



PARLIAMENT OF NEW SOUTH WALES
LEGISLATIVE ASSEMBLY

FIRST SESSION OF THE FIFTY-SEVENTH PARLIAMENT

Motion

17 September 2020

HUNTER REGION FLOOD MITIGATION

Ms SONIA HORNERY (Wallsend) (11:14):

I move:

That this House:

- (1) Notes Wallsend was overwhelmed by tempest and flood in 2007.**
- (2) Notes the City of Newcastle cemented \$20 million towards flood mitigation on 26 May 2020.**
- (3) Notes Hunter Water must accept responsibility for canal widening to complete lifesaving flood mitigation.**
- (4) Calls on the Minister for Water to direct Hunter Water to urgently carry out flood mitigation before the next devastating storm and tempest.**

It has been 13 years since a storm and tempest besieged Wallsend. In the years since—particularly in 2015—floods have threatened damage on a similar scale. In fact, twice this year sufficient rain caused fear for our businesses and our residents. In both cases, properties further upstream adjacent to Ironbark Creek flooded. Backyards, sheds, cars and garages were damaged yet again. Finally we have a chance to complete necessary Wallsend flood mitigation works. The City of Newcastle replaced the Tyrell Street bridge earlier this year, months ahead of schedule, and has committed funds to do the remainder of the works, including replacing the Boscawen Street and Nelson Street bridges, and the culvert underneath Cowper Street.

I note there is only one member opposite, and I thank the Parliamentary Secretary for being here in the Chamber. I know that the Parliamentary Secretary knows Wallsend.

I am sure that his colleagues, despite not having visited Wallsend—including the Minister, who has continually denied my many polite invitations to visit—will stand up and tell members that flooding is not within the remit of the State Government and that the council should fix it. But the causes of Wallsend's CBD flooding and upstream inundation are the stormwater channels owned by Hunter Water. Last February I asked the Minister a question on notice about Hunter Water. I asked if Hunter Water owned the stormwater drains that run through the Wallsend CBD and if it is the responsibility of Hunter Water to maintain and upgrade these assets. In her response the Minister advised me:

While Hunter Water owns the infrastructure, stormwater risk management, planning and capacity upgrades across Hunter Water's area of operations remain the responsibility of local councils ...

Is the Minister unaware that in 2017 the Hunter Water operating licence was changed to authorise Hunter Water to do the work? Section 1.2.4 of the Hunter Water operating licence states:

... authorises ... Hunter Water to provide, construct, operate, manage and maintain a drainage service within the Area of Operations in excess of the drainage service it is required to provide, operate, manage and maintain under clause 1.2.3. For the avoidance of any doubt, this clause authorises ... Hunter Water to enhance, expand and add capacity to the to the drainage service described in section 13 (1) (b) of the Act.

I say to the Minister—who is not here in the Chamber—that the operative words are "add capacity". The New South Wales Government funded the Northern Beaches Council flood mitigation study in 2017, which is great. Why will the Minister not fund Wallsend? Last year Hunter Water decided as part of the Independent Pricing and Regulatory Tribunal [IPART] applications to put a proposal via phone survey to 700 of its Hunter-wide customers—that goes up even as far as Muswellbrook—for work on Wallsend canals. Hunter Water's justification for refusal of the Wallsend flood works is this survey. I would be interested to know what other proposed infrastructure was put to popular vote—or was it just Wallsend? We know it is just Wallsend. Hunter Water conducted a self-fulfilling survey prophecy. It was a Clayton's survey.

Widening Ironbark Creek would provide a welcome reassurance to residents and business owners in the Wallsend area that their investment in the local area will not be threatened the next time an east coast low causes damage and large-scale flooding—and it will happen. History and science back that up. The water Minister must step in and direct Hunter Water to deliver this important infrastructure upgrade for the Wallsend community. Perhaps the Minister will say that Hunter Water cannot afford to conduct these works. Last year the Government required Hunter Water to pay a \$100 million dividend, which was funded with New South Wales Treasury Corporation bonds.

Now that interest rates are at record lows, and spending and job creation are needed more than ever the Minister must direct Hunter Water to spend the money to widen the canal, ensure the safety of Wallsend residents and businesses, and stimulate the Wallsend economy. It is time to give Hunter Water the ministerial and regulatory

direction to undertake the necessary work and fix the ongoing flooding issue in Wallsend once and for all, before the next devastating storm and tempest—because we will get another one.

Mr MICHAEL JOHNSEN (Upper Hunter) (11:55:03):

I thank the member for Wallsend for bringing this motion to the House. I acknowledge the member's interest in this particular topic and also acknowledge the work of this Government to support the efforts to minimise the flooding risk in Wallsend and across New South Wales. To be honest, the member for Wallsend is probably one of the wisest people sitting on the opposite side of the House. I deeply respect her and her commitment to her electorate. However, I am compelled in this particular instance to put some facts on the table that the member may wish to consider about her own thoughts and actions on this particular issue.

As members are aware, stormwater management and flood mitigation planning are primarily responsibilities of local government across New South Wales. In urban areas such as Wallsend this particularly recognises the key role that local councils play in the planning and management of development across urban stormwater catchments, including through zoning controls in their local environment plans and development controls within their development control plans. This approach has been consistent from both Coalition and Labor governments. In the case of Wallsend, the responsibility for stormwater management and flood mitigation is held by the City of Newcastle Council. I understand the member for Wallsend served as a City of Newcastle councillor prior to her service in this place. Indeed, we have also the member for Newcastle here in the Chamber, who also served as a Newcastle city councillor. Of course, the member for Cessnock served as a Cessnock city councillor—

Mr Clayton Barr: No, not true.

Mr MICHAEL JOHNSEN: You did not?

Mr Clayton Barr: Never.

Mr MICHAEL JOHNSEN: Well, there you go. I am happy to stand corrected on that. Let us also not forget that the Leader of the Opposition was the Minister for the Hunter following the 2007 flood. In recognising the role of local government in managing stormwater and flooding risk, New South Wales councils can collect a levy from their ratepayers for stormwater management services under the Local Government Act 1993. I understand that the City of Newcastle currently levies its ratepayers with a stormwater management charge under section 496A of the Act and will raise more than \$200 million from this charge in 2020-2021. I am advised that in levying this charge the City of Newcastle notified its ratepayers that it would be spent on both capital projects and recurrent expenditure, including:

... planning, construction and maintenance of drainage systems, including pipes, channels, retarding basins and waterways receiving urban stormwater.

This is on page 125 the council's own draft budget. While it is primarily the responsibility of local government to provide stormwater services, the New South Wales Government does provide financial support to local councils to assist in managing flood risk. This support includes the annual floodplain management grants program, which supports applications for flood, floodplain risk management and feasibility studies as well as implementation, including structural works, warning systems, evacuation management and voluntary purchase. The Government supports the implementation of the New South Wales Flood Prone Land Policy, which is outlined in the New South Wales Floodplain Development Manual. Projects are eligible for funding across four project stages: flood study, floodplain risk management, feasibility and implementation. Support provided under the programs usually involves \$2 from the New South Wales Government for every dollar provided by the applicant council or local authority.

In 2019-2020 grants totalling \$9.15 million were awarded to local councils and authorities. In the Hunter region this included funding to Hunter Local Land Services to reduce the impacts of flooding in the Hunter. I am also advised that the City of Newcastle previously sought and received funding from this program, including in 2015-16 when funding was awarded for the detailed design of the Floodplain Risk Management Plan for the Wallsend Commercial Centre. As I have outlined, the responsibility for flooding risk and stormwater planning remains with the City of Newcastle. However, responsibility for the ownership of the stormwater assets within Wallsend is shared by both the City of Newcastle and the Hunter Water Corporation, with a number of existing concrete stormwater channels owned and maintained by the Hunter Water Corporation. Indeed, the Hunter Water Corporation's enabling legislation confirms that the City of Newcastle remains the responsible authority for flood management in the Newcastle local government area. Section 62 (2) of the Hunter Water Act recognises that the corporation, Hunter Water, has no duty to upgrade or improve its drainage systems.

Recognising the lead role played by the city, I understand that Hunter Water has committed on multiple occasions to work with the council to progress the city's plans to manage flooding risk to the Wallsend community. This includes an open offer from Hunter Water for collaboration with the City of Newcastle to develop a solution to shovel-ready status, as well as supporting any grant applications that the city should prepare to progress a solution for flood mitigation at Wallsend. Consistent with the outcomes of the flood risk mitigation plan that was partly funded by the New South Wales Government, I understand that the City of Newcastle Council is currently implementing a range of improvements to prevent flooding in the Wallsend CBD.

This includes replacement of the Tyrrell Street Bridge, which was opened in March 2020. In the interests of collaboration and partnership and noting the advocacy from the member for Wallsend, Hunter Water previously sought the advice of its community, as mentioned, to include part funding for the Wallsend CBD stormwater upgrades within its 2019 regulatory pricing proposal to the Independent Pricing and Regulatory Authority [IPART]. Noting that flooding upgrades are not part of its legislative remit to demonstrate a case for potentially funding a portion of the works discretionary charge, Hunter Water was required to test the willingness of its broader customer base in order to provide funding solutions to address flooding of the Wallsend CBD. I see that the time allotted to me has expired.

Mr TIM CRAKANTHORP (Newcastle) (12:02:03):

No doubt my colleagues have heard of the notorious Pasha Bulker storm that lashed the coast of New South Wales in June 2007. That ferocious storm not only beached the huge coal carrier, Pasha Bulker, but also flooded around 10,000 Newcastle properties after more than 300 millimetres of rain fell in just over 24 hours. Five thousand cars were written off and by the end of August the Insurance Council of Australia advised that insurance claims exceeded \$1 billion. Tragically, the storm ultimately claimed nine lives. The Pasha Bulker storm also wreaked havoc on the Wallsend CBD, in particular. As the flooded stormwater got to the notorious choke point in Ironbark Creek and spilled over, it left people trapped and scrambling to get out of the suburb's central business district. There was severe damage to Nelson Street businesses, with water breaching the second storey of buildings. Power was out for days. The economic cost from the destruction of the flood itself and the costs of repair and rebuilding are well known. This also carried severe personal and emotional costs.

That is something we never want to see repeated. Yet 13 years later those drains are still a narrow choke point. Thirteen years later we should not be arguing about life-saving infrastructure needs. Quite simply, Hunter Water needs to undertake urgent canal widening to complete this life-saving flood mitigation measure. With every storm, the people of Wallsend are now nervous. The stormwater guzzles up the notorious choke point and everyone in the Wallsend CBD makes preparations for flooding because no-one wants to see people trapped and scrambling again. The Newcastle City Council is doing its bit and later this year will begin work to rebuild the Tyrrell Street Bridge. The council said that a Hunter Water owned stormwater drain needs to be "significantly" widened and that is absolutely true. However, Hunter Water says it has only a "small role" to play, adding:

Hunter Water plays a small role in the management of flooding in Wallsend, through the ownership and maintenance of the main concrete stormwater channel in the CBD.

This is a vital piece of infrastructure. As Lord Mayor Nuatali Nelmes said:

Quite simply, if Hunter Water's drain isn't significantly widened, then during heavy rain the Wallsend CBD will continue to flood no matter what work council undertakes.

Since it is Hunter Water's asset that causes the flooding it is only logical for Hunter Water to take action. In addition, the Minister can direct Hunter Water to do the work as part of its operating licence. Thirteen years on from the deadly June 2007 storm that ravaged New South Wales, some shops in Wallsend's CBD still remain empty. Glenn Jennings' embroidery shop was destroyed. He said:

There will always be that nagging doubt now that, if you were to even rent a building down here, I don't think you'd get insurance for flood ever again in this area.

That is a problem and a great risk. One would not want to throw good capital after that. If we look at the big picture we know that climate change is already increasing the frequency and intensity of extreme weather events. We know that there will be more flooding events in Wallsend as a result. We know that widening the channel will

prevent flooding in the Wallsend CBD. Now the Government says it does not have enough money to pay for this project. But I remind the Government of the \$100 million it ripped out of Hunter Water in dividends in 2018 on top of the \$44 million representing the standard annual dividend. I say to the Minister that money from Hunter residents is flowing down the M1 to Sydney despite urgent life-saving infrastructure needs that are not being met in Wallsend. I say to the Minister: This is vital infrastructure that will mitigate a potentially fatal disaster. Does someone have to die before she will act?

Mr GURMESH SINGH (Coffs Harbour) (12:06:48):

I thank the member for Wallsend for moving the motion and bringing this issue to the attention of the House. I acknowledge this is an important issue and that Hunter Water plays a role in the management of flooding in Wallsend through the ownership and maintenance of the main concrete stormwater channel in the CBD. However, as members are aware, responsibility for floodplain management and flood mitigation is the responsibility of the council. In the case of Wallsend, the council is the Newcastle City Council.

Mr Alister Henskens: A Labor council and a Labor mayor.

Mr GURMESH SINGH: I acknowledge the interjection by the member for Ku-ring-gai.

The DEPUTY SPEAKER: The member for Cessnock will come to order. The member for Coffs Harbour has the call and will be heard in silence.

Mr GURMESH SINGH: This is not new; it is consistent with the approach taken to flood planning and mitigation across New South Wales and is linked to local government's responsibility for local planning and appropriate development controls. The New South Wales Government provides financial assistance to local government to support the management of flood risk. The Floodplain Management Program supports applications for flood, floodplain risk management and feasibility studies, as well as implementation including structural works, warning systems, evacuation management and voluntary purchase. As has been mentioned, in 2019-20 grants totalling \$9.15 million were awarded to local councils and other authorities, including Hunter Local Land Services, to reduce the impacts of flooding.

Support provided under these grants usually involves \$2 from the New South Wales Government for every \$1 provided by the applicant council. I am advised that City of Newcastle previously sought and received funding from this program in 2015-16 for the detailed design of the Floodplain Risk Management Plan for the Wallsend Commercial Centre. I understand that Hunter Water has committed separately to continuing to work with the City of Newcastle to progress the city's plans to manage flooding risk to the Wallsend community. This includes collaborating with the City of Newcastle to develop a solution for Wallsend to shovel-ready status, as well supporting any grant applications the city should prepare to progress a solution for flood mitigation at Wallsend.

Hunter Water stands firm on its commitment to working collaboratively with the City of Newcastle to understand how it can support plans to manage flooding risk to the Wallsend community. I am advised that a solution for flood mitigation at Wallsend is estimated to cost in the order of tens of millions of dollars. Such upgrades are not something that Hunter Water can invest in directly on its own to manage flooding risk. It needs to be acknowledged that funding of any solution for the Ironbark Creek stormwater channel will require a partnership approach. This is because, as I outlined earlier, Hunter Water does not have responsibility to manage flooding risk. To reinforce the matter, it does not have a regulatory requirement to do so—be that legislative or in its licence to fund the upgrades. In addition, Hunter Water does not have the support of its customers across the Lower Hunter region to fund such investments at Wallsend.

As part of Hunter Water's pricing proposal to the Independent Pricing and Regulatory Tribunal [IPART], it tested the appetite of its customers through a willingness to pay survey.

The independent survey was a comprehensive, statistically significant representation of the Lower Hunter community, with 700 Hunter Water customers taking part. Completed by Marsden Jacob in late 2018, the results of the survey state, "Most Hunter Water customers are not willing to pay for flooding investments at Wallsend". Given that responsibility clearly fits within the remit of local government, the previous support from this Government by way of grants to City of Newcastle council to assist it in its role to manage stormwater in Wallsend, and without the support of its customers, Hunter Water should not be required to invest directly in these upgrades. I again reiterate Hunter Water's open offer of collaboration with the City of Newcastle and its offer of support with funding applications. I would encourage the member for Wallsend and City of Newcastle accept this offer, and work collaboratively towards a solution. I thank the member for moving this motion with the House.

Mr CLAYTON BARR (Cessnock) (12:10:16):

I will start by drawing the attention of the House to the logical lacuna. The Government's defence is that Hunter Water has no responsibility, it is all council. But they have both individually acknowledged that Hunter Water has done a survey of customers to see whether or not they want to pay for it. If it was not the responsibility of Hunter Water to deal with the issue, why the survey? For those members of the House who do not understand the concrete channels of the Hunter, which are the responsibility of Hunter Water, let me explain it briefly. We all have floodplains, creeks and rivers that run through our various electorates that take the water away, but across the Hunter we also have specially built concrete channels that water is funnelled into and is then carried in great volume to where it is designed to go. These channels are throughout Newcastle, the Hunter and Cessnock. They are the responsibility of Hunter Water. They are 100 per cent the responsibility of Hunter Water.

I know that from a Cessnock perspective because one fell apart during a flood and when questions were asked of council as to why it was taking so long to repair to occur the council said, "No, that is the responsibility of Hunter Water." Sure enough, when the repairs were done the trucks and inspectors on site were from Hunter Water. That

would indicate that the channel is the responsibility of Hunter Water. There is also a problem with flooding in South Cessnock where, due to coalmine subsidence, it is falling below the levels originally designed when the concrete channels were built to take the water away from South Cessnock. Guess who is involved in that conversation about the need to redesign, improve and lift those concrete drains—Hunter Water. The problem at Wallsend is with the concrete drains, which belong to Hunter Water, the same company that surveyed customers to see whether or not they would be willing to participate in a subsidised payment to get the work done.

One of the most remarkable things that I have seen in my 9½ years in this Chamber is a change in personality of one particular member, who went through a terrible experience over the Christmas-New Year break. I speak of the member for Bega, who was confronted with a natural disaster coming right down his driveway, the poor fella and his poor community. It was devastating for him and he is a changed man. We have all seen it in this Chamber. Think of the people experiencing flood in the Wallsend region who are frequently exposed to this type of natural disaster. It is a life-changing experience. It is scary and frightening. But it is the type of disaster that can be addressed through funding.

It can be addressed through an instruction by the Minister in this place to Hunter Water. No-one can say that Hunter Water cannot afford the works. It has just sent a \$100 million dividend down the M1 to this place for projects in Sydney. It is some vanity project—a stadium or a tunnel or a bridge or a light rail somewhere in Sydney. That is more than \$100 out of the pocket of every family in the Hunter. It came down the expressway to improve the life of someone in Sydney when it could have improved the lives of thousands who face the harrowing experience of flood in the Hunter, which is where that money came from. That is why I support the motion moved by the member for Wallsend. That is why it needs to be dealt with. I would prefer, if you guys are going to put up an argument, that you at least have it make sense.

Mr STEPHEN BROMHEAD (Myall Lakes) (12:14:15):

I thank the member for Wallsend for raising this matter with the House. I concur with the statement of the member for Upper Hunter when he says that the member for Wallsend is the most intelligent person on the other side of the House. I will address comments made by the member for Newcastle and the member for Cessnock. They have said that the Government should direct Hunter Water to do the works. They are not telling the full truth. As they know, if you look at section 62 of the Act it is not part of the remit of Hunter Water. Hunter Water are willing to assist and partner with Newcastle council. Newcastle council has a responsibility for flood mitigation.

The concrete canal, as they know, is not the only piece of the works in the tapestry of flood mitigation. Retention ponds and other areas capture water and slowly release it into the canals further down the system. Hunter Water does not have responsibility for flood mitigation. It cannot put in the water traps, flood retention ponds and other pieces of infrastructure that are needed to slow down the water that goes into the canal. They are turning their back on what is needed. What is needed is a partnership. The two previous speakers for the Government said that Hunter Water is willing to work with

Newcastle council, which does have responsibility for the flood mitigation works that are required.

The Government will look at applications for funding that should be submitted by Newcastle council and grant funds. Newcastle council has responsibility for flood mitigation and for the works. It requires a partnership of a local government council, the water authority and the State Government working towards a solution. To come into this place and say that the Minister can order action is wrong. The legislation does not allow the Minister to do that. There is legislation specifically to set up Hunter Water and section 62 does not allow the Minister to do that. The member for Cessnock is misleading the public when he says that the Government has responsibility for the water.

The member for Cessnock says that by asking ratepayers the survey question somehow Hunter Water has taken responsibility for the flood mitigation works that are required as well as the canal. Hunter Water went to its ratepayers as part of the requirement and process of going to IPART to have a special increase in rates to pay for works in partnership with the Newcastle council. Newcastle Council has ultimate responsibility. The ratepayers said, "No, we do not want to be part of this." That does not mean that Hunter Water does not want to be part of the partnership. It does not mean that the Government is not open to assisting the council. The council has responsibility for the flood mitigation works. It is important that people understand that flood mitigation works is a whole of floodplain work of retention ponds and other infrastructure before it enters the canal. The Government does not support the motion.

Ms SONIA HORNER (Wallsend) (12:18:14):

In reply: I thank the members for Upper Hunter, Newcastle, Cessnock, Coffs Harbour and Myall Lakes for their contribution to this debate. On behalf of all of the businesses and people in Wallsend I am disappointed. The Minister for Water has not responded to any of my written invitations to visit Wallsend and see the problems for herself. I am disappointed that she skulked out of this Chamber the minute I began this speech. It was very naughty of her and very disappointing. I remind the member for Myall Lakes that in 2017 the Act was amended and Hunter Water's operating licence was changed to authorise Hunter Water to do the work under section 1.2.4 of the Hunter Water operating licence. The bureaucrats who wrote some of the speeches in the Minister's office obviously were not aware of that and did not do their homework. I thank everybody for their concerns for Wallsend, and I thank the member for Upper Hunter for his praise of the people of Wallsend—that was very kind.

Ultimately, I have brought this debate to the House because I am getting really frustrated with the Minister not responding. As I said, I want polite responses when she sees for herself the problems that have occurred. I do not want the 2007 flooding to happen again in Wallsend, Cessnock, the Upper Hunter, Myall Lakes and Newcastle. We cannot do it again. I do not want to be told again by Hunter Water that it does not need to fund this as it is the responsibility of the City of Newcastle. To the city's credit, it has done more than it needs to. It has actually done more than its fair share. The City of Newcastle is willing to work with Hunter Water, but Hunter Water is

not willing to work with the city. Hunter Water is willing to give all of the responsibility back to Newcastle council, which is not fair or just.

As the member for Cessnock mentioned, why put out a dodgy survey if you are not going to do the work? The only survey that Hunter Water conducted was about Wallsend and it was conducted to get the response that it wanted, which was that it was not willing to undertake this necessary work. This is the most important motion I have ever moved because it is about the people of Wallsend's lives and their safety. It is a life-saving decision. The Minister has the authority to direct Hunter Water to do its job—much to the chagrin of some members of the Government. I am asking for Hunter Water to do its job.

In 1897 Plattsburg Council received permission to conduct a royal commission into flooding, and that is when the canals were built. Wallsend floods and it will continue to flood, but it will be worse because of the population increase. When Wallsend floods again, if any businesses or lives are lost—and I really hope we do not lose any lives—they will be on the Government's, the Minister's and Hunter Water's heads. We lost so many businesses in 2007 that were insecure and afraid to come back because the insurance companies would not insure them again. We lost businesses. It affected the economy and I do not want to lose any more people. I ask the Minister to do her job and direct Hunter Water to do its job. I urge members to support this important motion for Wallsend.

The DEPUTY SPEAKER: The question is that the motion be agreed to.

The House divided.

Ayes43

Noes45

Majority2