

## BUDGET ESTIMATES 2017-2018

### QUESTIONS ON NOTICE - PREMIER

#### 1. QUESTION

The Hon. ADAM SEARLE: You mentioned the package you announced on Sunday. What is the total value of that package?

Ms GLADYS BEREJIKLIAN: It is in the hundreds of millions. Some parts of it are able to be accessed through the Climate Change Fund because some aspects of the proposals—for example, those relating to small businesses being able to have up to 50 per cent upgrade of their appliances or households being able to get discounts on their appliances when they upgrade—can be attributed to the Climate Change Fund. Other parts of the package cannot be. For example, the 20 per cent increase in rebates per annum that we are providing to vulnerable households, including low-income working households or welfare recipients, seniors and anybody on the current rebates, the additional cost of those is, I believe, around \$55 million, which is from outside the Climate Change Fund. My secretary might have more details on the total package in relation to parts of it coming out of the Climate Change Fund.

The Hon. ADAM SEARLE: Perhaps I can assist, is it the \$257 million in Budget Paper No. 3, page 8-18?

Ms GLADYS BEREJIKLIAN: No, this is new.

The Hon. ADAM SEARLE: Totally new?

Ms GLADYS BEREJIKLIAN: Correct. The Hon. ADAM SEARLE: Apart from the \$55 million you say is coming from the Climate Change Fund—

Ms GLADYS BEREJIKLIAN: No, the \$55 million is the part that is not from the Climate Change Fund, because you cannot have rebates from the Climate Change Fund. You need to use the Climate Change Fund for purposes which support better use of energy.

The Hon. ADAM SEARLE: Can you please provide us with the total figure and where the money comes from?

Ms GLADYS BEREJIKLIAN: Sure.

Mr COMLEY: I do not have the total figure in front of me.

The Hon. ADAM SEARLE: You can take it on notice

#### ANSWER:

1. In the Budget the Government committed to spend \$257 m on rebates, since that time the NSW Government has announced an additional energy affordability package. This package included a \$55.2 million annual increase to energy rebates, from new funding. This additional funding will increase existing rebates by 20 per cent. It will provide around 900,000 consumers with immediate relief from increasing energy bills.

The Government is also using \$112.5 million of the Climate Change Fund for energy efficiency programs to help households and small businesses save energy and money. Programs include offering concession card holders discounts to upgrade their household appliances to more energy efficient models, and providing energy management training to businesses.

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#### 2. QUESTION

The Hon. ADAM SEARLE: In 2015 your predecessor Mike Baird visited people in the local community at Williamstown suffering from contamination. He promised \$4 million so all those living inside the red zone would be connected to town water. Two years on, there are still many properties not connected to town water and many of those people have elevated levels of perfluorooctane sulfonate [PFOS] chemicals in their blood. As a matter of urgency, will you call in Hunter Water to ensure that all those who should be connected to town water are? Will you also tell the Committee how much of the \$4 million has been spent and why two years on this process has not been completed?

Ms GLADYS BEREJIKLIAN: I remember former Premier Baird spoke to his colleagues about his visit and how much he was impacted by it. Our Government took proactive action at the time. I do not know how much of that money has been expended to date. I will refer to my secretary if he has any such information. I am happy to take that on notice. I do not have the information in front of me.

#### ANSWER:

2. In September 2016, the Department of Defence announced it would take responsibility for costs associated with the program. I am advised Hunter Water expects to have all connections to be completed by the end of December 2017.

#### 3. QUESTION

Mr JEREMY BUCKINGHAM: In its submission on the proposal to build the world's largest waste incinerator in Western Sydney, NSW Health, Western Sydney Local Health District, said:

The proposal to build and operate an incinerator within city limits is not consistent with over 100 years of environmental regulation to improve urban air quality by removing incinerators and power stations and other sources of pollutants from urban areas.

Premier, do you agree with the submission of NSW Health?

Ms GLADYS BEREJIKLIAN: Mr Buckingham, I appreciate that you have just stepped in but I was asked similar questions by Mr Searle, and I will respond accordingly. I have heard the concerns from the community and from my parliamentary colleagues who represent those communities. I have also heard about the submissions of various agencies, including NSW Health. An assessment of that proposal is currently underway. If the assessment process finds that that proposal should not go ahead, all well and good; if there is a different finding, the Government will then consider its options. But there is a process going ahead at the moment and that process is considering all those submissions, including the submission of NSW Health.

I have to say that I empathise with those concerns. I appreciate that if a proposal like that was coming to a particular community that people would have concerns about it. I have been encouraging, and so have my colleagues, everybody to make their views known and to make submissions. I have also personally met with some community organisations to discuss their concerns. This is going through the proper assessment process and once that process is complete we will have the answer. The Government will then consider its position depending on that answer.

Mr JEREMY BUCKINGHAM: What do you mean by that, Premier, in terms of "consider its position"? If it gets an approval, it gets an approval.

Ms GLADYS BEREJIKLIAN: I do not want to delve in the hypotheticals at this stage.

Mr JEREMY BUCKINGHAM: But you know this is not hypotheticals; you said that the Government will consider its options if the proposal is approved by the Planning Assessment Commission. What are the options that you would consider?

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Ms GLADYS BEREJIKLIAN: I do not want to pre-empt a decision, but I will certainly wait until we hear what the result is of those assessments. I do not want to pre-empt and speak about hypotheticals at this stage.

Mr JEREMY BUCKINGHAM: But have you not just done that? Have you not just said that if there is an approval you may consider an alternative range of options?

Ms GLADYS BEREJIKLIAN: Again without getting into hypotheticals, often if proposals are either accepted or rejected there are reasons given either way. So I cannot pre-empt either way what those reasons or what those conditions might be, but it goes to the heart of your question because, no matter what the outcome, presumably there will be a list of reasons and the Government will consider that at the appropriate time. But I cannot pre-empt what the likely outcome will be of that.

Mr JEREMY BUCKINGHAM: I know you cannot pre-empt that, but what you have just said on the record here is that if there is an approval you "may intervene in the process".

Ms GLADYS BEREJIKLIAN: There will not be a process by then.

Mr JEREMY BUCKINGHAM: How could the Government intervene in the process after an approval?

Ms GLADYS BEREJIKLIAN: I do not want to get into the ins and outs of what might happen, but I will say this: I am a firm believer that governments are elected to do what is in the best interests of the community and we always consider our options when it comes to issues which we know the community feels strongly about.

Mr JEREMY BUCKINGHAM: How else does the Government do that around planning issues? Where else has the Government done that where there has been a Planning Assessment Commission approval of a project?

Ms GLADYS BEREJIKLIAN: I cannot answer that question; I do not know. I will have to take that on notice.

#### **ANSWER:**

**3.** The PAC is independently assessing the matter on its merits. The Government is monitoring the PAC's deliberations on this matter, and is cognisant of community concerns.

#### **4. QUESTION**

The Hon. ADAM SEARLE: Premier, the current maximum penalty for distributing unauthorised electoral material is six months imprisonment. In the new draft electoral bill that the Department of Premier and Cabinet [DPC] has put out for public consultation the imprisonment penalty has been removed from that offence and other like offences. I note the money penalties have been increased but the deterrent of jail has been dropped altogether. Can you explain why is that? Is it so that no members of your party who might be charged in the future are running the risk of a jail penalty?

The Hon. BEN FRANKLIN: That is a bit of a stretch.

Ms GLADYS BEREJIKLIAN: I am happy to answer the question. You correctly refer to it as a draft for consultation. The briefing that I received is that my department did consult with a number of different entities, including the Electoral Commission and the commissioner. I will refer the question to the commissioner.

The Hon. ADAM SEARLE: Can you indicate who we should thank for the drafting of the document? Is it the commissioner or the DPC?

Mr COMLEY: The drafting of the bill is by Parliamentary Counsel but the instructing officers are DPC.

The Hon. ADAM SEARLE: It is your fault.

Ms GLADYS BEREJIKLIAN: I ask the commissioner to indicate his level of engagement in the process.

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Mr SCHMIDT: This bill has been drafted for some years. It certainly precedes my taking up the role, but I have taken an active interest in its drafting since then. As the Premier has pointed out, it is a consultation draft and my officers have had input into the draft as it stands now. There are further matters which I am considering which I intend raising as part of that consultation process. As far as I am concerned, that is a living process which I am happy to engage in.

Ms GLADYS BEREJIKLIAN: Mr Searle, I would also like to add to that that you are more than free to put in your own submission which recommends the reintroduction of those jail terms. You and any member of the public can make that submission and we will consider that.

The Hon. ADAM SEARLE: I think you can be safe in assuming there will be a number of submissions. The printing, publishing and distributing of electoral material in contravention of the requirements, which was in section 151A, is now section 183 of the draft bill and imprisonment has been taken out; the requirement to authorise advertisements on electronic billboards, digital road signs, imprisonment taken out; and distribution of electoral material unregistered on election days, jail penalty taken out. The jail penalty for the offence of bribery has been reduced from three years to two years and the old harassment charge—now called, somewhat grandly, interference with political liberty—has also had the maximum jail penalty reduced from three years to two years.

What is the policy thinking behind the abandonment of jail penalties in these important provisions and the downgrading of the jail penalties in those others, because it seems to me that these provisions are important for the integrity of the process and they are being seriously devalued in this draft bill. I would like to know where these ideas came from.

Ms GLADYS BEREJIKLIAN: Certainly NSW Department of Premier and Cabinet was responsible for coordinating all the feedback we had on the various consultations, so I will ask both the secretary and the commissioner if they have any comments. I cannot answer that question because I do not know whose suggestions they were.

The Hon. ADAM SEARLE: They are not your suggestions, is that what you are saying?

Ms GLADYS BEREJIKLIAN: They are personally not my suggestions, no.

The Hon. SCOTT FARLOW: I do not think the Premier was working on that.

The Hon. ADAM SEARLE: I had to ask.

Ms GLADYS BEREJIKLIAN: I would even go so far as to say I understand that government essentially allowed the experts to indicate their views and to put forward what they believed was the best way forward. To be absolutely frank, I was extremely comforted by the fact that this is a draft consultation and if there is anything which has widespread concern, the Government will respond to that. That is the point of putting out a consultation paper first. It is obviously a very topical issue. I cannot tell you when the process started, but I do know it has been around for some years. It is not as if we put this draft document out overnight; it has actually been the subject of consultation for a significant number of years. I will ask both my secretary and the commissioner to add anything that I may not be aware of.

Mr COMLEY: The only thing I would add is my advice is the review is largely in line with the response to the recommendation of the Joint Standing Committee on Electoral Matters, which followed both the 2011 and 2015 committees. What I am happy to take on notice is the extent to which those penalty provisions are consistent with the recommendations that were made by that Joint Standing Committee on Electoral Matters.

The Hon. ADAM SEARLE: And if you can produce any documentation relevant to that that would be very useful. I refer to the old section 151 of the Parliamentary Electorates and Elections Act, which is the new section 210, Interference with political liberty. The old provision was quite definitive about the behaviour or misbehaviour to be captured and punished, whereas the new provision is quite broad. In relation to section 210 (1) which says:

*A person must not hinder or interfere with the free exercise or performance, by any other person, of any political right or duty relevant to an election under this Act.*

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is it the intention in the drafting to actually reach back into and interfere in the internal workings of political parties or is it meant to only relate to the formal electoral process, because the drafting is unclear and quite broad?

Mr COMLEY: Unless the commissioner wants to comment, I would have to take that on notice because I am not as close to that draft.

The Hon. ADAM SEARLE: I am happy for you to take that on notice.

#### ANSWER:

4. A period of public consultation on the draft Electoral Bill, which rewrites the *Parliamentary Electorates and Elections Act 1912*, has just concluded. All submissions received will be considered.

#### 5. QUESTION

The Hon. ADAM SEARLE: As would I. Last year I asked the former Premier some questions about correspondence between the Hon. Lynda Voltz and the Electoral Commission relating to complaints about the conduct of the election in the seat of East Hills. As a result of that, Mr Schmidt, you wrote to the Hon. Lynda Voltz on 10 October. The Hon. Lynda Voltz had been informed previously that her complaint was being investigated by the commission and she would be informed at some future point of the outcome. That point was confirmed in your letter. You said, "I can confirm this matter is ongoing and you will be advised when it has been finalised." It is now a year later, can you update the Committee as to where that investigation is up to?

Mr SCHMIDT: I would have to take that on notice.

#### ANSWER:

5. The Electoral Commissioner has replied directly to both the Hon. Ms Voltz, MLC, and the Hon. Adam Searle, MLC, regarding this matter.

#### 6. QUESTION

Reference to: The Hon. ADAM SEARLE: Premier, in relation to the Community Building Partnership grants, what actions has your department taken to recover the \$10,000 grant paid to the Australian Multicultural Christian Society, and when were these actions undertaken?

The Hon. ADAM SEARLE: These monies were given out over three years ago. When was the last time correspondence was exchanged in relation to this matter?

Mr COMLEY: As I said, 19 May was the last time we exchanged correspondence, which was the third letter that was provided to that organisation this year.

The Hon. ADAM SEARLE: It is now September. What have you done since the last exchange?

Mr COMLEY: That is what I am saying. We are considering whether we are going to take court action.

The Hon. ADAM SEARLE: You are considering your position. Have you considered referring the matter to the police?

Mr COMLEY: I am not aware whether we have considered referring it to the police.

The Hon. ADAM SEARLE: Could I ask you to do so and to take it on notice?

Mr COMLEY: We will take it on notice.

#### ANSWER:

6. I refer you to previous answers provided to the Parliament on this matter.

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#### 7. QUESTION

The Hon. ADAM SEARLE: Are you aware of the big contradiction between the evidence given by your resources Minister at budget estimates last Friday over whether or not there was an agreement between your Government and Shenhua for the partial extension of the exploration licence? The Minister and his officials say they are still considering the matter; Shenhua told the Hong Kong Stock Exchange that a deal had been reached with your Government. I ask you as Premier and head of the Government, have you looked into this matter and who is telling the truth: the Government or Shenhua?

Ms GLADYS BEREJIKLIAN: I am not aware of any of those details and I was not aware that that issue was raised. I am happy to take that on notice. I do not have anything to add to that because I do not know.

#### ANSWER:

7. The division of Resources and Geoscience, located within the Department of Planning and Environment, has received a renewal application for Exploration Licence 7223 from Shenhua Watermark Coal Pty Ltd. This application is being assessed in accordance with requirements of the *Mining Act 1992*.

#### 8. QUESTION

The Hon. ADAM SEARLE: I am happy for you to take this on notice as well, but if you look into the matter and form the view that your Government is telling the truth and that what Shenhua told the Hong Kong Stock Exchange is untrue or inaccurate, would you take the matter up with the Hong Kong Stock Exchange and other regulatory authorities?

Ms GLADYS BEREJIKLIAN: Given my response to the previous answer, I think it is best that I take both questions on notice. I am not aware of the details of what was said on the public record or otherwise. I will take that on notice.

#### ANSWER:

8. Please refer to my response to question 7.

#### 9. QUESTION

The Hon. ADAM SEARLE: The resources Minister—to visit the Liverpool Plains and the affected communities, farmers, and traditional owners before he makes a final decision on whether or not to renew the remaining half of the exploration licence not bought back by your Government. At budget estimates last week he said he would try to do so but he did not make a commitment. Given that your predecessor Mike Baird has been out there and has met with the community and that the former Deputy Premier Troy Grant has also had the decency to do that, will you make a commitment to go to the Liverpool Plains and meet with the affected community before your Government makes a final decision on this matter?

Ms GLADYS BEREJIKLIAN: You have made an assumption that I am not aware of or that I have not already spoken to people in that regard. I believe that it is important for governments to consider all stakeholders in all options when they are dealing with very sensitive matters. I will take all of those questions on notice.

#### ANSWER:

9. I refer you to my previous parliamentary answers in relation to this matter.

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#### 10. QUESTION

The Hon. PETER PRIMROSE: Premier, do you have a private email address?

The Hon. BEN FRANKLIN: This is the Hillary Clinton issue.

The Hon. SCOTT FARLOW: Do you want to become penpals or something?

Ms GLADYS BEREJIKLIAN: I am worried about that second question. It is a recent addition to my repertoire. Yes.

The Hon. PETER PRIMROSE: Have you ever used it for Government business or has it ever been used for that purpose?

Ms GLADYS BEREJIKLIAN: I hope not. I am not a frequent checker.

The Hon. PETER PRIMROSE: Would you like to take that question on notice?

Ms GLADYS BEREJIKLIAN: I do not have any records. I am happy to take a question on notice but, as I have no records, I would not be able to verify the answer. I have nothing in my inbox that relates to any Government matters.

The Hon. PETER PRIMROSE: I am giving you the opportunity to think about the question.

Ms GLADYS BEREJIKLIAN: I can take the question on notice. I just do not know.

The Hon. PETER PRIMROSE: There are also outboxes, so I ask you to take that question on notice.

Ms GLADYS BEREJIKLIAN: I will

#### ANSWER:

**10.** I use my work email address to conduct government business.

#### 11. QUESTION

The Hon. PETER PRIMROSE: What was the effect on candidate information sheets [CISs] of schedules 4 and 5 of the recent Environmental Planning and Assessment and Electoral Legislation Amendment (Planning Panels and Enforcement) Bill? Under schedule 5, the 2016 council elections will also now come under that rubric. I believe that those candidate information sheets are essentially statutory declarations. That is certainly true for section 1 of the form. What do you expect the penalty will be under the Local Government Act for failing to complete the form appropriately?

Mr SCHMIDT: There are two possible penalties. I am not able to give you the values of the monetary or imprisonment penalties at the moment. You can be charged with giving a false document under the local government legislation itself, which I think carries only monetary penalties. However as a statutory declaration you may be in breach of the Oaths Act, which can carry with it a term of imprisonment.

The Hon. ADAM SEARLE: Up to five years.

The Hon. PETER PRIMROSE: Do you expect that you will conduct audits or proactive investigations in relation to these CISs or will you rely on people notifying you of their concerns?

Mr SCHMIDT: This issue first arose for me due to allegations following the 2016 election. The candidate information sheet requires people to say whether they are or are not a property developer and whether or not they have a party affiliation. That captures people's imaginations. The definition of a property developer is complex but people must answer yes or no. After the 2016 election it was found that we did not have the power to take action under the legislation at the time. Thus we have introduced legislation which was recently passed. I anticipate from some of the recent media reports I have seen that we can expect to receive further complaints about the current round of elections. We would not proactively investigate the current elections. Too many resources would be required to check every nomination form. I think there are about 2,000 people standing for election in the current round. All those people

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had to make a declaration. In regard to the circumstances and complexity of the definition, we will examine matters which are brought to our attention but we will not randomly audit people.

The Hon. PETER PRIMROSE: Section 2 of the CIS is an optional statement. Would any incorrect statement made in section 2 be regarded as an offence even though it is optional?

Mr SCHMIDT: It would certainly be an offence under the relevant provisions of the Local Government Act in that you have made a false statement in a document. This is an interesting question and I have not yet thought about it. The document itself is given in the form of a statutory declaration. I am not 100 per cent sure whether the statutory declaration captures the secondary component of the form.

The Hon. PETER PRIMROSE: I am wondering myself. It is not a trick question. I hope you will take a question on notice.

Mr SCHMIDT: Yes. We will turn our minds to it

**ANSWER:**

11. Provisions in relation to candidate information sheets are set out in the *Local Government Act 1993* (NSW) and the *Oaths Act 1900* (NSW).

#### 12. QUESTION

The CHAIR: If you could conduct an examination as to what powers need to be put into legislation to protect people with a conscientious objection—

Ms GLADYS BEREJIKLIAN: Do you mind if I ask the Public Service Commissioner? He might be able to shed some light.

Mr HEAD: I probably would want to take at least part of it on notice, but the Government Sector Employment Act sets the pre-screening requirements for employment in the public service. People are employed in other services under other legislation. So, as the Premier has pointed out, the Secretary of Health employs people under arrangements in the Health Services Act in that sector; similarly, the Secretary of Transport in the transport service, The secretary of Education in the teaching service and the Commissioner of Police in the police force. Each piece of legislation, of course, sets out how employment practices are undertaken. And of course there are the relevant intersections with the Anti-Discrimination Act. I should say that people tend to refer matters to me even if they are not directly in my jurisdiction where they are concerned about recruitment processes or pre--employment screening process occurring, and I am not aware of any of those issues being raised with my office in the almost six years that I have been in this office. But I am happy to have a closer look and answer—

The CHAIR: I would like you to take that on notice because you are the person who covers all of those areas you have just outlined—medical, education and so on—

Mr HEAD: I have some—

The CHAIR: —as to what protections are there for applicants as well as actual employees.

Mr HEAD: There are protections in the legislation. I will give a comprehensive answer on notice. My powers are very specific in terms of the public service and rather more general in relation to those other four large operational areas.

**ANSWER:**

12. The Public Service Commissioner advises that employment practice in the NSW Government Sector requires agencies to use role descriptions that clearly state the duties to be performed in a given role. This information is comprehensively disclosed to applicants as part of their decision in relation to whether to seek employment in the Government Sector.

Any situations of the kind referred to in the question would need to be examined on a case by case basis.



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#### 13. QUESTION

The Hon. ADAM SEARLE: Premier, there was a report about due diligence for all major regional land approvals. It was about a new process to go through before mining exploration licences are issued. I think the report was written by Simon Draper and Liz Livingstone from your department. Apparently that report was given to former Premier Baird in 2016. Are you willing to furnish the Committee with a copy of that report?

Mr COMLEY: I will take that on notice.

#### ANSWER:

13. I understand the report in question has not been released as it is a Cabinet document and subject to Cabinet confidentiality.

#### 14. QUESTION

Mr JUSTIN FIELD: Premier, returning quickly to plastics. We know how much plastics have permeated our environment in the past couple of decades. Would you undertake to look at whether or not New South Wales has done any testing for plastic contamination of drinking water? Will you undertake to at least do an assessment of that?

Ms GLADYS BEREJIKLIAN: I do know from inquiries I have made in the past that water quality is of the highest priority and that any form of contamination would have been dealt with. But I am happy to take that specific question on notice.

#### ANSWER:

14. The NSW Government complies with the national Australian Drinking Water Guidelines, which are publically available.