

TERRORISM LEGISLATION AMENDMENT (POLICE POWERS AND PAROLE) BILL 2017*First Reading*

Bill introduced on motion by Ms Gladys Berejiklian, read a first time and printed.

Second Reading

Ms GLADYS BEREJKLIAN (Willoughby—Premier) (10:32): I move:

That this bill be now read a second time.

I acknowledge my parliamentary colleagues the Minister for Police, the Attorney General, and the Minister for Counter Terrorism and Minister for Corrections for their support in crafting this critical legislation. Australia will never forget the tragedy that unfolded in Martin Place on 15 and 16 December 2014. The Lindt cafe siege brought the evil and violence of terrorism to the heart of Sydney, just minutes from this Chamber. Tragically, when the siege ended, only 16 of the 18 hostages had escaped alive. We continue to mourn the loss of Tori Johnson and Katrina Dawson—Australians with friends and families who loved them and who had full lives ahead of them. The hostages had their lives scarred for no reason other than that they happened to be there at that time on that day. In circumstances that most of us can barely imagine, they showed incredible resolve and bravery.

We again pay tribute to the courage of the police who responded to a complex and difficult situation. The officers that day went in not knowing whether they would come home alive.

Their actions reinforce our determination to equip the Commissioner of Police with the powers police need to combat terrorism. The events at the Lindt cafe siege are foremost in our minds today. So too are the attacks in Melbourne and the attacks around the world over the past 12 months. Unfortunately, such attacks are becoming all too frequent. Time and again we have seen that terrorists are evolving their methods; becoming bolder and more self-sufficient. These global events are powerful reminders that we can never be complacent in New South Wales or indeed across Australia. As a Government, the safety and security of the community is always of utmost priority. This bill will ensure that New South Wales will continue to have not only the strongest counterterrorism laws in Australia but also some of the strongest laws anywhere in the world.

First and foremost, the bill responds to the key recommendations of the State Coroner's report on the Lindt cafe siege released on 24 May 2017. As members will recall, on 8 June 2017 this Government announced that it had accepted and supported all of the Coroner's 45 recommendations. It also committed to immediately legislate to provide certainty to New South Wales police when required to use force, including lethal force, during terrorist incidents. While police do have existing powers to use force where the public is in danger, the Coroner's report found that there was some doubt among officers about the legal position they were in during the Lindt cafe siege. To remove that uncertainty, the bill allows the Commissioner of Police to authorise the use of force, including lethal force, that is reasonably necessary to defend anyone threatened by a terrorist incident or to secure the release of hostages where planned and coordinated police action is required. Police officers who use force in these circumstances will not incur criminal liability where they act in good faith.

The bill does not affect existing police powers to respond to emergency situations or to apprehend offenders. In addition to amending the law on the use of force, the bill also further strengthens New South Wales parole laws by creating a presumption against parole for anyone with demonstrated support for or links to terrorism. That presumption will apply to offenders with links to terrorism, irrespective of the offence for which they are in custody. These changes build on the Government's announcement in May 2017 that radicalisation would now be considered as part of parole decisions in New South Wales. The leadership of New South Wales on this issue was

recognised at the recent Council of Australian Governments meeting in Hobart, where first Ministers agreed to adopt our approach as part of a coordinated national response. It is a reminder that when it comes to policing and security, New South Wales is setting the standard for Australia; it is a standard we intend to maintain. Since the Lindt cafe siege, the Government and the NSW Police Force have taken comprehensive action to respond to the changing security environment, moving to strengthen the legal frameworks behind counterterrorism, including tightening bail laws and reforming firearms regulation. This legislation is the next step in that ongoing response.

I now turn to the detail of the bill. This bill seeks to amend the Terrorism (Police Powers) Act 2002 and the Crimes (Administration of Sentences) Act 1999. The Terrorism (Police Powers) Act 2002 affords the NSW Police Force special powers to manage terrorism threats as they emerge. As it stands, the legislation permits certain special powers to be conferred on police to prevent a terrorist attack, and other powers to be enlivened for the purposes of an investigation in the immediate aftermath of an attack. This bill clarifies the ability of police officers to use force, including lethal force, in terrorist situations. The amendments to the Terrorism (Police Powers) Act 2002 are set out in schedule 1 to the bill. Schedule 1 inserts new part 2AAA into that Act. New section 24A makes provision for the Commissioner of Police to make a declaration if satisfied that an incident police are responding to is or is likely to be a terrorist act; and planned and coordinated police action is required to defend people threatened by the terrorist act or to terminate their unlawful deprivation of liberty.

New section 24A also establishes the procedures by which the powers are to be activated. It requires that the commissioner notify the police officer in charge of the officers responding that a declaration has been made. The commissioner must also notify the Minister for Police before or as soon as practicable after a declaration is made. Where the commissioner is not available, a deputy commissioner can make a declaration. The commissioner must revoke the declaration if no further police response is required at the location of concern. New section 24B relates to the use of force by those police responding to a declared terrorist act. Where a declaration is made, the police action authorised by this section in responding to the terrorist act is the authorisation, direction or use of force, including lethal force, that is reasonably necessary, in the circumstances as the police officer perceives them, to defend persons threatened by the incident or to prevent or terminate their unlawful deprivation of liberty.

Police officers taking that action will not incur criminal liability where they act for the purposes of a police action plan and in good faith. It should be noted that police officers that act in good faith in reliance on the commissioner's declaration are also to be protected from criminal liability even if that declaration is later found to have been invalid or is revoked in circumstances where the officer, acting reasonably, is unaware of the revocation. As I stated previously, the bill does not affect existing police powers to respond to emergency situations or to apprehend offenders. The parole changes amend the Crimes (Administration of Sentences) Act 1999 to insert a new division 3A in part 6 of the Act, and are set out in schedule 2 to the bill.

New section 159B establishes that the new provisions apply to offenders with links to terrorism or violent extremism. This includes those serving a sentence for terrorism offences and those who have previously been convicted of, or charged with, terrorism offences. It also extends to offenders subject to a control order made under part 5.3 of the Commonwealth Criminal Code, being those who have advocated or supported terrorist acts, and those who have associations or affiliations with supporters of terrorist acts or violent extremism. Under new section 159C, the State Parole Authority must not make a parole order for a terrorism offender unless satisfied that the offender will not engage in, or incite or assist others to engage in, terrorist acts or violent extremism.

In making such a determination, new section 159D requires the parole authority to have regard to any credible information it has on the risk that the offender may engage in, or incite or assist others to engage in, terrorist acts or violent extremism under the terms of the proposed

parole order and in the future, and have regard in particular to whether the nature of any associations or affiliation that the offender has with any persons or groups advocating support for terrorist acts or violent extremism gives rise to any such risk. The amendments also introduce new powers to revoke or suspend parole orders for terrorism offenders if the State Parole Authority becomes aware that the offender may engage in, or incite or assist others to engage in, terrorist acts or violent extremism. By clarifying the powers available to the police commissioner to use lethal force when responding to terrorist acts, and strengthening parole laws to keep potential terrorists off the street, this bill protects communities across our State.

With these new measures, New South Wales will have the strongest counterterrorism laws in Australia, and some of the strongest anywhere in the world. On this occasion I especially thank the police commissioner for his invaluable insights and advice. I have been speaking to him directly since the Coroner handed down this report. I also especially thank the Attorney General, the Minister for Police who is in the Chamber, and the Minister for Counter Terrorism, and Minister for Corrections, for their insights, support and work in getting this legislation to Parliament in a timely fashion. I thank all members of the House for allowing us to suspend standing orders in order to introduce this legislation. I appreciate the Opposition supporting this request—for good reason—and I imagine that all members of this House would strongly support this vital piece of legislation.