings in a narrow set of circumstances.

The purpose of these amendments is to ensure that, where summary charges were laid as backup charges to a related indictable offence in the Local Court or Children's Court, and proceedings were heard in the Local or Children's Court that resulted in a person being found guilty or convicted of the related indictable offence, and where following that finding of guilt or conviction the backup summary offences were withdrawn or dismissed, if a person successfully appeals their finding of guilt or conviction in the District Court, the backup summary offence or offences can be re-laid outside the existing 6 month timeframe for summary offences.

Currently, it may be impossible for backup summary charges to be re-laid following a person appealing their finding of guilt or conviction in relation to a related indictable offence to the District Court because the appeal may not finalised within the 6 month timeframe available to lay a summary charge. This amendment seeks to resolve this issue by putting a person in the same position that they were in when their matter was first heard in the Local or Children's Court.

Importantly, this amendment will not enable a person to be charged with new or different offences outside of the 6 month timeframe.

Item [3] of Schedule 1.15 amends section 222 of the Criminal Procedure Act 1989 to clarify that a police officer can issue a subpoena on behalf of a public officer where the public officer is the prosecutor in proceedings. A public officer includes the Director of Public Prosecutions.

Item [4] of Schedule 1.15 inserts section 275C into the Criminal Procedure Act to give courts a clear power to give directions to enable the giving of expert evidence concurrently or consecutively in criminal proceedings, with the consent of the prosecutor and the accused.

This amendment will enable the giving of concurrent evidence by experts, colloquially known as "hot tubbing," in order to assist judicial officers and juries to understand and engage with expert evidence. It will also streamline the process of that evidence being given during the course of criminal proceedings.

86Evidence is traditionally given consecutively in criminal proceedings and follows the usual process of examination in chief, cross-examination, and re-examination. This amendment will also enable expert witnesses to be called immediately after one another.

Item [5] of Schedule 1.15 inserts section 280A into the Criminal Procedure Act, which enables a person to whom a subpoena is addressed to redact personal information, being addresses and telephone numbers, from any document or thing produced in compliance with the subpoena unless the personal information is a materially relevant part of the evidence or a court makes an order requiring the disclosure.

Similar protections already apply in relation to the disclosure of addresses or telephone numbers of witnesses in proceedings for an offence who make written statements and witnesses proposed to be called by a prosecutor. This amendment will ensure consistency in relation to the protection of personal information.

Items [6]-[9] of Schedule 1.15 amend the Criminal Procedure Act 1986 to extend the existing sensitive evidence protections that exist in Part 2A of Chapter 6 of the Act in relation to sensitive evidence held by a prosecuting authority to sensitive evidence that is held by a health authority.

Currently, Part 2A of Chapter 6 of the Criminal Procedure Act limits the disclosure of sensitive evidence held by a prosecuting authority, including photographs of alleged sexual assault victims or video recordings of a person committing a sexual offence, to an accused person.

The existing sensitive evidence provisions protect alleged victims from the fear, trauma, and embarrassment of an accused person having a copy of sensitive evidence that may include photographs of their genitals or a video of a sexual assault.

In the course of the investigation of a criminal matter, usually a matter that involves an allegation of sexual assault or child sexual assault, clinical photographs and videos may be created as part of an examination conducted on the alleged victim, often at a hospital.

These photographs and videos will often fall within the scope of the existing definition of sensitive evidence; however, because they are in the possession of a health authority, and not a prosecuting authority, they can be the subject of a subpoena and are not protected by the existing sensitive evidence provisions. This is the case despite the fact that the same videos or images may be included in a brief of evidence held by the prosecuting authority.

These amendments will extend the current sensitive evidence provisions to sensitive evidence held by a health authority and will enable a court to set aside a subpoena to a health authority insofar as it relates to sensitive evidence.

Importantly, these amendments do not change the current definition of sensitive evidence or prevent an accused person from seeing sensitive evidence that is held by a health authority. The health authority must give the accused person and any other person who has been engaged to assist with the accused person's case reasonable access to the sensitive evidence.

Item [10] of Schedule 1.15 amends section 306M of the Criminal Procedure Act to expand the definition of investigating official , in relation to the questioning of a child, to include a person who is engaged, in conjunction with a police officer, in an investigation caused to be made under child protection legislation of another State or Territory.

The Criminal Procedure Act currently provides for different mechanisms for vulnerable witnesses to give evidence in criminal proceedings. One of these mechanisms is the ability of a vulnerable person, defined as a child or cognitively impaired person, to give their evidence in chief by way of a recording made by an investigating official of an interview.

Section 306M currently defines "investigating official" to mean a police officer (other than a police officer who is engaged in covert investigations) or, in relation to the questioning of a child, a person who is engaged, in conjunction with a police officer, in an investigation caused to be made by the Director-General of the Department of Community Services under section 27 of the Children and Young Persons (Care and Protection) Act 1998.

The definition of "investigating official" does not currently include, in relation to the questioning of a child, persons engaged in comparable investigations to those caused to be made under the Children and Young Persons (Care and Protection) Act in other jurisdictions in Australia, despite the fact that interviews may be conducted and recorded in other jurisdictions, in a similar manner and by persons who have a similar role in investigations caused to be made under comparable child protection legislation, in accordance with the law and practice of those jurisdictions.

Interviews may be conducted with children outside of New South Wales for a number of reasons, for example where a child has moved interstate and subsequently made a disclosure about a sexual offence that occurred in New South Wales. This amendment will ensure that recorded interviews of children conducted by authorised persons outside of New South Wales, in accordance with the relevant legislation of the State or Territory where the interview occurred, can be admitted as the evidence in chief of that witness in New South Wales proceedings.

District Court Act 1973

Schedule 1.16 amends section 44 of the District Court Act 1973 and introduces a new part to Schedule 3 of the Act.

Recent case law has cast doubt on the District Court's jurisdiction to hear matters arising from a commercial transaction. This amendment will remove any doubt around that issue by ensuring the District Court has jurisdiction to hear commercial matters up to its jurisdictional limit, that is, $750,000.

This amendment is required to provide certainty to practitioners and litigants, about whether they should be taking their matter to either the District or the Supreme Court.

It is important this amendment be retrospectively applied in order to protect past judgements from the uncertainty of being challenged on appeal on a purely technical basis.

Drug Court Act 1998

Item [1] of Schedule 1.17 inserts section 12A into the Drug Court Act 1998 to confer on the Drug Court the special jurisdiction of the Local Court, so that it may deal with applications under Division 3A of Part 7.4 of Chapter 7 of the Road Transport Act 2013.

This means the Drug Court will have jurisdiction to lift a person's licence disqualifications at the end of their involvement with a Drug Court Program, instead of the Drug Court having to refer the licence issues back to the Local Court to be dealt with separately.

The existing requirements in the Road Transport Act 2013 will need to be met for the Drug Court to make an order removing licence disqualifications, including that the disqualified person has not been convicted of any driving offence during the relevant offence-free period. The Court will also need to consider factors including public safety, the applicant's overall driving record and relevant personal circumstances, including the person's family and employment obligations.

Applicants who have been convicted of a serious driving related offence in section 221D will be excluded from making an application. This includes offences causing death or serious injury, predatory and menacing driving and failing to stop and assist after impact causing death or grievous bodily harm.

The amendment also enables the Drug Court to make rules about the practice and procedure to be adopted in relation to removal of licence disqualifications.

Interpretation Act 1987

Schedule 1.18 amends section 76 of the Interpretation Act 1987 to bring the presumed time for postal service into line with section 160 of the Evidence Act 1995.

Law Enforcement (Powers and Responsibilities) Act 2002

Schedule 1.19 amends section 210M of the Law Enforcement (Powers and Responsibilities) Act 2002 in relation to applications for stock mustering orders to clarify that the Commissioner of Police or a police officer may be represented by a police prosecutor in proceedings for a stock mustering order.

Local Court Act 2007

Schedule 1.20 amends the Local Court Act 2007 to increase the jurisdictional limit of the Small Claims Division from $10,000 to $20,000. This will increase the number of matters that can gain access to the Division's more streamlined and less formal processes.

Relationships Register Act 2010

Schedule 1.22 amends the Relationships Register Act 2010, which provides for the legal recognition of a couple's relationship, by the formal registration of that relationship.

The amendment in the bill will provide for an optional ceremony to be conducted at the NSW Registry of Births, Deaths and Marriages when a couple registers their relationship.

The inclusion of optional ceremonies as a way of providing formal recognition and a celebration of the commencement of a registered relationship was the sole change to the Relationships Register Act 2010 recommended by the statutory review of the Act. This amendment therefore implements the findings of the statutory review in full and is consistent with the existing position in Victoria, Tasmania and the ACT.

Road Transport Act 2013

Schedule 1.23 amends the Road Transport Act 2013 to ensure the driver licence disqualification reforms of October 2017 operate as intended.

Item [1] amends the operation of the "relevant offence-free period" in Division 3A of Part 7.4 of the Act to make it clear that, where a person has been convicted of an offence listed in paragraph (a) of the definition of "relevant offence-free period", a four year offence-free period applies irrespective of whether the disqualification period for that offence has expired.

The 2017 reforms introduced a path to return to lawful driving by applying to the Local Court to have a licence disqualification removed. The reforms contained a safeguard that a person has to wait two or four years after an offence before being eligible to have their licence disqualification removed. An amendment is required clarify the operation of the "relevant offence-free period".

This amendment clarifies that persons convicted of paragraph (a) offences must wait four years before the court can lift any outstanding licence disqualifications. In the case of other offences, the person must remain offence free for two years before outstanding disqualifications can be removed.

The Act remains very clear that offenders who have ever been convicted of the most serious driving offences will never be eligible to apply to have their disqualification removed under the reform measures. This includes offences causing death or grievous bodily harm by driving, hit and runs, predatory or menacing driving and certain other serious driving offences.

Item [3] inserts a transitional provision to accompany the change made in item [1].

Item [2] makes explicit that persons declared to be habitual traffic offenders can apply to quash their declarations, and the court has the power to quash those declarations, following the abolition of the habitual traffic offender scheme on 28 October 2017.

Succession Act 2006

Schedule 1.24 makes consequential amendments to sections 12 and 13 of the Succession Act 2006 following the Marriage Amendment (Definition and Religious Freedoms) Act 2017 (Cth).

Section 12 provides that a will is revoked on the marriage of a testator, and section 13 provides that certain parts of a will are revoked on the divorce of a testator.

The Commonwealth Marriage Amendment Act recognised same sex marriages and divorces that occurred in foreign jurisdictions as at 9 December 2017. This meant that the will of a person who entered into a same sex marriage or divorce prior to 9 December 2017 was revoked at 9 December 2017.

This bill amends the Succession Act 2006 to ensure that the revocation only has effect where a person executed a will before he or she entered into a same sex marriage, or divorced from a same sex marriage. Ultimately, this bill will ensure that same sex couples are treated equally under the Succession Act.

The bill also includes a validation clause to clarify that anything done after 9 December 2017 that would have been lawful if this provision had applied at that time is taken to have been done lawfully.

Sydney Bethel Union Extension Act 1908

Schedule 1.25 amends the Sydney Bethel Union Extension Act 1908 to divest property currently vested in the individual Trustees under that Act and vest it in Sydney Bethel Union Pty Ltd, and provide that the Sydney Bethel Union Pty Ltd is to exercise all of the functions that are conferred or imposed on the existing individual Trustees under that Act.

This amendment was requested by the Sydney Bethel Union in order to modernise the Trust and strengthen its governance arrangements.

Victims Rights and Support Act 2013

Schedule 1.26 of the bill amends the Victims Rights and Support Act 2013 by expressly providing that the functions of the Commissioner for Victims Rights include providing funding to victims groups approved by the Commissioner to provide support services to victims of crime, such as services that help victims exercise their rights under the Charter of Victims Rights and other legislation.

By giving such arrangements a statutory basis, the Department of Justice can fund organisations that provide support to victims of crimes with the Secretary's approval when a gap has been identified, and can set up a competitive grant process.

Schedule 2 — Amendments relating to retirement age for judicial officers

Schedule 2 to the bill amends several Acts to increase the maximum retirement age for New South Wales judges and magistrates from 72 to 75. This reform will also allow acting judges and magistrates to serve as acting judicial officers, by being appointed up to the age of 78, rather than 77, as is the case currently. Judges appointed after these amendments commence will be able to access their pension at 65 rather than the previous threshold of 60, provided they have served ten years.

These amendments reflect trends towards people living and working longer.

Experience shows that 40% of judges are retiring at the maximum retirement age. With that number increasing over time, it is clear the retirement age should be increased so that those who can continue to contribute to the fair administration of justice in New South Wales , do so.

These amendments will apply to all judges appointed after these amendments commence and to existing judicial officers who consent to the changes, in accordance with s 55 of the Constitution Act 1902

These changes will also apply to future appointments of Directors of Public Prosecutions and Solicitors General, as they are entitled to a judges' pension, have been treated similarly to judicial officers in relation to their terms and conditions, and should continue to be treated in that way.

Schedule 3 - Amendment of Legal Profession Uniform Law application legislation

Schedule 3 to the bill amends the Legal Profession Uniform Law Application Act 2014 (Act) and the Legal Profession Uniform Regulation 2015 (Regulation).

The Solicitors Mutual Indemnity Fund was established by the Law Society in 1987 to stabilise rising insurance premiums. In 2001, following the collapse of HIH Insurance, the Solicitors Mutual Indemnity Fund assumed liability for all professional negligence claims that would otherwise have been met by HIH.

The last claim against the Solicitors Mutual Indemnity Fund was finalised in 2014 and there is a declining probability of future claims. The fund currently holds approximately $88 million. To ensure that these surplus funds can be used more productively, these amendments discontinue the Solicitors Mutual Indemnity Fund and vest its assets in equal shares in the Public Purpose Fund and the Law Society of NSW.

As Lawcover Insurance will assume any liabilities relating to professional indemnity insurance that the Solicitors Mutual Indemnity Fund otherwise would have met, the amendments provide that the Law Society is to subscribe its share of the Solicitors Mutual Indemnity Fund assets in Lawcover Insurance.

While the likelihood of any future claim being made against the Solicitors Mutual Indemnity Fund is low, this will ensure that Lawcover Insurance is able to meet any claims if they arise.

The amendments also establish a Community Legal Services Account within the Public Purpose Fund to hold the divested Solicitors Mutual Indemnity Fund funds as a dedicated source of funding for community legal centres.

Community legal centres provide an invaluable service to the New South Wales community. However, they have often faced funding uncertainty. This affects their ability to provide free legal assistance to those in need, particularly to disadvantaged groups in our community.

The Cameron Review of Community Legal Centre Services recommended that the Government identify additional funding for community legal centres. In response to this recommendation, the Government has determined to use part of the Solicitors Mutual Indemnity Fund surplus to establish a new and separate source of community legal centre funding.

The funds in the Community Legal Services Account will remain separate from the remainder of the Public Purpose Fund corpus and be preserved. The interest accruing from these funds can be reinvested, or used towards funding community legal centres, as determined by the Public Purpose Fund Trustees, with the concurrence of the Attorney General.

These amendments will enable the productive use of the Solicitors Mutual Indemnity Fund's surplus and secure a new source of ongoing funding for the community legal centre sector.

They are the result of extensive discussions with the Law Society of NSW. I am grateful for the Law Society's vision and collaboration as we have negotiated this landmark arrangement towards providing greater access to justice in New South Wales.

In 2017, I asked the Steering Committee on the Public Purpose Fund, chaired by Geoff Levy AO, to make recommendations for optimising funds. The two amendments in Schedule 3 respond to recommendations made by the Steering Committee that are designed to expand the Public Purpose Fund's revenue base and strengthen the stewardship of its assets.

The amendments in Schedule 3.2 amend the definition of "applicable period" in the Legal Profession Uniform Regulation 2015 to provide that law firms must calculate statutory deposits based on the minimum balance in their general trust account over the past quarter, rather than the past year, as is currently done in Victoria. This will significantly increase the balance of statutory deposit accounts and thereby strengthen the financial position of the Public Purpose Fund.

Items [1], [2] and [3] of Schedule 3.1 provide for the appointment of an additional Trustee to the Public Purpose Fund with financial and investment expertise.

These amendments will strengthen the sustainability and governance of the Public Purpose Fund.

Commencement information

Most amendments in the bill will commence on the date of assent.

Clause 2 provides that Schedules 1.2[1]-[3], 1.4[1] and [4], 1.5, 1.6, 1.9[2], 1.11[1] and [2] 1.17[1] and [4], 1.20, 1.22, 1.26 and Schedule 3 will commence upon proclamation, so that affected agencies can prepare for implementation.

Conclusion

Overall, this bill will improve the operation of courts, law enforcement agencies, and the civil and criminal justice system.

CRIMES LEGISLATION AMENDMENT (VICTIMS) BILL 2018

Involvement of victims in sentencing

The Crimes Legislation Amendment (Victims) Bill 2018 amends the Crimes (Sentencing Procedure) Act 1999 and Crimes (Sentencing Procedure) Regulation 2017.

Division 2, Part 3 of the Crimes (Sentencing Procedure) Act makes provision for the making of victim impact statements during sentencing. The function of a victim impact statement is to inform the sentencing court of the impact of the crime on its victims.

In some criminal proceedings, particularly those for sex offences, the victim may have been required to give evidence during the trial. However, in many cases, the making and reading of a victim impact statement will be the only involvement the victim has in the proceedings. As such, it represents an important opportunity for the victims to have their voice heard and share their experiences in a way that can be empowering, validating, and often therapeutic.

In May 2017, I asked that the NSW Sentencing Council to review victims' involvement in the sentencing process, including the principles courts apply when receiving and addressing victim impact statements, who can make a victim impact statement, and procedural issues with the making of victim impact statements.

The Sentencing Council's recommendations for legislative amendment that aim to improve the victim impact statement system so that victims' voices can be heard and any trauma when engaging with the process is minimised. I thank the Sentencing Council for its report and considered recommendations, which balance the needs of victims and fairness for offenders.

The Government has accepted many of the Sentencing Council's recommendations. This bill implements those that require legislative amendment, including amendments that will:

- enable victims to provide a more complete picture of the harm they have suffered as a result of the offence;
- ensure that victims are able to have a support person present when reading their victim impact statement; and
- where appropriate, allow victims to read a victim impact statement via CCTV or in the absence of the public.

Other recommendations will require further consultation to help determine the Government's final position and ensure that the empowerment of victims to have their voices heard during the sentencing process is appropriately balanced with the right to efficient court processes for victims and the wider justice system.

Key provisions of the Bill

The bill replaces Division 2, Part 3 of the Crimes (Sentencing Procedure) Act 1999, with key amendments as follows. The new section 26 expands the definition of "member of the primary victim's immediate family" to include a step-grandparent or step-grandchild of the victim, an aunt, uncle, niece or nephew of the victim, and in the case of a victim who is an Aboriginal person or a Torres Strait Islander, a person who is or has been part of the close family or kin of the victim according to the Indigenous kinship system of the victim's culture.

The definition will also include any person who the prosecutor is satisfied:

- is a member of the victim's extended family or culturally recognised family to whom the victim is or was close, or
- is a person with whom the victim had a close relationship analogous to a family relationship, or whom the victim considered to be family.

The new section 27 will extend the range of offences for which victims are entitled to make a victim impact statement to include additional offences that are sexual or indecent in nature, or involve a violation of privacy, such as voyeurism or distributing intimate images without consent. Whilst these offences may not involve physical or sexual violence, they may nevertheless cause similar personal harms to the prescribed sexual offences for which victim impact statements are currently accepted.

Proposed section 27 will also ensure that victims of offences that are taken into account by the court when sentencing for the principal offence under section 33 of the Crimes (Sentencing Procedure) Act are also able to make victim impact statements. These offences are commonly referred to as Form 1 offences, and are generally offences of similar or lesser seriousness than the principal offence, to which the offender has admitted guilt, but for which the offender has not been convicted. As the victim impact statement provisions are enlivened upon conviction, victims of such offences are currently ineligible to make statements. This amendment will ensure that more victims are able to have their say, and where a victim of a principal offence has also been the victim of a Form 1 offence, it will allow them to more fully describe the harms they have suffered.

Subdivision 2 of Part 3, Division 2 of the Crimes (Sentencing Procedure) Act 1999 deals with the preparation of victim impact statements.

Under the existing Act, the particulars that may be contained in a victim impact statement are outlined in the definitions section. Under the proposed amendments this will now be outlined in a standalone section which significantly expands the types of harms that a victim may discuss in a victim impact statement. Under the existing provisions, only particulars of the actual bodily harm or psychological or psychiatric harm suffered by a primary victim, or in the case of a family victim, the impact of the primary victim's death on their immediate family, may be included in a victim impact statement. Under the proposed section 28, a victim impact statement by a primary victim will be able to discuss any of the following harms suffered by the victim or the victim's immediate family as a direct result of the offence:

- physical, psychological, or psychiatric harm,
- emotional suffering or distress,
- harm to relationships, and
- economic loss which arises from the above forms of harm.

This will allow victims to give a more complete picture of the harms they have suffered.

Under existing provisions, victims may have somebody else prepare a victim impact statement for them based on information they provide, or have somebody else read a victim impact statement on their behalf. Where the victim is incapable of doing so due to age, impairment, or other reasons, someone else may also provide the information contained in a victim impact statement, and object to the tendering of a victim impact statement. These provisions relating to how a victim may be assisted during the victim impact statement process and by whom, however, are currently spread throughout Division 2 of the Act and the regulations.

The new section 30 brings together these existing provisions, with the classes of persons who may assist the victim prescribed by the regulation. In addition to a person having parental responsibility for the victim, a member of the primary victim's immediate family, and any other representative of the victim, the regulations will also prescribe the victim's carer and any person who is important in the victim's life as people who may assist the victim or act on their behalf, as recommended by the Sentencing Council.

Proposed sections 30B and 30E will ensure that the same requirements to receive, consider, and comment on victim impact statements will apply to both statements from primary victims and family victims. Currently, under section 28 of the Crimes (Sentencing Procedure) Act 1999 a court *may* receive and consider a victim impact statement from a primary victim, but *must* receive and acknowledge a victim impact statement from a family member of a primary victim who has died as a result of the offence, and make any comment on it that the court considers appropriate. The bill amends the provision so that in both cases, the court must receive, acknowledge, and consider a victim impact statement that complies with the requirements of the Act, and make any comment that the court considers appropriate.

Proposed section 30E implements the recommendations of the Sentencing Council and the statutory review into Crimes (Sentencing Procedure) Amendment (Family member Victim Impact Statement) Act 2014 with respect the drawing of inferences about the absence of a victim impact statement. The making of a victim impact statement is discretionary, and section 29(3) of the Crimes (Sentencing Procedure) Act currently states that the absence of a statement does not give rise to an inference that the offence had little or no impact on the victim. The Sentencing Council recommended that this provision be strengthened by specifying that the absence of a victim impact statement did not give *rise* to any inference about the impact of the offence. The statutory review recommended that the same amendment be made to section 29(4), an equivalent provision which applies to family victims. This bill implements both recommendations.

Proposed section 30F makes changes to the way in which the court may deal with victim impact statements that do not fully comply with the requirements of the Act regarding their content. Currently, a court may only receive and consider a victim impact statement that complies with the requirements of the Act, and a victim impact statement may not discuss matters that relate to offences for which the offender is not being sentenced. This can lead to situations in which a victim cannot give a full account of the harm they have suffered, such as where the offender has pleaded guilty to a lesser charge, or where some of the harm arises from uncharged offences.

The new section 30F will give courts greater discretion to receive victim impact statements that are not in strict compliance with the Act, while ensuring fairness to the offender in such cases by requiring the court not to consider any matter in a victim impact statement which is not authorised by the Division.

Proposed section 30G will contain new provisions permitting the prosecution to provide a copy of a victim impact statement to the offender's legal practitioner. In practice this is already occurring in many cases, as it allows the defence to consider any objections to the statement's content, thereby reducing the possibility of the victim being further traumatised by being cross-examined on the content of their victim impact statement, as well as upholding principles of due process. The new section will formalise this existing practice.

Proposed section 30G will include arrangements for offenders without legal representation to have only supervised access to victim impact statements, as well as adding additional safeguards which prohibit the copying and dissemination of victim impact statements unless done for a legitimate purpose related to the proceedings by the offender's legal representative, and which require their destruction upon the conclusion of sentencing proceedings.

Subdivision 4 of Part 3, Division 2 of the Crimes (Sentencing Procedure) Act 1999 makes substantial amendments to the way in which victims may read out their statements. Under the current provisions of the Crimes (Sentencing Procedure) Act 1999, victims who are entitled to give evidence during a trial by way of CCTV arrangements, such as victims of prescribed sexual offences, children, or cognitively impaired people, are also entitled to utilise such arrangements when reading their victim impact statement. VISs by victims of prescribed sexual offences are also to be read out in the absence of the public, and such a victim is entitled to have a support person present. The bill will expand these provisions so that support persons, and, where reasonably practicable, special arrangements such as CCTV, are made available to all victims when reading a victim impact statement.

Victims who are currently entitled to special arrangements when reading a VIS will retain that entitlement. In the case of all other victims, there will be instances where it is not reasonably practicable for these arrangements to be made. The bill will provide for victims who are not currently entitled to such arrangements to ask the court to make them available, subject to considerations such as the availability of necessary facilities, the reasonable practicability of granting the request, and any other matter the court considers relevant.

The Mental Health (Forensic Provisions) Amendment (Victims) Bill 2018, which was introduced into Parliament last week, included provisions which would permit victims to make victim impact statements where there has been a verdict of not guilty by reason of mental illness, or a limited finding of guilt, under the Mental Health (Forensic Provisions) Act 1990. Those provisions are reintroduced under Subdivision 5 to ensure consistency with the significant revisions to Division 2, Part 3 of the Crimes (Sentencing Procedure) Act 1999 made by this bill.

Amendments to the Children (Criminal Proceedings) Act 1986

The Royal Commission into Institutional Responses to Child Sexual Abuse (**Royal Commission**) recommended in its August 2017 Criminal Justice Report that a range of measures be put in place to protect witnesses giving evidence in child sexual abuse proceedings.

Many of the reforms recommended by the Royal Commission had already been adopted by New South Wales before the Criminal Justice Report was released. For example, New South Wales legislation already provided for special measures to be made available to children under the Child Sexual Offence Evidence Pilot. The additional protections to be implemented by this bill will supplement existing protections.

Schedule 1 to the Crimes Legislation Amendment (Victims) Bill 2018 amends the Children (Criminal Proceedings) Act 1987 to implement a Royal Commission recommendation that complainants in child sexual abuse prosecutions should not be required to give evidence on more than one occasion where the accused is a young person.

Currently, where a young person is charged with a child sexual abuse offence (that is not a serious children's indictable offence), the prosecution must conduct a hearing in full in the Children's Court before the court can determine whether the proceedings should be heard summarily or according to law in a higher court. This involves the complainant having to give evidence and be subject to cross-examination. Where the Children's Court determines that the matter should be referred to a higher court to be dealt with according to law, the complainant is required to give evidence again in full at the trial in the higher court.

Schedule 1[2] to [5] amends the Children (Criminal Proceedings) Act 1987 to enable the Children's Court to determine if a young person charged with a child sexual assault offence should be dealt with summarily or according to law solely on the documents the prosecution tenders and any evidence presented by the young person, unless:

i. In the case of certain complainants, the court is satisfied that there are special reasons in the interests of justice that the complainant must attend and give evidence orally; or

ii. In the case of any other prosecution witness, the court is satisfied that there are substantial reasons in the interests of justice that the witness must attend and give evidence orally.

The amendments enhance protections available to complainants in child sexual abuse proceedings by ensuring that they are only required to give evidence, and be subject to cross-examination on more than one occasion, in limited circumstances.

Improving protections available for vulnerable witnesses giving evidence

New South Wales laws have a range of other protections for some categories of complainants and vulnerable witnesses who give evidence in criminal proceedings and Apprehended Violence Order [AVO] proceedings. These include measures like support persons and giving evidence in closed court or via recording. Their purpose is to reduce the stress and trauma of giving evidence in court, and to reduce the risk that complainants and witnesses will be unwilling to proceed with giving evidence in court. The protections also assist witnesses to give their best evidence.

The Royal Commission commended these types of legislative protections in the context of child sexual abuse proceedings.

The Crimes Legislation Amendment (Victims) Bill 2018 will expand and harmonise some of the available legislative protections to four categories of witnesses:

iii. Complainants and sexual offence, or tendency, witnesses in criminal proceedings for prescribed sexual offences;

iv. Child complainants, witnesses and accused persons who are children under 18;

v. Complainants or witnesses with a cognitive impairment; and

vi. Domestic violence complainants.

The bill will enable more vulnerable witnesses to have access to support persons.

A support person accompanies a witness while they are giving evidence, providing emotional support during what can often be a difficult experience for the witness. They attend court to make this important contribution on a voluntary basis and are typically a friend or family member of the complainant or witness.

Schedule 5[28] of the Crimes Legislation Amendment (Victims) Bill 2018 amends the Criminal Procedure Act to enable complainants, witnesses and defendants who are 16 and 17 years of age to have a support person present when giving evidence in all AVO and criminal proceedings. This protection is currently only available to children under 16 years.

Schedule 5[30] of the bill amends the Criminal Procedure Act 1986 so that domestic violence complainants in all criminal proceedings for domestic violence offences, not just AVO proceedings, are entitled to have a support person present when giving evidence.

Schedule 5[10] of the bill amends the Criminal Procedure Act to ensure that, in prescribed sexual offence proceedings, a complainant or sexual offence witness who also meets the definition of a 'vulnerable witness' (namely, children under 16 years of age or cognitively impaired persons), is entitled to the same level of assistance from their chosen support person as a vulnerable witness giving evidence in proceedings for other types of offences. In certain circumstances, support persons for vulnerable witnesses offer an additional layer of protection as they are able to assist with communication difficulties. This is important to ensure that vulnerable witnesses are able to give their best evidence.

The bill will also enable more vulnerable witnesses to give evidence in a closed court.

Court proceedings are generally open to the public. However, in some circumstances, closing the court is necessary to respect witnesses' privacy, and prevent unnecessary distress to witnesses.

Schedule 2[2] of the bill amends the Crimes (Domestic and Personal Violence) Act 2007 to introduce a presumption for a closed court in all AVO proceedings when children aged 16 and 17 years are involved. This ensures that the protection available to children under 16 years of age in this type of proceedings is extended to all children.

In addition, **Schedule 2[3]** amends section 58 of that Act to provide that the court is to be closed in AVO proceedings where the defendant is under 18 years of age. This is consistent with the approach to child defendants in all criminal proceedings.

The bill will also enable the record of the original evidence of additional vulnerable witnesses to be admissible as evidence in a re-trial or subsequent proceedings. The record of the original evidence must be the best available record.

This ordinarily is an audio-visual recording but may be an audio recording, or, as a last resort, a transcript of evidence.

Subject to some limited exceptions, the original evidence of complainants in prescribed sexual offence proceedings can already be used in re-trials and subsequent trials. This ensures that the complainant does not have to attend and give evidence in person again.

Schedule 5[13] to [26] of the Crimes Legislation Amendment (Victims) Bill 2018 amends the Criminal Procedure Act to ensure that the availability of this protective measure is extended to a wider range of vulnerable witnesses, namely:

i. Complainants in proceedings for an offence of female genital mutilation;

ii. Sexual offence witnesses in prescribed sexual offence proceedings;

iii. Children under 18 who are witnesses in prescribed sexual offence proceedings; and

iv. Cognitively impaired persons in prescribed sexual offence proceedings.

Schedule 5[7] and [11] amends the Criminal Procedure Act 1986 by inserting two new provisions, namely sections 279A and 294CA, to ensure that complainants in prescribed sexual offence proceedings have this special measure available to them in a broader range of proceedings, namely:

i. In related criminal proceedings where they are also the complainant (section 279A); and

ii. Where they are called as a sexual offence witness (section 294CA).

The amendments include important safeguards for accused persons when the prosecution seeks to tender the record of the original evidence. For example, the prosecution must give notice to the accused person that they intend to tender the original evidence in the re-trial or subsequent proceedings. The court can also decline to admit the record of the original evidence having regard to certain matters prescribed in the Act, including the completeness of the original evidence and the interests of justice.

Schedules 5[9] and [12] amend sections 290A and 306A of the Criminal Procedure Act to ensure that some of the protections available to complainants in prescribed sexual offence proceedings are extended to complainants in proceedings for an offence of female genital mutilation under section 45 or 45A of the Crimes Act 1900. These complainants currently do not have access to any of the special measures that are extended to sexual assault complainants, sexual offence witnesses or vulnerable witnesses. This is despite the fact that the nature of the offence means that these complainants are also likely to suffer significant trauma or embarrassment in having to give their evidence in open court or without the benefit of a support person. These amendments will ensure that these complainants have access to a number of important protections, including:

i. The ability to give evidence in a closed court;

ii. The ability to give evidence by alternative arrangements, for example by CCTV;

iii. The presence of a support person;

iv. Ensuring that they cannot be directly cross-examined by an unrepresented accused person; and

v. Ensuring that a record of their original evidence can be tendered in a re-trial or subsequent proceedings, as well as in related criminal proceedings.

Schedule 5 also amends the Criminal Procedure Act to restrict witnesses who can be called in committal

Committal proceedings are held in the Local Court before a case is committed to the District or Supreme Court for trial or sentence.

There are two types of tests that are applied by a Magistrate when deciding whether or not a victim or witness should be called to give evidence during committal proceedings: (1) the substantial reasons test; and (2) the special reasons test.

The special reasons test creates a higher threshold to protect certain categories of witness, who may experience particular trauma when giving evidence. Some categories of complainants, or victims, can never be called to give evidence in committal proceedings for this reason.

These amendments will ensure that there is a consistent approach to certain complainants and vulnerable witnesses in committal proceedings and increase the current protections in some circumstances.

Schedule 5[4] amends section 84 of the Criminal Procedure Act 1986 to specify that *sexual offence witnesses* in prescribed sexual offence proceedings can only be directed to attend court to give oral evidence if the court is satisfied that there are special reasons in the interest of justice. *Sexual offence witnesses* are those against whom it is alleged that the accused person committed a prescribed sexual offence, and so go to the issue of tendency in criminal proceedings. The special reasons test will now also apply to *vulnerable witnesses* who witness an offence involving violence. Vulnerable witnesses are defined as children under 16 years and cognitively impaired persons.

Schedule 5[6] also amends section 84 to ensure that complainants in an offence involving violence who have been directed to attend and give evidence orally, can only be cross-examined on *additional* matters that were not the subject of the Magistrate's original order, if the special reasons rest is satisfied.

In addition, **Schedule 5[2], [3] and [5]** amend sections 83 and 84 of the Criminal Procedure Act 1986 to ensure that the protections available to complainants in certain types of matters listed in sections 83 and 84 of the Criminal Procedure Act, including offences involving violence and prescribed sexual assault offences, are extended to complainants in Commonwealth offences of a similar nature. The Commonwealth offences will be prescribed via amendments to the Criminal Procedure Regulations to progress at a later date following consultation with stakeholders.

GOVERNMENT INFORMATION (PUBLIC ACCESS AMENDMENT BILL 2018

The Government is pleased to introduce the **Government Information (Public Access) Amendment Bill 2018.**

The bill completes the New South Wales Government's response to the recommendations of the Report of the Statutory Review of the Government Information (Public Access) Act 2009 and the Government Information (Information Commissioner) Act 2009.

The New South Wales Government is committed to the policy objectives of the Government Information (Public Access) Act 2009 [GIPA Act], which include maintaining and advancing a system of responsible and representative democratic Government that is open, accountable, fair and effective.

The statutory review concluded that the policy objectives of the GIPA Act remain valid, and its provisions generally remain appropriate for achieving those objectives.

However, the Report also recommended a number of specific amendments to improve the operation of the Act. The bill now presented to this House gives effect to those recommendations.

These amendments are the result of extensive consultations, including submissions from the public as well as meetings with key government and non-government stakeholders.

Modernise the GIPA Act

The first amendment I will address is the use of emails in the application process.

Currently, individual agencies must seek the Information Commissioner's approval to receive GIPA applications electronically.

Items [6], [7] and [9] amend section 41 to modernise and simplify the access application process, by creating a discretionary power for agencies to accept access applications lodged electronically without having to seek the Information Commissioner's prior approval to do so.

This will make it easier for members of the public to make access applications and promote the objects of the GIPA Act by facilitating access to government information.

Applicants will still be able to post applications or lodge them at an office of the agency, should they choose to do so.

Applications will have to include the applicant's name and a postal or email address for correspondence. This will allow applicants to be contacted via their preferred method of correspondence — either post or email.

Streamline administrative processes for agencies

Item [8] also amends section 41 to provide a new requirement for an applicant to specify in an access application the name of any other agency the applicant has applied to for substantially the same information.

This amendment will encourage inter-agency consultation and streamline administrative processes for finding the requested information.

Failure by the applicant to disclose the other agency in an application will not invalidate the access application.

I now turn to partial transfers of access applications.

Currently, if a recipient agency holds any of the information requested by an applicant, it must process the application with respect to the information it holds, then inform the applicant that other agencies hold the rest.

This means the applicant has to make additional applications to other agencies (and pay additional application fees).

Item [10] amends section 44 to give recipient agencies the discretion to partially transfer access applications where they determine this is the most appropriate course of action. This is likely to occur where one agency holds some, but not all, of the information.

This amendment will permit applicants to more quickly, easily and cheaply receive information.

The partial transfer by the recipient agency will split the application into two or more applications. As such, the new provision ties in with existing sections 48, 57 and 80.

Under section 48, the agency that receives a partial transfer will be deemed to have received the application on the date it received the transfer.

Under section 57, this agency will have 20 days from that date within which to decide the application.

The agency that receives a partial transfer can impose processing charges, but not an application fee, for processing it. The application fee will have been paid with the original application.

Under section 80, a decision to transfer an access application is a reviewable decision. In the case of a partial transfer under the new provision, an application for an internal review of such a decision will need to be made to the original recipient agency. However, any substantive decisions made by an agency that received a partial transfer (relating to the part of the application that it received) will be internally reviewable by that second agency as the relevant decision maker.

I now turn to proof of identity.

Agencies have legal responsibilities to protect the disclosure of personal information.

In some cases agencies may need to confirm that an applicant is who they purport to be, before providing access to personal information. This might prove difficult for vulnerable applicants, such as young or homeless people, who may not have sufficient formal identification.

Item [15] amends section 55 to provide that agencies may require applicants "to take reasonable steps" to provide proof of their personal identity before providing them with access to personal information.

This will provide more flexibility in proving identity to allow vulnerable applicants to more easily access their own personal information under the GIPA Act.

Reduce undue compliance burdens for agencies

I now turn to disclosure logs.

Presently, agencies are required to keep public disclosure logs setting out the information they have released in response to access applications, and which may be of interest to the public.

Applicants and third parties may object to the inclusion of information in the disclosure log and seek review of the agency decision.

The Report concluded that review of the decision-making process for disclosure logs needs to be clearer.

Item [17] amends section 56 to clarify that when an agency deals with an objection to information in a disclosure log, it must decide whether the reasons for the objection outweigh the general public interest in including the information.

Items [28] and [30] amend sections 97 and 105 to further clarify that the objector bears the onus of proving that the reasons for the objection outweigh the public interest in including the information in the disclosure log.

I now turn to the meaning of "unreasonable and substantial diversion of an agency's resources".

Item [21] amends section 60 to clarify how an agency may decide what amounts to an unreasonable and substantial diversion of its resources under that provision.

The proposed section 60(3A) is a new provision that provides a non-exhaustive list of considerations an agency may take into account when deciding whether to refuse to deal with an application on the basis of an "unreasonable and substantial diversion" of its resources.

The proposed section 60(3B) requires the diversion of agency resources under section 60(3A) to, on balance, outweigh the strong public interest in disclosure and the demonstrable importance of the information to the applicant.

I now turn to the interaction of the GIPA Act and court processes.

Currently, an agency can refuse an access application if the information requested is already available to the applicant through a subpoena or other court order for the production of documents.

Item [201 amends section 60 to extend the circumstances in which an agency can refuse an access application to include where it reasonably believes the applicant, or someone acting in concert, is a party to current court proceedings and can apply to the court for the information.

This prevents the possibility of using the GIPA Act to circumvent the jurisdiction of the court to control its own processes.

This amendment will not restrict applicants from gathering material which might be relevant to future court proceedings before those proceedings commence.

I now turn to internal reviews involving multiple parties.

The right to seek internal and external review of decisions under the GIPA Act promotes government accountability and transparency. It provides crucial oversight of how agencies disclose and withhold information.

The Report found, however, that existing review processes can be slow, inefficient, and lead to inconsistent outcomes.

At present, two or more potentially competing internal reviews of the same access application could be underway sequentially, creating uncertainty for the parties and duplication of work for agencies.

When multiple parties seek internal reviews of a decision on an access application, item [26] amends section 86 to enable agencies to more efficiently deal with internal reviews concurrently. It does this by providing that the period within which an agency must decide an internal review does not start until the period within which any of those parties may apply for internal review expires.

Encourage inter-agency communication

I now turn to inter-agency consultation

While the GIPA Act does not currently prevent inter-agency consultation in determining access applications, the Review considered this should be made clear.

Item [14] inserts section 54A to explicitly allows an agency to consult with another agency to determine whether an overwhelming public interest against disclosure of information exists.

Consistency in decision-making

I now turn to external reviews by the Information Commissioner.

Item [27] inserts section 92A to introduce a 40 working day timeframe within which the Information Commissioner must complete a review after receiving all necessary information. The review timeframe may be extended on agreement.

This amendment will reduce the potential for delays and provide more certainty around timeframes for applicants.

If the Information Commissioner does not make recommendations within the review timeframe, no recommendations are deemed to be made. In this case, the original agency decision should be taken as upheld, after which the applicant may seek a review by NCAT.

The Information Commissioner must keep agencies and applicants up to date with the review process.

I now turn to third parties who seek reviews.

Item [29] amends section 100 to require third parties to first seek internal review of an agency decision before they can seek review by NCAT.

This change is consistent with a current provision that third parties must seek internal review before review by the Information Commissioner.

In both cases access applicants will continue to retain choice over the forum in which they choose to lodge review applications.

I now turn to external reviews by NCAT.

The extent and application of NCAT's current powers under the GIPA Act to ensure independent oversight and effective review of decisions is, in some cases, unclear.

Items [31] to [33] amends section 110 to clarify NCAT's powers and functions with respect to restraint orders.

The new provisions provide strong judicial oversight to ensure that applicants' access to government information is only restricted with strong justification.

The provisions also promote greater certainty for agencies when managing unmeritorious applications and vexatious applicants.

Item [31] amends section 110 to allow NCAT to order that a person must not make an access application without its prior approval if that person, or someone acting in concert, has made three unmeritorious access applications to agencies in the previous two years.

Item [32] amends section 110 to provide that NCAT may apply certain conditions to such a restraint order, including a specific time period or limiting it to particular agencies.

Item [34] amends section 112 to provide NCAT may, on its own initiative after external review, report an officer of an agency to the Minister for failing to exercise a function under the Act in good faith. If the Minister is a party to the proceedings, NCAT may report the officer to the Information Commissioner instead.

I now turn to conclusive presumptions against disclosure of information.

Schedule 1 of the GIPA Act provides an exhaustive list of information for which a conclusive presumption of overriding public interest against disclosure exists. This list includes Cabinet information and documents affecting law enforcement and public safety.

Item [40] amends clause 2(4) of Schedule 1 to the Act to clarify that a Cabinet document containing a combination of factual and non-factual information falls within the definition of "Cabinet information". It is important Cabinet information be regarded as information for which a presumption against disclosure exists in order to encourage free and frank discussion.

Schedule 1 also protects documents affecting law enforcement and public safety, but only where those documents are created by New South Wales agencies.

Item [44] inserts clause 7(f) of Schedule 1 to the Act to extend protection to such documents which are held by New South Wales but created by corresponding law enforcement agencies in other jurisdictions, including outside Australia.

This will encourage agencies in other jurisdictions to share sensitive or confidential information for the benefit of public safety.

Conclusion

This bill achieves a deft balance between maintaining open access to government information and improving the administrative operation of the GIPA Act for agencies, applicants and third parties.

In achieving this balance, the bill meets the GIPA Act's broader policy objectives.

I commend the bill to the House.

Second Reading Debate

The Hon. ADAM SEARLE (21:28): I lead for the Opposition in debate on the Justice Legislation Amendment Bill (No 3) 2018, which is cognate with the Crimes Legislation Amendment (Victims) Bill 2018 and the Government Information (Public Access) Amendment Bill 2018. The Opposition will not oppose these bills but will move amendments concerning schedule 2 to the Justice Legislation Amendment Bill (No 3) 2018, the provisions relating to the retirement ages of judicial officers and their pensions. We will also move amendments to schedule 1 [6] of the Government Information (Public Access) Amendment Bill.

These three bills are being debated cognately. In the normal course they could and would have been standalone bills because they lack the thematic or linking subject matter that usually instigates the use of the cognate facility. Overwhelmingly, they represent the Government response to statutory reviews and recommendations for legislative amendment, mostly worthy and uncontroversial. For eight years the Government has not had any suggestion of a coherent legislative agenda. Coming to the end of the sitting of this Parliament, before the election scheduled in March next year, the Government appears finally alert to responding to reports and reviews, and the need to do something to the shape of this law in New South Wales.

In trying to deal with this self-created logjam, the Government has stitched together various bills to be debated cognately, even though there is no obvious need for a cognate debate or the usual subject matter nexus. This is the third instance of various bills being dealt with in this way in recent times. Unlike a previous occasion, I will not request that they be voted on separately, but the point is that the Government is misusing this facility; although it is open to it to do so.

The first bill is the Justice Legislation Amendment Bill (No 3). This is stranger than the other bills over recent weeks because it includes a number of measures not within the Attorney General's portfolio. Apart from schedule 2, it has the look of a statute law miscellaneous provisions bill. Within the breadth of these miscellaneous amendments in the bill there are some provisions that should be mentioned. Schedule 1.16 amends the provisions of section 44 of the District Court Act relating to that court's civil jurisdiction, which seems to redress a quite unsatisfactory situation and now allows commercial causes to be within the District Court's jurisdiction. Currently its jurisdiction to hear actions applies to actions which, if brought in the Supreme Court, would have been assigned to the Common Law Division of the Supreme Court as opposed to the other divisions as they stood at 2 February 1998. I will check that date.

The Labor Party Opposition received representations from members of the profession about this problem. They suggested that the Opposition move an amendment to a recent Statute Law (Miscellaneous Provisions) Bill to rectify the problem with section 44. Instead, on 23 October the shadow Attorney General in the other place put a question on notice to the Attorney about the issue and the next day the Attorney moved the second reading, which is the subject matter of this bill. It appears the provision in it deals with that problem. The Opposition agrees with that course of action. We would not support removing those provisions because we understand that some uncertainty in the state of the law has arisen. These changes, as we understand it, retrospectively fix any perceived legal problem, which we think is a good thing. Having uncertainty in the law, particularly involving cases long since run, decided or settled, would not be in the public interest.

Schedule 1.17 provides a useful amendment to the legislation of the Drug Court. It is not that long ago that Parliament supported sensible changes surrounding licence disqualification provisions granting the Local Court power to remove disqualifications in certain cases. The Opposition was happy to support those proposals. The provisions of the bill extend those powers of the Local Court to the Drug Court so that they can be exercised when the final sentence is determined by the Drug Court. That saves transferring the matter to the Local Court for decision. This has virtues of efficiency and sensibly reduces the use of judicial recourses. Additionally, the Drug Court is likely to be in a far better position to assess the circumstances of a particular case.

Schedule 1.18 amends the Crimes Act. It replaces the term "probation and parole officers" with the term "Community Corrections officers" in the definitions of law enforcement officers in section 60AA. That change is also made in other pieces of legislation by this bill. More substantively, it extends the situations in which a sexual assault will be treated as an aggravated sexual assault with the concomitant more serious maximum penalty. The aggravated form will now include cases where the alleged offender threatens to inflict grievous bodily harm or wounding on the alleged victim or any other person who is present or nearby without the current requirement that it be by means of an offensive weapon or implement. Section 1.9 makes interesting amendments to the Crimes (Administration of Sentences) Act.

A new section 8 (2A) and section 8 (2B) provides that an inmate can remain in custody for up to four days after the release date. This is conditional upon there being a good reason to delay the release. The sections provide a lack of transport as one example of a good reason. It is also conditional upon the inmate requesting or consenting to the delay. That is effectively restated in section 8 (2B). Depriving someone of their liberty for longer than ordered is obviously a very serious issue and potentially a breach of fundamental principle. Those issues are attempted to be dealt with by the conditions that are imposed. The bill's explanatory note advises that currently if an inmate's release date is on the weekend or a public holiday, the inmate can request to stay in custody until the day after the weekend or public holiday. Other provisions of schedule 1.9 deal with courts taking action on the breach of a community corrections order or conditional release order, clarification of the period of a supervision order, the revocation of an intensive corrections order, the recording of decisions by the State Parole Authority, and breaches of a reintegration home detention order.

Schedule 1.10 clarifies the stay of the operation of a licence disqualification when an appeal is lodged. Schedule 1.11 provides a limit on a relationship between a defendant and a paid carer being treated as a domestic relationship under the Crimes (Domestic and Personal Violence) Act. Schedule 1.14 deals with situations where sentenced defendants do not properly fulfil undertakings to assist law enforcement authorities despite getting the benefit of a discount for such assistance. Items [1] and [2] of schedule 1.15 enable proceedings for a summary offence to be brought outside the usual six-month limit if the summary offence is a back-up offence to an indictable offence that was withdrawn or dismissed at the time the accused person was found guilty or convicted of the indictable offence and if the conviction for the related indictable offence is later set aside by the District Court on appeal. The proceedings must be commenced within six months after the related indictable offence conviction is set aside on appeal. In his second reading speech, the Attorney in the other place indicated this change applies to only a very narrow set of circumstances.

Schedule 1.15 [4] allows a court to give directions about the giving of expert evidence concurrently or consecutively in criminal proceedings. Schedule 1.15 [5] extends the protection against disclosure that currently exists for sensitive evidence held by a prosecuting authority to sensitive evidence held by a health authority. Schedule 1.24 makes amendments to the Succession Act flowing from the same-sex marriage amendments to the Marriage Act in December 2017. Schedule 3 provides amendments to the Legal Profession Uniform Law Application Act 2014 and the Legal Profession Uniform Regulation 2015. They deal with the solicitor's Mutual Indemnity Fund, which was established in 1987. In 2001, the fund assumed liability for professional negligence claims that would have otherwise been met by HIH, which had of course collapsed.

The fund currently has $88 million with limited likelihood of future claims. An agreement was reached between the Government and the Law Society over this fund. The President of the Law Society, Doug Humphreys, has made clear to the Opposition the society's agreement to the arrangement contained in the bill. It will be shared in equal parts by the Public Purpose Fund and the Law Society, with the Law Society portion subscribing its share in Lawcover Insurance. A Community Legal Services Fund will be held within the Public Purpose Fund as a dedicated source of funds for Community Legal Centres, which will have the divested solicitor's mutual indemnity fund proceeds. The interest from those funds can be reinvested or used to fund Community Legal Centres. Other provisions of schedule 3 also deal with issues about the Public Purpose Fund. An additional trustee will be appointed to the fund with financial and investment expertise.

Schedule 3.2 provides that law firms must calculate statutory deposits based on the minimum balance in their general trust account over the past quarter rather than the past 12 months. This follows the Victorian model and was recommended by the Steering Committee on the New South Wales Public Purpose Fund. It should, and

the Opposition earnestly hopes it will, increase the balance of statutory deposit accounts. It should strengthen the financial position of the Public Purpose Fund, which in turn has significant benefits. The Opposition welcomes this portion of the bill. We are happy to be known as supporters of Community Legal Centres. Those measures are positive and important to underwriting the work done by those Community Legal Centres, which is valuable to the operation of our legal system but, more importantly, to the efforts to create a fairer and more equal society by providing legal services to those who cannot afford to purchase them commercially.

Schedule 2 to the bill deals with amendments relating to the retirement age of judicial officers. This is the controversial aspect of the legislation. This provides amendments to various pieces of legislation and increases the maximum retirement age for judges, magistrates, the Director of Public Prosecutions and the Solicitor General. The maximum retirement age is proposed to be increased from 72 to 75 years of age. Acting judges and magistrates will be able to be appointed up to the age of 78 rather than the age of 77. At present, judicial officers can access their pensions after 10 years of service, but judges will be able to access their pensions now at age 65 not age 60, provided they have served for 10 years. Importantly, this change applies to judges appointed only after those amendments commence;—that is, it is not retrospective and the pension provision does not apply to current judicial officers. However, the prospective change to the pension age from 60 to 65 will create two classes of judges serving side by side in the same courts. As a matter of principle that is highly problematic and I understand there is great unease in the profession and among the judiciary about this aspect of the legislation.

I understand that in its original iteration it was proposed that these provisions would operate retrospectively—that is, to any judicial officer currently serving, who at the time of appointment would have been able to retire at age 60 after 10 years service. To have that condition retrospectively changed would have been highly problematic because any retrospective change to what could be described as the conditions under which judges perform their important public functions, or their remuneration, would be contrary to principle and a transgression on the separation of powers and interference in the independence of the judiciary. There are potential problems in the Constitution Act in relation to that.

Leaving aside the Constitution Act it would be inappropriate to unilaterally increase the pension age for those who have accepted appointment on a different set of conditions. The impact of these changes in this bill, however, is that any judicial officer who might have had to retire at age 72, and was perhaps short of the magic 10 years for qualifying for a pension, if this bill is enacted, will now be able to consent to serve longer and qualify for those additional benefits. Judicial officers who will benefit from these provisions will no doubt welcome it.

As a matter of principle, the Opposition is concerned that these changes, unlike the pension age changes, will have a retrospective rather than just a prospective impact—that is, they will apply to current judicial officers rather than just to those appointed after these provisions come into effect. It can only apply to them with their consent but, given that the changes will be beneficial, it may be inferred that most of those who will be able to retire later will do so if, in so doing, it provides them access to benefits that they will not currently be able to obtain.

Changes to the conditions of judges should not be retrospective and they should apply only to new appointments. While these clearly apply to those judicial officers who consent to it, who opt in, frankly that is not good enough. There is either a principle against making retrospective changes to the conditions under which judges perform their duties or there is not. It is wrong to say retrospectivity is okay if it is beneficial. That simply makes the judiciary appear self-serving and will tend to discredit it in the eyes of the wider community. I say to the House, the judiciary and all those concerned with the independence of the judiciary, the separation of powers, and in upholding the rule of law: if they allow retrospective changes to judicial benefits, they are accepting that at some future point a government or a Parliament can make retrospective changes to judges that are detrimental. Just as the Parliament can give judges something they did not have at the time of their appointment, it is able and entitled to take from judges conditions they did enjoy at the time of their appointment.

I pause to say that these would be within the limits permitted by the Constitution Act and, in particular section 55, which the Attorney in the Legislative Assembly mentioned in his address-in-reply which I will not address now. I will deal with it in the Committee stage because it deals with competing legal views about the breadth of section 55 and whether things are permitted. I am not saying this is desirable—it is not—but once the principle of retrospectivity is conceded there is no longer any principle to defend. We are accepting that whatever changes can get through Parliament are permissible. What would stop the next Parliament, for example, removing retrospectively the same benefits that are now being conferred? Again, it depends on one's view of the operation and breadth of section 55. I do not share the Attorney's understanding of the operation of section 55 and neither do a lot of legal people. The issue is that until it is tested in a court we will not know what the law is. This is not a matter that should be tested inside a court because the courts will be hopelessly compromised on this issue because it concerns their conditions of work.

This Government and this Parliament should not erode the independence of the judiciary in the way it is no doubt unintentionally doing. The idea of making the new and later retirement age retrospective did not come from the wider community. Nor, I think, did it originate with the Government originally, or the legal profession. It is disturbing that senior members of the profession are suggesting that it was conceived of and promoted by senior elements in the judiciary, some of whom will benefit directly and profoundly by these changes. This is troubling and it tends to make the judiciary appear self-serving and will tend to diminish and discredit it in the eyes of the wider community. This is not in the public interest, is not desirable and—perhaps because we on this side of the Chamber have not been privy to the genesis or the development of these proposals—may be doing the judiciary a grave disservice.

The Government needs to come clean with the Parliament and the community about who put this on the table, who pursued it, and why is it being done, because the stated reasons simply do not add up. The stated reasons are that there are senior and experienced judges from whose service the State should continue benefitting. That will always be the case, whether the retirement age is 72 or 75. Undoubtedly some judicial officers are able to make a positive contribution beyond the current retirement age. That is clear from the number of judges aged over 72 who continue as acting judges—they can continue to act as a judge well beyond the retirement age of 72.

However, what is also clear is that as we, collectively, age we decline both physically and in mental acuity. While this occurs at different rates for different persons, over time it does happen to all of us. While we need to retain the expertise developed in the judiciary, we also need to ensure there is proper and regular renewal of the judiciary, not only to ensure there is a mixture of experience and freshness of approach but also to ensure that the judiciary—the third arm of our Government—remains contemporary and continues to grow more diverse in life experience, cultural and social backgrounds, and gender. In short, this is so the judiciary becomes more reflective of and relevant to the society it serves. This is not some matter of political correctness. Judges exercise enormous power. They apply the law. They also interpret it.

In many situations the law, or its application to given facts, is not clear. If it were otherwise, we would not need lawyers or courts to resolve legal disputes. We can see in the outcome of many cases that reasonable legal minds can differ as to the appropriate outcome, even when they follow the same legal reasoning process. There is also in many areas of legal decision-making a wide discretion reposed in the judiciary. The way that discretion is exercised is informed not merely by professional training and experience but also by life experience and legal philosophy.

It matters who the judges are and it matters that there is sufficient and regular renewal to ensure the judiciary is able to properly serve the community. Without intending any disrespect to any individual, this proposal will amount to a preservation order on older, white men. Some judges may want to keep working longer, some may be in a position where, by working as a judicial officer for a couple of years longer, they qualify for a judicial pension when otherwise they would not. The problem with encouraging current judges, as opposed to future judicial appointments, to remain in office until a later age is that it entrenches the serious lack of diversity exhibited by the present judiciary and the majority of appointments.

The shadow Attorney, the member for Liverpool in the Legislative Assembly, quoted extensively from statements made by the former President of the Bar Association, Arthur Moses, SC. The comments he made on this matter are apposite. I will not quote all of the matters outlined by the shadow Attorney. I will selectively quote. The first is: While the Association welcomes these changes in principle, any legislative reform in this space must be prospective, not retrospective, to maintain the independence of the bench, including the appearance of the independence of the judiciary which is fundamental to the rule of law. Retrospective legislation of any kind creates uncertainty, inconsistency and may also impact upon the appearance of the independence of the judiciary. Varying the retirement age of judges retrospectively inevitably impacts upon the appearance of judicial independence because there may be some judges who benefit from the changes who have a personal desire to remain in office longer or access additional benefits which they were not entitled to at the time of their appointment. The quote continues:

> The Association also opposes retrospectivity because it may set a dangerous precedent for any future government to attempt to alter the conditions of appointment of judges to their detriment in a retrospective manner. While any such step may be Constitutional, the Association would not wish to see any precedent set that may encourage any future governments to do this. We must be careful to learn from the recent attempt by the Polish Government to reduce the retirement age of judges in an attempt to purge the judiciary. Increasing the retirement age with retrospective effect may operate to preserve the composition of a judiciary, the diversity of which lags behind community expectations.

Speaking about the need to facilitate the bench reflecting the community it serves, Mr Moses said:

> It has only been in recent times because of the changing demographics of the legal profession that as a result of retirements more women have been appointed to the NSW Supreme Court. I would like to see that trend continue, as well as appointments of lawyers from diverse backgrounds. The risk in making these changes retrospective is that the current demographic of the bench is preserved

> for many more years and renewal of the composition of the judiciary is unacceptably delayed. A judiciary that reflects the community it serves better enhances public confidence in the administration of justice, including respect for the rule of law.

These concerns are entirely legitimate. The Opposition shares them and accordingly will move amendments to the bill that reflect this position. I now turn to the second of these purportedly cognate bills: the Crimes Legislation Amendment (Victims) Bill. It proposes amendments to the Children (Criminal Proceedings) Act, the Crimes (Domestic And Personal Violence) Act, the Crimes (Sentencing Procedure) Act, the Crimes (Sentencing Procedure) Regulation and the Criminal Procedure Act.

The provisions in this bill include changes to the Children's Court procedure when a person is charged with child sexual assault. These are provided in a new section 3AA of the Children (Criminal Proceedings) Act. If the prosecution requests that a matter be dealt with according to law rather than finalised summarily in the Children's Court, the court can decide to conduct a committal hearing. The prosecution's case is to be dealt with by written statements and the possibilities for witnesses to give oral statements are limited. The request does not have to be made at the first return date, although if it is made later than that, the court must be satisfied that it is in the interests of justice to proceed. The Children's Court retains the capacity to determine that such matters should be disposed of summarily.

The provisions in relation to the giving of evidence restrict the number of times complainants in child sexual abuse proceedings in the Children's Court are required to give oral evidence compared to the current regime. These matters, as noted by the Attorney General in his second reading speech, were subject to commentary and recommendations in the report of the Royal Commission into Institutional Responses to Child Sexual Abuse.

Schedule 2 alters provisions in the Crimes (Domestic and Personal Violence) Act relating to protections for children aged 16 and 17 years. Schedules 3 and 4 amend the Crimes (Sentencing Procedure) Act in relation to victim impact statements. As the Attorney General noted in his second reading speech, many of the provisions relating to victim impact statements stem from a report from the NSW Sentencing Council dated March 2018 entitled "Victims' involvement in sentencing".

The current division 2, part 3 of the Crimes (Sentencing Procedures) Act dealing with victim impact statements would be replaced by the provisions of this bill. The meaning of a primary victim's "immediate family" will be expanded to include a step-grandparent or step-grandchild of the victim and, in relation to an Aboriginal or Torres Strait Islander victim, a person who is or has been part of the close family or kin of the victim according to the kinship system of the victim's culture. The definition of the "primary victim's family" in section 26 extends to anyone regarded by the prosecutor as part of the victim's extended family or culturally recognised family of whom the victim was considered family.

The types of offences in relation to which victims can give a statement are expanded to include offences that are indecent or sexual in nature or involve a violation of privacy. This includes voyeurism or distributing intimate images without consent. Victims will be able to make statements in relation to so-called "form 1 offences" that are taken into account when an offender is sentenced for a principal offence that presently technically cannot happen and seems unnecessarily artificial. The types of harm specified in the statute as able to be raised in a victim impact statement are expanded so that a broader and more complete picture of the harm sustained is understood.

New section 30 consolidates and clarifies provisions about who may assist a victim during the victim impact statement process. Resulting from recommendations of the NSW Sentencing Council and the statutory review of the Crimes (Sentencing Procedure) Amendment (Family Member Victim Impact Statement) Act tabled in August this year, the proposed amendments would strengthen provisions about the drawing of inferences about the absence of a victim's impact statement.

New section 30F deals with restrictions on the consideration of victim impact statements that are not strictly in accordance with the provisions of the legislation. New section 30G provides a statutory basis for the current practice of a copy of a victim impact statement being provided to the offender's lawyer. In practical terms this can avoid cross-examination of a victim, with objections resolved before the statement is presented. The bill includes restrictions about access to and dissemination of statements. New subdivision 4 intends to expand to all victims provisions such as support persons while a statement is read and, where possible, special arrangements such as closed-circuit television.

Schedule 5 to this second of the three cognate bills amends the Criminal Procedure Act. The Attorney General presents this as an attempt to expand and harmonise some of the available legislative protections to categories of witnesses who may be regarded as vulnerable. These categories include complainants and tendency witnesses in criminal proceedings for prescribed sexual offences; child complainants, witnesses and accused persons under 18 years; complainants or witnesses with a cognitive impairment; and domestic violence complainants.

Schedule 5, item [4] extends the category of witnesses in committal proceedings that can only be directed to attend and give oral evidence if there are special reasons to sexual offence witnesses in prescribed sexual offence matters—often as tendency witnesses—and the witnesses who are vulnerable witnesses, defined as those under 16 years of age or those who are cognitively impaired. Protections available to complainants in matters referred to in sections 83 and 84 of the principal Act are extended to complainants in similar types of Commonwealth offences.

I turn now to the third of these cognate bills, the Government Information (Public Access) Amendment Bill. The object of the bill is to amend the Government Information (Public Access) Act to give effect to recommendations made in the statutory review that was tabled in August 2017. With barely any sitting days left, the Government has got around to this bill a year after the review report was tabled. The report acknowledged that section 130 of the Government Information (Public Access) Act required the Minister to review the Act of 2009 and that the review was to be undertaken as soon as possible. The Act was assented to on 26 June 2009. Advertisements for the review were published in July 2014 and closed in August. In the other place the shadow Attorney has comprehensively detailed the delays.

The bill implements recommendation 3 of the statutory review, which means that agencies can accept access applications electronically without prior permission of the Information Commissioner. It is hard to see why in contemporary New South Wales we should not be able to lodge applications electronically. This bill takes a step forward by allowing agencies to accept such applications without the Information Commissioner's consent. However, it is left to the discretion of the agencies. The statutory review on this issue made recommendations that have resulted in this bill, but the review notes that an agency may currently, if it chooses and with the approval of the Information Commissioner, receive access applications electronically.

The obvious conclusion to draw from the Government's own review and those passages of the review quoted by the shadow Attorney in the other place would be to compel all agencies to accept applications electronically. That raises the question of why in this day and age, and in light of this commentary in the review, New South Wales government agencies should be able to refuse to accept applications electronically. But that is the position provided for in this bill. The reason for this bizarre and apparently contradictory attitude becomes clear in paragraph 5.5 of the report, which states:

> We appreciate that some agencies have concerns that allowing electronic lodgement may result in a substantial increase in the number of applications being made, the processing of which may result in adverse effects on agency resources. While we acknowledge this concern, we consider that an amendment to section 41 to allow, but not compel, agencies to accept electronically lodged access applications will mitigate against this. We also note that the object of the GIPA Act is to encourage open government information; greater numbers of access applications from members of the public would, in fact, further that object.

The appalling truth that emerges from this review is stark: Agencies and this Government do not want agencies to be compelled to accept access applications electronically because there simply may be too many of them. It seems that the Government is not so much into freedom of information as freedom from information. So much for open government; it is semi-closed government in New South Wales under this Government.

Labor will move amendments to provide that agencies must accept access applications electronically. The choice should and will be that of the applicant, not of the public sector agency. There are amendments dealing with disclosure logs. In particular, review recommendation 2 is adopted in schedule 1, items [28] and [30] so that on a review of a decision to include information in a disclosure log, the onus is on the objector to establish that the objector's reasons outweigh the public interest in disclosure.

Schedule 1 [16] adopts another of the review's technical recommendations set out in the appendix which is said to align the Government Information (Public Access) Act with the Privacy and Personal Information Protection Act and the Health Records and Information Privacy Act. Schedule 1 [14] adopts recommendation 5, authorising agencies to consult with each other to reach a decision on whether an overriding public interest against disclosure exists. Schedule 1 [21] amends section 60AA of the Act in a manner generally consistent with recommendation 7. In deciding whether an access application would require an unreasonable and substantial diversion of the agency's resources, the agency may take into account various considerations, including the agency's size and resources. New section 60 (3B) provides that such considerations must outweigh the general public interest in favour of disclosure, as well as the demonstrable importance of the information to the applicant.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): 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. ADAM SEARLE: Schedule 1 [15] deals with another technical recommendation that amends section 55 (5) of the Government Information (Public Access) Act. Presently the principal Act allows an agency to require an applicant "to provide proof of his or her identity". The proposed amendment is to qualify this by

saying they must be "reasonable steps". The technical amendment in the appendix recommended that agencies should have discretion to require an applicant to prove their identity but should be applied flexibly to vulnerable clients.

Schedule 1 [20] makes an addition to section 60 to allow an agency to reject an application if the applicant or someone acting in concert with them is involved in current court proceedings and is able to apply for access through that mechanism, which reflects recommendation 8 of the statutory review. Schedule 1 [18] expands the enumerated cases where an agency can decide information is already available to an applicant in line with a technical recommendation in the review. Section 86 is amended to clarify the timing of the review period for an internal review. Schedule 1 [27] implements recommendation 12. There have been concerns about considerable delays in the Information Commissioner completing external reviews. The new provision provides the Information Commissioner must complete the review within 40 working days of receiving all the information they think is necessary. The period may be extended by agreement with the applicant for review.

If no recommendations are made within the review period then the commission is deemed not to have made any recommendation, which allows an application to be made to the NSW Civil and Administrative Tribunal [NCAT]. It has similarities to the deemed refusal provisions concerning development applications in the planning system. The obvious problem seems to be that the only person who knows that the 40-day provision commences is the Information Commissioner. The office of the commissioner are the only ones who know what information they have and only they can form a view as to what they consider necessary to complete the review.

These provisions come from what can only be termed chronic delays in the offices of the Information Commissioner. The failure to adequately carry out reviews under the Government Information (Public Access) Act 2009 in a timely manner is corrosive of the principles that the Government Information (Public Access) Act is meant to enshrine. Paragraph 7.24 of the statutory review records that a significant number of submissions to the review raised concerns about the operation of the Information Commissioner's external reviews. The review said that it was not the fault of the legislation and "it appears they stem from practical and historical difficulties with the operation of the review function within the Information and Privacy Commission [IPC], which have created backlogs of review applications".

Schedule 1 [29] implements recommendation 13 in relation to third parties having to seek internal reviews before proceeding to NCAT. Items [31] to [33] of schedule 1 give NCAT the power to issue restraint orders, which seems to be the Government Information (Public Access) Act version of provisions to deal with vexatious litigants, and which the Opposition hopes will be used sparingly. New section 112 allows a report to the Information Commissioner where the Minister is a party. Labor is not sure what sort of sanction that is supposed to be, but it is certainly meant to deal with the situation where the Minister is involved in the litigation. That provision was contained in recommendation 15.

The shadow Attorney drew the attention of the other place to the judgement of NCAT in the case of *Salmon v Corrective Services NSW* [2016] NSWCATAD 257. Paragraph 82 of that judgement is particularly apposite to this point. If one officer fails to act in good faith, there is a sanction of reporting. If it is a systemic issue then it is a different problem. No referral under section 112 was made in Salmon's case. In that case, the officer concerned gave evidence that as a matter of course the agency, Corrective Services, did not accept IPC recommendations. The judgement at paragraph 39 states:

> She also gave evidence that she would not change her view on the basis of a recommendation because it would mean contradicting the view expressed by a more senior officer of the Respondent.

That is because a more senior officer than she had made a decision that she would under no circumstances follow an IPC recommendation. That sort of approach is self-evidently disgraceful, but because it reflects the attitude within the organisation it is not the bad faith conduct of an officer and cannot be referred anywhere or drawn to anyone's attention. That shows a far more serious and corrosive undermining of the principles of the Government Information (Public Access) Act and is much more damaging for good government than an individual case of officer bad faith, but nothing can be done. In short, it is too big and too serious a problem to actually have action follow.

There are a number of provisions dealing with issues concerning public interest considerations against disclosure. Schedule 1 [40], which implements recommendation 16, perhaps restricts some circumstances in which Cabinet information provisions can be used to deny access. Part 2, division 1, section 7 of the Government Information (Public Access) Act currently provides for non-disclosure of law enforcement and public safety information. Schedule 1 [44] now extends this to information created by a law enforcement agency in another jurisdiction, including one from outside Australia. A number of other technical amendments encompassed by recommendation 19 are included in items [41], [54] and [55] of schedule 1. There are also a range of other

technical amendments. The Opposition will not oppose the cognate bills, but will move the amendments I have outlined in my second reading contribution.

Reverend the Hon. FRED NILE (22:05): On behalf of the Christian Democratic Party, I am pleased to speak in support of these three cognate bills that are sponsored by the Attorney General, the Hon. Mark Speakman. We thank him and his staff for the briefings we have had at our regular Tuesday morning briefings and for the offer of a personal briefing to me and to the Hon. Paul Green on these bills, which gave us the opportunity to ask questions and to clarify some matters about which we needed further information. These three cognate bills are the Justice Legislation Amendment Bill (No 3) 2018, the Government Information (Public Access) Amendment Bill 2018 and the Crimes Legislation Amendment (Victims) Bill 2018. It is normal practice by both sides of politics, whether Liberal or Labor, to have what is called a miscellaneous amendments bill. This reduces the time of Parliament because each of the minor matters is not dealt with as a separate bill; they are combined into a miscellaneous amendment bill.

The Justice Legislation Amendment Bill is part of a justice cluster miscellaneous amendments bill, which is typically introduced into Parliament each session as part of the Government's regular legislative review and monitoring program. Relevant schedules to the bill were subject to consultation with the Local Court, the District Court, the Supreme Court, the Children's Court, the Law Society of New South Wales, the New South Wales Bar Association, the Office of the Director of Public Prosecutions, Legal Aid NSW, Public Defenders, Victims Services, the NSW Police Service and Corrective Services NSW. The majority of amendments in this bill are technical in nature. I will refer to only two or three items that particularly concern our party. There are 13 items in this bill.

One item we are pleased to support amends the Bail Act 2013 to ensure that where an accused person commits a serious indictable offence while on bail or parole it will be a show cause offence regardless of whether the person's bail or parole was granted under a law of New South Wales or in another jurisdiction. This bill also amends the Crimes Act 1900 to insert a new circumstance of aggravation for an offence of aggravated sexual assault if a person threatens to inflict grievous bodily harm or wounding. The bill also amends the Criminal Procedure Act to extend existing sensitive evidence provisions to sensitive evidence held by a health authority. It also amends the Children (Detention Centres) Act 1987 to make a centre manager of a juvenile detention centre subject to the direction and control of the Secretary of the Department of Justice and to enable a centre manager to delegate their functions subject to that direction and control.

Further, the bill amends the Local Court Act 2007 to increase the jurisdictional limit of the Local Court Small Claims Division from $10,000 to $20,000. The bill also amends a number of Acts to increase the maximum retirement age for New South Wales judges and magistrates from 72 to 75 years and to allow acting New South Wales judges and magistrates to serve as acting judicial officers up to age of 78, up from 77. These amendments will enable judges to access their pension at 65, instead of 60 years. The increase in retirement age and access to pension age will apply also to future directors of public prosecutions and solicitors general. I know some members have reservations about this increase in the maximum retirement age, but we see it as a practical benefit to ensure that the wisdom and experience of these judges can continue to be used in our courts.

The Government Information (Public Access) Amendment Bill 2018 amends the Government Information Public Access Act 2009 to implement recommendations made in the report of the statutory review of the Government Information (Public Access) Act 2009, known as the GIPA Act, and the Government Information (Information Commissioner) Act 2009. The report concluded that the policy objectives of the GIPA Act remain valid and that its provisions operate well to achieve those objectives. The report made 19 recommendations to improve the operation of the GIPA Act. I will refer to some of the proposed recommendations.

The bill includes a range of technical amendments giving effect to the recommendations of the report. The most significant ones will be to provide that agencies may require applicants to take reasonable steps to provide proof of their personal identity. This will now allow, for example, vulnerable applicants to access their personal information more easily. It will also enable agencies to more efficiently deal with internal reviews concurrently when multiple parties seek internal reviews of a decision on an access application. In such a case the period within which an agency must decide an internal review does not start until the period within which any of those parties may apply for an internal review expires.

The bill also will introduce a 40-working day time frame within which the Information Commissioner must complete a review of a decision not to release information, after receiving all necessary information. The bill will clarify that a Cabinet document containing a combination of factual and non-factual information falls within the definition of "Cabinet information". Finally, this bill extends the presumption that there is an overriding public interest against the disclosure of information contained in public safety documents created by a New South Wales law enforcement and to documents created by law enforcement agencies in other jurisdictions, including outside Australia.

The third cognate bill, the Crimes Legislation Amendment (Victims) Bill 2018, implements a package of reforms to improve the experience of victims and vulnerable witnesses in the criminal justice system. This is the most important area in our criminal justice system and we are pleased to see these reforms enacted in this legislation. The reforms include two key components: increasing victims' involvement in sentencing; and improving protections for vulnerable witnesses to give evidence in certain proceedings. Currently, a sentencing court may receive and consider a victim impact statement made by a primary or family victim of certain offences as prescribed by legislation to advise the court of the harm suffered by that victim.

The bill also implements recommendations from the Sentencing Council's report on victims' involvement in sentencing and the statutory review of the Crimes (Sentencing Procedure) Amendment (Family Member Victim Impact Statement) Act 2014 to extend the range of offences for which these victim impact statements can be made and the content that can be included, and to clarify the persons who may make those victim impact statements where a primary is unable to do so—for example, carers.

The Christian Democratic Party is pleased to see this improvement for members of the public where they have a right to be involved and can contribute, especially those who are victims when they make their victim impact statements. Legislative protections are currently available to certain vulnerable witnesses in court proceedings including children under 16, people with impaired sight and sexual assault and domestic violence complainants in certain circumstances, such as access to support persons and giving evidence in a closed court or via recording. Those provisions will assist vulnerable witnesses to participate in court proceedings, and obviously their victim statements will have an impact on the judge and the decisions made in that whole procedure.

The amendments to the Criminal Procedure Act 1986 and the Crimes (Domestic and Personal Violence) Act 2007 include amendments to expand and harmonise protections available to vulnerable witnesses giving evidence in criminal proceedings or proceedings for an apprehended violence order. These amendments include ensuring domestic violence complainants in criminal proceedings, for example, complainants and witnesses in certain sexual offence proceedings and children under the age of 18 in criminal and apprehended violence order [AVO] proceedings, have access to support persons. This is a most important development in our justice system. This bill will enable children under 18 involved in AVO proceedings to give evidence in a closed court. There are a number of other positive measures in the legislation that we are pleased to support. We commend these three cognate bills to the House and we fully support them.

Mr DAVID SHOEBRIDGE (22:16): On behalf of The Greens I will do my best in the next 20 minutes to speak to three complex pieces of legislation: the Justice Legislation Amendment Bill (No 3) 2018, the Crimes Legislation Amendment (Victims) Bill 2018 and the Government Information (Public Access) Amendment Bill 2018. The bills are being treated as cognate bills. I note there is little if anything that joins the three bills together, other than they all come from the same Minister and the Justice Cluster. Dealing first with the Justice Legislation Amendment Bill (No 3), this bill makes a number of amendments, some minor and some more consequential, to justice-related legislation.

I will not deal with each and every one of them but I note and largely endorse the contributions made by the Leader of the Opposition in the House on some of the detail. I will address specifically matters in the content of the bill. Among other things the bill amends the Crimes Act 1900 to insert a new circumstance of aggravation for an offence of aggravated sexual assault if a person threatens to inflict grievous bodily harm or wounding. The Greens support that amendment. Often in circumstances of aggravation, the appropriate response is an aggravating factor to be taken into account on sentencing. The bill makes a series of amendments to the Criminal Procedure Act and the Children (Detention Centres) Act 1987, which I will not dwell upon.

The bill also amends the Local Court Act 2007 to increase the jurisdictional limit of the Local Court Small Claims Division from $10,000 to $20,000. Sometimes changes are made and they just slip through as though they are relatively modest changes. We should be aware of the fact that when we make changes to the Small Claims Division of the Local Court, we are making changes that will affect a greater number of people than when we make serious changes to the Supreme Court. The Local Court deals with some 50 per cent of all civil and criminal claims in New South Wales, perhaps more.

A very large proportion of the claims that are heard in the local court are for $5,000 or less. The Greens believe it makes sense to expand the jurisdiction of the Small Claims Division because it allows for a rapid, low-cost resolution of small civil claims. It is also a tried-and-true process. In circumstances where far too often the legal costs for a dispute overwhelm the substance of the disputed issue, having an expanded role for the Local Court Small Claims Division is eminently sensible.

The bill also amends the Legal Profession Uniform Law Application Act 2014 and the Legal Profession Uniform Law Application Regulation 2015 to dissolve the Solicitors Mutual Indemnity Fund and invest its assets in the Public Purpose Fund and the Law Society of New South Wales in equal shares; to enable the appointment

of an additional Public Purpose Fund trustee with specialist investment expertise; and to alter the basis upon which law practices are required to make statutory deposits from their general trust accounts. This will make it more regular, on a quarterly rather than an annual basis.

Whilst The Greens do not oppose these amendments, it should be the obligation of this Parliament to look more carefully at what has been happening to the Public Purpose Fund over the last few decades, in particular, the withdrawal of funds from the Public Purpose Funds for things such as the Law Foundation and other essential bodies that have been stripped of funds over the past decade in order to provide a greater amount of discretionary funds to Legal Aid. However, The Greens never oppose additional funds to Legal Aid. We believe Legal Aid should be funded out of general revenue, rather than continuing to raid the Public Purpose Fund to the extent that it does.

One of the changes to the Children (Detention Centres) Act 1987 provides that the State Parole Authority and the Children's Court will no longer be able to determine the period of supervision of a parole order. Instead, these will be determined by regulations. The Greens were initially concerned that this may lead to non-discretionary parole periods and potentially extended periods of supervision. We sought further advice from the office of the Attorney General, and I was very grateful that they responded not only in a timely fashion but also in a substantiative fashion. We were advised that the reoffending literature—in particular the risk, need and responsivity principles by Andrews and Bonta of 2006—shows that requiring offenders to continue to be supervised by extended periods where supervision is no longer necessary, can increase an offender's risk and diverts resources away from offenders who actually need supervision to address their risks of reoffending. That research shows that interventions that target low-risk offenders and their non-criminogenic needs using non-behavioural therapeutic approaches were associated with an increase in recidivism.

The proposed Children (Detention Centres) Regulations will prescribe a series of maximum periods of parole supervision for juvenile offenders: three years for juvenile offenders who are sentenced to imprisonment by the adult courts, who served their prison terms in juvenile detention and are released on juvenile parole orders; and two years for juvenile offenders who are sentenced to control orders by the Children's Court. I note that control orders have a maximum term of two years, so the amendment has no practical effect on those offenders. Currently the District and Supreme courts can order lengthy periods—that is, longer than three-year supervision periods—when making parole orders for juveniles being dealt with in accordance with law. Having had those matters explained to us, we are happy to support these amendments.

Something that has caused very significant concern, and significant concern also amongst the legal profession, is the series of amendments to a number of Acts to increase the maximum retirement age for New South Wales judges and magistrates from 72 to 75 years, as well as allowing acting New South Wales judges and magistrates to serve as acting judicial officers up to the age of 78—up from 77. Those amendments will enable judges to access their pensions at 65 years, instead of 60. An increased retirement age and access to pension age will apply also to future directors of public prosecutions and solicitors general. The Greens are on record as supporting an increase in the retirement age for judicial officers to 72 years of age. These days we tend to have a healthier, longer living and more productive population. The Greens also support the changes to increase the retirement ages of future directors of public prosecutions and solicitors general.

However, we are concerned about the retrospective increase, on an opt-in basis, for members of the judiciary who have already been appointed. My office has received quite significant submissions from more than one person in the legal profession, but specifically from the New South Wales Bar Association, that increasing the retirement age for existing sitting judicial members is going to significantly delay the necessary generational change that the judiciary needs to undergo. It is a trite observation that the vast majority of judges at the moment tend to be older white men. Only 25 per cent of the Supreme Court bench and 25 per cent of the District Court bench are female judges and, so far as I understand it, the other 75 per cent are overwhelmingly white men. But there is greater diversity in the Local Court, where 45 percent of the judiciary are women. I repeat, 75 per cent of the bench of the Supreme and District courts are overwhelmingly older white males.

There is no question that we are blessed to have an extraordinarily professional, independently minded and highly regarded judiciary. I cast no aspersions as to their quality, competence and capacity as judges, but for the judiciary to retain the confidence of the people of New South Wales it needs to reflect the diversity of the people of New South Wales. This is going to require a significant number of the current judges to move on and be replaced by women, by people from non-English-speaking backgrounds and, hopefully, by a greater proportion of First Nations people to cause a fundamental change in the judiciary. Allowing existing judicial members to opt in for another two years will delay that necessary change. We do not understand why the Government has proceeded with this quite controversial change so late in the parliamentary calendar. The Greens have a series of amendments, which I think are mirrored by the Opposition's amendments, to remove that retrospective increase

in the judicial retirement age for the current crop of judges. We will deal with some of the alleged constitutional issues about that tomorrow in Committee.

The Crimes Legislation Amendment (Victims) Bill 2018 makes a series of amendments, some relatively complex, to criminal procedures and certain domestic and personal violence provisions in New South Wales law. The Greens do not oppose any of those changes. The bill amends the Children (Criminal Procedures) Act 1978 to establish a new procedure to be adopted by the Children's Court for the purpose of deciding whether proceedings in which a person is charged with a child sexual assault offence should be dealt with on indictment when the prosecution requests that the proceedings be dealt with, and minimises the circumstances in which a complainant or other witness can be called to give oral evidence in proceedings before the Children's Court. Preventing witnesses from having to be interrogated more than once when giving oral evidence is just plain good, and The Greens support it.

The bill amends the Crimes (Domestic and Personal Violence) Act 2007 by requiring proceedings or parts of proceedings related to apprehended violence orders to be closed to the public if a child aged 16 or 17 years is involved—whether as a witness, as the defendant or as the person protected by the order—unless the court hearing the proceedings directs otherwise. It also requires proceedings in relation to an application for a final apprehended violence order or an interim court order to be closed to the public if the defendant is under 18 years of age. It amends provisions of the Crimes (Sentencing Procedure) Act 1999 relating to the preparation and reading of victim impact statements. It also amends the Crimes (Procedure) Regulation 2017 to make certain consequential amendments based on the Crimes (Sentencing Procedure) Act 1999 amendments.

Lastly, the bill amends the Criminal Procedure Act 1986 to extend the protections available to certain witnesses. Often one hears discourse about criminal law, particularly from law reform organisations, the New South Wales Bar Association, the Law Society of New South Wales and quite often The Greens, which are focused upon the rights of defendants. Indeed, this needs to be central to any of our considerations about the criminal justice system. When there is the might of the State on one side and individuals on the other, we need to ensure that we do not lose that golden thread and we protect the rights of defendants.

But I believe it is equally important to protect witnesses and complainants. The bill does that by extending protections that complainants in sexual offence proceedings have when giving evidence so that they apply also to victims of female genital mutilation. Of course the law should do that, and it will when this bill is passed. It extends the category of complainants who are protected from being directed to attend and give oral evidence at committal proceedings for sexual offences or offences involving violence to include complainants under certain Commonwealth offences. I have said before, particularly in relation to complainants in sexual offence proceedings, that we must ensure those complainants are not brutalised further and unnecessarily by the system through being brought before committal proceedings, cross-examined and interrogated only to then return and have the same thing visited upon them at the final hearing. This bill will make those changes, and we support it.

The bill also extends the protections that complainants in retrials and subsequent trials of sexual offence proceedings have so that they apply to sexual offence witnesses—also known as tendency witnesses—in those proceedings and to witnesses who have a cognitive impairment or who are under 18. It extends the right to have a support person present when giving evidence to young persons, witnesses with a cognitive impairment and complainants in criminal proceedings for domestic violence offences. Court can be a deeply hostile environment for these people—young people, people with a cognitive impairment and complainants in domestic violence offences. Having a support person there whilst they are giving evidence and participating in the proceedings can often be essential.

Lastly, the bill allows for a record of the original evidence of sexual offence witnesses and vulnerable witnesses to be admitted in a retrial or subsequent trial with respect to prescribed sexual offence proceedings. Again, it avoids having those vulnerable witnesses brought back and interrogated, often at enormous personal cost, in a second hearing in relation to those offences. We support all those amendments, and that bill.

The Government Information (Public Access) Amendment Bill 2018 makes a number of amendments to the operation of the Government Information (Public Access) Act—or GIPA Act—scheme following a statutory review. I will not deal with all those amendments, but I will deal with those that we have some concern with. We have concerns that the changes will further expand the definition of Cabinet information to "clarify", in the words of the Government, that a document containing a combination of factual and non-factual information falls within the definition of "Cabinet information". From our extensive experience—and I am sure that of any long-suffering citizen, whether they are a member of the Opposition, the crossbench or the general public—trying to hold the Government to account using the GIPA process is—

The Hon. Walt Secord: Impossible.

Mr DAVID SHOEBRIDGE: I note the interjection. If not impossible, we can state categorically that the current use of Cabinet exclusion from the GIPA Act is already extraordinarily far reaching and goes well beyond what is reasonably necessary to protect the function of Cabinet as a place where free debate can occur. We strongly oppose expanding this exclusion from public scrutiny as proposed in the bill. The Greens have amendments that seek to reverse this. If documents contain factual matters—maybe it is a survey or a response from bureaucrats—those matters are then caught up in a broader document that not only deals with the factual matters but also makes a certain series of opinions or references to those matters and the documents are taken to Cabinet. The thought that that core factual material would be protected under GIPA from disclosure to the public we believe is offensive. It is offensive to the concept of open government and offensive to the principles of the GIPA Act. We will deal with that in more detail in Committee tomorrow.

We have asked for clarification of who supported this change, given every person I have spoken to who uses the scheme recognises that Cabinet information is already vastly overprotected. We have asked where those proposed changes come from. Is there a big section of the public who wants to have less access to government information? I appreciate that we had a frank exchange with the Minister's office, when we were advised that the proposal to expand the definition of "Cabinet information" to protect a greater class of information from disclosure was only supported by government agencies. We cannot have government agencies hiding further material from the people of New South Wales. That is why The Greens will introduce amendments.

We also have concerns about the proposed overriding public interest against disclosure of information contained in what are defined as "public safety documents" created by law enforcement agencies in other jurisdictions, including outside Australia, and in particular that this might be used to exclude information that should properly be the subject of public scrutiny, such as materials provided to meetings in which New South Wales police participate and discuss subjects such as gun law reform and the like. We are troubled by those changes and will be interested to hear what the Parliamentary Secretary says in reply.

I foreshadow that The Greens will also move an amendment to clarify when the calculation of the reduction in processing charges applies under the GIPA Act. This will insert a new clause requiring the decision about whether to award a 50 per cent reduction in the processing charge under section 65 or section 66 to be made on the information applied for at the point when any advance deposit is required. The intention is to make it clear that the person paying an advance deposit will know the likely final cost of the application and be able to consider this when deciding to pay the advance deposit. When applicants make a GIPA application they often assert that there is a public interest involved, which can entitle them to a 50 per cent reduction. It may be that the initial cost for the GIPA application is assessed at $1,000 and an applicant may not be willing to pay $1,000 but they may be willing to pay $500. Therefore, they make a public interest request and seek the 50 per cent deduction.

A series of agencies are adopting the approach that they will not determine the public interest matter until after they have done the search, obtained the documents and received the 50 per cent deposit up-front. This means that the applicant has to gamble on whether they will get the 50 per cent reduction, and it means that in many cases people are pressured inappropriately into reducing the scope of their application or withdrawing it entirely. This determination should be made up-front on the information requested, not on the information found. I have had to contest this matter at both first instance and on appeal, and unfortunately the law is against us. We need to fix the law. We will be moving those amendments in the Committee stage. With those concerns, we note the bills.

Debate adjourned.

Adjournment Debate

ADJOURNMENT

The Hon. NIALL BLAIR: I move:

That this House do now adjourn.

AUSTRALIAN POPULATION GROWTH

The Hon. SCOTT FARLOW (22:37): When I was a kid, I used to reflect on a book called *The World Factbook* and look at the population of every country around the world. I used to note the population density per capita. Growing up in Homebush, which has a very strong Sri Lankan community, I would always remark on the similarity between the populations of Australia and Sri Lanka, which at that time were both at around the 18 million mark. Today the Australian population stands at 25 million, while our brethren in Sri Lanka are at only a notch over 20 million. In all those years what has happened? We have seen the population in Australia grow significantly.

Some 28 per cent of people in our nation were born overseas. We are the world's most successful multicultural country—and long may we remain so. If we look at some of our brethren in the English speaking

world, we see that in Canada 22 per cent of people were born overseas, in the United Kingdom the figure is 13 per cent, and the United States it is 14 per cent. Australia's population grew by 1.6 per cent in 2017, while Canada experienced growth of 1.2 per cent; the United Kingdom, 0.6 per cent; and the United States, 0.7 per cent. Australia's population has grown so significantly that we are more than double the Organisation for Economic Co-operation and Development average for population growth. Only New Zealand, Luxembourg and Israel are higher in terms of population growth in the OECD.

We now find that Australia's infrastructure has not been able to keep up with our population growth. A key factor is where our population is centred. Sixty-seven per cent of our population is centred around capital cities, 23 per cent in other urban centres and 10 per cent in rural communities across Australia. Australia can grow, but it must grow in the right way and that is what we are grappling with at the moment. I commend the work of the Premier, Gladys Berejiklian, in pushing for Australia and New South Wales, in particular, to have a seat at the table to voice our concerns about Australia's population density, its population growth and returning our population growth to the level it was in the Howard era.

In recent years, population growth in New South Wales has exceeded 100,000 per year. During the Howard era it was only 45,000. I commend the Prime Minister, Scott Morrison, for last night calling for the States to bring forward their population plans to the Council of Australian Governments meeting. I commend him for saying:

> I believe that it is likely to end up in revising down the permanent migration cap in Australia. That would be my expectation.

It is not that Australia should not grow, because indeed it should. But it must grow in a way that can be maintained. When we look at how our population should grow, we must be mindful of the industries that are supported by temporary population growth. The education of international students is our nation's third largest export. We must ensure that when we are considering future population growth we take into account international student numbers and the work that our universities and higher education institutions do to encourage increased international student participation.

Australia needs to grow, but it must grow in the right way and in the right places. We must look at growth in our rural and regional communities to ensure that the pressures of growth are not borne by communities disproportionately and unfairly. That is part of this good debate we are having now. I am glad that members from all sides of politics are engaging in this debate in a respectful way and are looking at what we can do in the future to ensure that New South Wales remains number one and not only that Australia continues to have uninterrupted economic growth and is bigger and better but also that it works for us all.

UNIVERSITY OF SYDNEY STUDENT BULLYING

The Hon. GREG DONNELLY (22:42): Members may recall I gave an adjournment speech on 20 June this year outlining the appalling behaviour of some members and supporters of the University of Sydney Students' Representative Council Women's Collective that was specifically directed at intimidating, harassing, disrupting and bullying students associated with LifeChoice Sydney, a University of Sydney Union affiliated club during O-Week on Friday 2 March 2018. For anyone doubting the sheer bastardry of those who planned, initiated and then disrupted the LifeChoice Sydney O-Week stall, I invite them to view the video clip on Facebook that I cited in my adjournment speech on 20 June. As I also outlined in that speech, the whole shameful act played out over several hours in the full gaze of everybody, including campus security, which saw fit, in the main, to stand aside from the incident and watch it play out.

On 13 March Vice-Chancellor Dr Michael Spence, AC, and indeed the university received statements of complaint from two people exposed to the appalling behaviour while attending the LifeChoice stall on 2 March. On 19 March I wrote to the vice-chancellor, detailing the incident. I wrote to him again on 16 May and 14 June. I have to say the responses to my correspondence from the vice-chancellor were, in my view, perfunctory and underwhelming, given the gravity of the matter being complained about. The correspondence confirmed that the matter would be investigated and, if required, disciplinary action would be taken in accordance with university policy.

As the matter dragged on into July, August and September—more than six months after the incident—I wrote to the Chancellor, Ms Belinda Hutchinson, AM, and members of the university senate expressing my dismay at their tardiness in dealing with the matter. Further responses from the acting vice-chancellor and the chancellor explained that the investigation was ongoing, that it had been thorough and that it was affording procedural fairness to all the students involved. The two individuals who submitted their complaints to the university vice-chancellor on 13 March 2018 were sent correspondence by email on 10 September from Mr Peter Spoic, Manager of the Student Affairs Unit at the University of Sydney. The letter is titled "Outcome of the Investigation". In particular, I draw the attention of the House to paragraph four of the letter, which states:

> I am now able to confirm that an extensive investigation was undertaken by Workdynamic Australia on behalf of the University and has been completed. Additionally, the Acting Registrar has finalised his determination and has directed outcomes to the relevant participants involved. The details surrounding the individual students remains confidential to comply with policy and legislative privacy principles.

On 3 October I received a letter from the chancellor. In the penultimate paragraph, in words that would make the scriptwriter of *Yes Minister* proud, it states:

> The complainants ... were formally advised of the outcome on 10 September 2018. Relevant details of the investigation and outcome in relation to the respondent were not provided to the complainants, as those details remain confidential.

Yes, that reads correctly. The complainants have been informed of the outcome but the relevant details of the outcome were not provided to the complainants because they remain confidential. Quaintly, the letter concludes:

> Thank you for your taking such a keen interest in this matter. I trust all parties are now satisfied with this outcome.

So there we have it—justice University of Sydney style! It is an absolute disgrace. The two complainants who were subjected to the vilest of intimidation, harassment, disruption and bullying were simply told that the matter has been investigated and that the acting registrar has finalised his determination and directed the outcome to the relevant participants involved, but the details surrounding the individual students remain confidential to comply with policy and legislative privacy principles.

There is no apology from the perpetrators and no undertaking or promise by them that their actions will not be repeated at the 2019 O-Week or at any other time in the future. There was also no apology from the university for failing to exercise its duty of care to its students. If the matter were not so serious the University of Sydney response would be treated as an administrative error. Without doubt, this is one of the worst examples of whitewashing an incident that I have ever seen. It remains to be seen whether the chancellor, the vice-chancellor and the University of Sydney will treat this matter with the seriousness it deserves and resolve it as justice demands. As I said in my previous adjournment speech to the House, justice delayed is justice denied. We are fast approaching the nine-month mark since the incident, and the attitude of the chancellor, vice-chancellor and the University of Sydney seems to be, "All good. Nothing to see here. Please move along." The time has well passed since this matter should have been dealt with properly and resolved.

CHRISTIAN DEMOCRATIC PARTY PERFORMANCE

The Hon. PAUL GREEN (22:46): I speak on the achievements that I have helped secure in the Shoalhaven region during my time in Parliament since 2011. I have worked to see the upgrade of the Princes Highway, including the completion of stage two from Gerringong to Berry, and I was excited to attend the opening of the Berry bypass. I was able to secure completion of stage three from Berry to Bomaderry. I welcome the commitment from the New South Wales and Australian governments to stage four of the Princes Highway upgrade, which includes the construction of the third new bridge over the Shoalhaven River. The bridge is currently in the planning stages and I have been staying in close contact with many locals as we work together to ensure that we achieve the best outcome for residents of the South Coast, not the second-best outcome. We must ensure that the new reconfiguration of the existing concrete bridge helps improve traffic flows and eases congestion for at least the next 30 years.

Being a South Coast local, a former Shoalhaven mayor and former nurse, I welcome the announcement of $403 million to redevelop the Shoalhaven District Memorial Hospital. During my time in Parliament, I have worked to hold this Government to account to ensure that Shoalhaven hospital does not miss out on much-needed funding to help meet the needs of this growing community. I was delighted to have the Minister for Health attend a forum that I organised with doctors and stakeholders. I thank God he listened. I have petitioned the Government on multiple occasions about the issues affecting the Shoalhaven hospital, such as waiting times experienced at the emergency department. I welcome this funding announcement as it will allow the hospital to be better placed to serve the community.

In mid last year I attended the Shoalhaven City Turf Club for the announcement of $500,000 in funding, which was made available through the Liquor & Gaming NSW ClubGrants infrastructure funding. This has aided upgrades to the facilities, including a new lift and a new patio that overlooks the racetrack, allowing it to continue to serve the South Coast community. I am also proud to have been a part of the establishment of the Shoalhaven Cancer Care Centre, the region's first cancer care centre, which now has a second linear accelerator. This is revolutionary for local residents and means that long travel is no longer necessary for patients undergoing cancer treatment, which helps them to maintain compliance with the treatment.

It is my hope that when I am re-elected I can continue to work hard for the people of the South Coast, and of New South Wales. It is my plan to work to see secure, reliable and affordable energy for homes and businesses alike in New South Wales. I want to ensure that energy prices are affordable and energy supply is reliable. It is my plan to see more staff on the front line—nurses, doctors and paramedics need to be supported.

Further, my plan to continue to care for those at either end of their lifespan must be protected and supported. This includes protecting the rights of the unborn, support for new and expecting mums, support for palliative care while opposing euthanasia, ensuring those at end-of-life are supported and have dignity, and working to stamp out elder abuse.

I plan to continue to fight for high-quality education for kids in New South Wales, supporting school chaplains and keeping scripture in school, supporting families that homeschool and opposing Safe Schools programs that promote gender fluidity. I plan to work towards a sustainable and affordable water supply for residents, ensuring that water is accessible and affordable, and promoting better measures to droughtproof New South Wales. On top of all that, I will continue to fight to keep Christian values for future generations, as it is on these values that this country was built and I believe they still have a place in New South Wales. This includes fighting for the recognition of freedom of conscience and freedom of religion as recognised in the Anti-Discrimination Amendment (Religious Freedoms) Bill 2018, introduced by my colleague. I am committed to continuing to work to ensure that families and rights of workers are strongly represented and that the impacts of proposed laws always seek to build a stronger, safer society for all who live in the great State of New South Wales.

I thank this Parliament and wish members, friends and all those who serve us at the pleasure of the President a happy Christmas and a restful break with their families, friends and loved ones. I look forward to working with my colleagues for a better New South Wales in 2019 and beyond.

BALLINA ELECTORATE INFRASTRUCTURE

The Hon. BEN FRANKLIN (22:52): Tonight I give my final speech in this Chamber and in this parliamentary term. It only seems like a moment ago when I walked into this place, after serving seven fulfilling years as State Director of The Nationals. Surprisingly, the parliamentary experience was not at all what I expected, but it is one for which I will be forever grateful. I am grateful for the incredible dedication of the parliamentary staff—the Clerks and the attendants, the chefs and the cleaners, the police and the wonderful men and women of Hansard, and everyone else who makes this place run. I think many of us could learn from their unfailing good humour, their professionalism and their sense of public service. To them, I say thank you.

I am grateful to those staff who have worked in my office with me—Tony Sarks, Steph Sulway, Elliott Johnson and the wonderful and inimitable Jemima Buckman. I cannot fully express how deeply I appreciate their assistance and support. I would have achieved far less in this job without you all. I also pay tribute to the new generation at The Nationals head office. We are so lucky to have leaders like Nathan Quigley and Ross Cadell and Tom Aubert in our party. I thank them for all they have done and will do over the months ahead. I am deeply grateful to the entire head office team for everything they do.

We often talk in this place about the uniqueness and value that exists in our committee system, where we can reach across party lines to achieve genuine and lasting reform. And it is true. I will always be proud of the work I have done on the various inquiries upon which I have served—particularly when we were able to achieve a broad multi-party consensus, as we did with reparations for the Stolen Generations and in developing a new and modern framework in electoral law. But of course those committees have highlighted another great thing about this place: We can develop genuine friendships and firm associations based on civility and mutual respect. I will be forever thankful to Scott, Penny, Justin, Robert, Taylor, Courtney, Paul, Adam, Natasha and so many others for allowing me to do just that. I thank you, Mr President, the Deputy President and the Leader of the Government. You ensure that this bubbling cauldron of 42 unique and oversized egos does not overheat and explode too often. I am very grateful to each of you.

And, finally, thanks to my own band of brothers and sisters: The Nationals team in this place, led by my friend and confidante Niall Blair. Niall, you were kind enough to state in your inaugural speech that when the history of the National Party was written, I would have a significant place in it. So now I return the compliment. When the history of New South Wales is set down, your extraordinary record of reform will be given the recognition it deserves. It is an honour serving by your side. But Mr President, after my election in 2015 the thing that surprised me most actually had nothing to do with this Parliament or the people in it. The thing that shocked me was that I fell in love with my community. This stunning part of New South Wales and those who call it home deserve a strong advocate—someone who will stand up for them, doggedly fight for them and can actually deliver outcomes for them. And I am so proud of what I have been able to achieve over the past 3½ years.

These achievements range from supporting our battered and sodden towns through last year's flood, to working hand in hand with our community on the Shark Management Strategy; from stopping the sale of public land at Suffolk Park to getting funding for the Byron Writers' Festival Storyboard Bus, which takes children's authors into schools and inspires a new generation with a love of reading and writing; from securing the funding—the critical dollars—to deliver the big projects like Ballina's Indoor Sports Stadium or the new Coastal Pathway

or vital projects for the Byron Youth Service, right down to the small ones such as the start-up music festival in Lennox Head, getting a back fence for the Hope Haven women and children's refuge or refurbishing the halls at Tintenbar and Wardell.

But I know that as the official representative of my community, as the member for Ballina, I will be able to do so much more. I am running for the seat of Ballina because my community deserves better than what they have. They deserve a member who is passionate and strong and fearless—someone who will kick down the doors on Macquarie Street to get the support his community needs; someone who has a proven record of achievement and who cares, who turns up and who can deliver. Mr President I love this place, but I love my community more. If I have the honour of being elected on 23 March 2019 I guarantee I will never let them down.

RACE DISCRIMINATION COMMISSIONER CHIN TAN APPOINTMENT

The Hon. SHAOQUETT MOSELMANE (22:56): I congratulate Mr Chin Tan on his appointment as the Race Discrimination Commissioner. Mr Tan brings to the role a richness of experience as a well-known and recognised leader in the multicultural community, particularly through his role as the Director of Multicultural Engagement at Swinburne University and former chairperson and Commissioner of the Victorian Multicultural Commission. We also know he had a crack at politics but was unsuccessful in the Liberal Party preselection for the State seat of Bennettswood in 1999.

Mr Tan's appointment by the Morrison Government follows five years service by Dr Tim Soutphommasane in the role. Dr Soutphommasane used his platform to advocate fiercely and independently for racial equality and combat racial discrimination. He vocally defended the integrity of the Racial Discrimination Act and campaigned strongly against proposed changes to section 18C of the Act. He spoke out without fear or favour, despite the criticism he received—usually from hard conservatives. The role of the Race Discrimination Commissioner is non-partisan and legally mandated to highlight racial issues in Australian society and engage in various forms of public advocacy.

Since taking on the role, Mr Tan has indicated that he does not intend to be as outspoken as his predecessor in calling out racism. His inclination not to proactively comment or advocate on issues of race perhaps defies the purpose of his role: to promote public understanding and acceptance of the Racial Discrimination Act. The Race Discrimination Commissioner should be able and willing to speak up for those who experience discrimination and defend racial equality. So far in the role, Mr Tan has demonstrated his more passive, back-seat approach on the pressing issues of race discrimination, and his willingness to shy away from public debate. We saw most recently in relation to the "It's OK to be white" debacle that, despite releasing a statement condemning the inflammatory motion, Mr Tan was reluctant to express a personal view at the public hearing in Canberra, stating his concern for all forms of racism but claiming it was "too early in his tenure to place any particular emphasis on specifics".

Prior to his appointment, there had been considerable discussion regarding whether the role of Race Discrimination Commissioner is even needed in modern Australian society. There were calls to leave the position vacant, with Liberal-aligned think tank the Institute of Public Affairs describing the role as merely a "divisive political advocacy position with no substantive function". Australia is considered to be much more equitable and fair compared to other nations and certainly race has no place in our multicultural society. However, incidents of racism in Australia are hardly rare or isolated. To declare that Australia is racism-free and deny the existence of racism is to deny the real experiences of many Indigenous and ethnic minority Australians who have been subjected to discrimination, prejudice and intolerance.

We should never be complacent in defending the rights of Australians of culturally and linguistically diverse communities. Equality and fairness should never be taken for granted. The belief that the role of Race Discrimination Commissioner serves no function and promotes division is deeply misguided and out of touch with the experience of many Australians. In the words of the former Race Discrimination Commissioner himself:

> Those who don't experience racism find it easy to say there's no need for public efforts to combat it. Unfortunately racism does harm to too many people. In 2017, 20% of Australians say they experienced discrimination during the past 12 months.

Given that he has held the position for just over a month, I am willing to give the commissioner the benefit of the doubt that he would not act as a mere mouthpiece for the hardline conservatives who believe the Australian Human Rights Commission is incompatible with liberal democracy and who pushed so hard to have section 18C of the Racial Discrimination Act amended. I call for respect for the legislated independence of the role. It is not a political position and should not be used to propagate liberal-right ideals. To remain idle on the issue of race would be destructive to what the role stands for. The Race Discrimination Commissioner should not be afraid to attract controversy if it means standing up against racial discrimination. He should not be afraid to engage in polemical debate and speak out for minority groups, even if it means going against the views of extreme conservatives—[*Time expired.*]

SHOOTERS, FISHERS AND FARMERS PARTY ACHIEVEMENTS

The Hon. ROBERT BORSAK (23:01): Tonight I speak about the ongoing achievements the Shooters, Fishers and Farmers [SFF] Party has made not only in 2018 but also in the past three years leading up to what has so far been a great year for the party. The SFF does not work in cycles. We take the long view; we think about the future and about how we can break the hamster wheel that the major parties are ceaselessly spinning. The growth of the SFF is because of our way of thinking, our planning and ultimately our actions. We stand by our word and we walk the walk.

As I have said many times in this place, our guiding philosophy is freedom: the protection of our freedoms, our rights and our culture. For another year, this Government has allowed us to exercise our ethos and rally our constituents in fighting against the Government for their freedom. Lazy lock-outs and brash bans, unwarranted council amalgamations and unpaid compensation claims—is there any grubby behaviour the Government has not dabbled in for the past four years?

In October 2016, when my colleague Phil Donato in the other place won the electorate of Orange, we heard the first rumblings of discontent in regional and rural New South Wales. Even the biggest swing in New South Wales political history was too subtle a sign for this Government and it continued along its arrogant path, locking up our bush, our oceans and our nightclubs and banning everything else in its way.

The emotionally charged and impulsive decision to shut down the entire greyhound racing industry should have been the first and last decision made under those circumstances. But not for this Government: Science simply could not stand up to the pressure from inner-city Greens, who demanded that New South Wales fishos—all 900 000 of them—be locked out of some of the best fishing spots in New South Wales just to appease the Sydney elitists on the North Shore and eastern suburbs. The Stop the Lockout rally, when thousands of fishos young and old marched on this place, was proof you cannot fool them. You cannot take their freedom without repercussions. And just like high school bullies, the Government backed down—all talk and no action.

The taxi industry is another example of a group suffering at the hands of this Government's inaction. It did nothing to stop Uber illegally operating in this State for five years and is doing nothing again as the lives of thousands of New South Wales cabbies are ruined financially and emotionally. Why is it that when this Government wants to make a buck, it always pulls it out of the bush? Farmers were milked excessive amounts on their registration while the Government tried to hide it. We now find out from the Auditor-General's report that all of regional New South Wales has been short-changed at least $2.5 billion dollars from the Restart NSW fund by this sneaky Government. Why? So that it can rebuild two perfectly functioning stadiums here in Sydney.

Together with the ill-fated greyhound ban, the Government's bid to reduce costs in the bush through local council amalgamations ended up costing it valuable bush votes in 2017 when this Parliament was blessed with the election of Philip Donato as the new member for Orange. Phil Donato has put the electorate of Orange firmly back on the Government's radar. After 70 or so years of neglect, the electorate is starting to get its fair share of the pot. One thing is for sure: Had the Nationals retained the electorate, things would have continued as before and nothing would have changed. We see this in the electorate of Murray with Nationals member Austin Evans—all talk and no action. No-one in government gives him the time of day.

Government members are so disconnected from reality, it is frankly astonishing. They just do not get it. They still cannot choose a candidate for the electorate of Orange for the simple reason that nobody wants to put their hand up. I hope that the former Nationals candidate, Yvette Quinn, was not coerced into stepping aside, as has been reported and spoken about. I am sure that this will all come out sooner or later. There is only one motivation driving The Nationals: Win at all costs and it does not matter whom you hurt in the process or how many lies you tell. This Liberal-Nationals Government really should enter the Olympic gymnastics team because it is becoming quite adept at backflipping. Like a used car salesman trying to sell an overpriced and dodgy car, nobody is buying.

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

Motion agreed to.

The House adjourned at 23:07 until Wednesday 21 November 2018 at 11:00.