



PARLIAMENT OF NEW SOUTH WALES  
LEGISLATIVE ASSEMBLY

**FIRST SESSION OF THE FIFTY-SEVENTH PARLIAMENT**

**Motions**

24 February 2022

**PRIVIUM HOMES**

**Ms SONIA HORNERY (Wallsend) ( 12:04 ):**

I move:

*That this House:*

*(1) Notes the devastation that the collapse of Privium Homes has had on families and workers in the Wallsend electorate.*

*(2) Notes families have been signing contracts and paying substantial deposits for houses that would never be built, while some subcontractors have not been paid for months.*

*(3) Notes homeowners may have now lost their deposit, after the company failed to take out compulsory insurance.*

*(4) Calls on the Minister for Better Regulation and Innovation to assist the victims of Privium to get some certainty, ensure these investments can be protected, and they can have their homes completed.*

Building a house is the biggest investment many of us make in our lives. Imagine the devastation that prospective potential local home owners felt as more than 2,000 customers across three States were hit by the collapse of builder Privium going into administration last November, owing nearly \$43 million to secured and unsecured creditors. Privium Homes and eight related entities were placed into voluntary administration days after tradespersons suddenly downed tools. Privium owner Robert

Harder blamed COVID, associated delays and a sudden construction boom for cost increases, thus dooming the group. Yet there is evidence of unjustifiable business conduct—\$22 million was paid out by two Privium companies to shareholders in fully franked dividends in the financial year 2019-20, concurrently posting \$28 million in losses. On top of this, the company outrageously failed to take out mandatory insurance. Cassandra and Mitchell from Shortland, who were customers, told me this:

*When Privium went under all we had was a concrete slab and frame but no roof and we were advised by builders that if the roof did not go on before Christmas shutdown the frame would sustain damage and cost a significant amount to repair.*

*We had paid \$110,000 to Privium. The insurance company told us we should minimize damage and put the roof on, but as the contract was with Privium the roofer couldn't go on the block.*

*We couldn't legally do the work without a Home Builders Insurance Policy as the work was over \$10,000. We couldn't get a policy because we were not owner builders and Privium administrators won't approve access for us to do it.*

*Since the collapse we found a builder to complete our home, but we are \$100,000 out of pocket and our insurance will only cover about half of that.*

With the collapse of Privium, many will be tens of thousands of dollars out of pocket since the safety net for home owners in New South Wales, icare's Home Building Compensation Fund [HBCF], places a 20 per cent limit on how much they can claim.

The HBCF is not designed to help people impacted by the collapse of Privium Homes, but what I do not understand is how this Government, which has been in office in New South Wales for 11 years, failed to see this coming and adequately prepare and assist people. Sadly, building companies often fail, usually topping insolvency statistics. These failures devastate customers.

The Government is fully aware of the need for reform, yet it has stalled. The independent inquiry into construction industry insolvency in 2012, or the Collins review, made 44 recommendations to improve protections for vulnerable, would-be home owners impacted by the collapse of construction companies. Back then, 10 of the recommendations were supported and 13 were not. The others were given in-principle or qualified support.

One of the key recommendations was that the money should be held in trust to minimise the loss caused by collapses, which can ripple outwards with terrible effects on those who can least afford it.

When so many are doing it tough, the least this Government can do is to ensure that the victims of Privium's collapse have some certainty, that their investments are protected and that their homes are completed.

This collapse has had a big impact on the people in Wallsend and potential builders; it should not have happened.

I call on the Minister for Fair Trading to step in and do the right thing.

**Mr ADAM CROUCH (Terrigal) (12:10):**

I note the Minister's attendance in the Chamber. I acknowledge my good friend, the member for Wallsend. She is a fierce advocate for her electorate. More often than not on a Thursday we find ourselves in the Chamber debating issues that she has raised. I congratulate the member for Wallsend for her fierce advocacy for her constituents. She does an incredible job for them and they are very supportive of her. I sympathise with those individuals and families who have been impacted by the collapse of Privium Homes as outlined by the member for Wallsend. This affects many people, workers and home owners alike. In New South Wales these sorts of issues have occurred time and time again under Liberal and Labor governments. It is a blight because it impacts many people. Building a home should be a high point of someone's life, not stressful or terrifying. I built a home on the Central Coast. If someone says to me, "Wasn't that a wonderful experience. Would you like to do it again?" my regulation answer is, "Absolutely not." It should not be that way. As the member for Wallsend articulated, not only should this be a high point in people's lives but also it should provide tradies with valuable jobs.

The member for Upper Hunter is in the Chamber. He will be able to talk in more detail about his firsthand experience of issues like this as a tradie. I repeat, time and time again under Liberal and Labor governments in this State people have been victims of the collapse of property developers and builders. My heart goes out to those people who have suffered. I remember how stressful it was when I was building a home, and I would not wish that on anyone. Home ownership is something that many people strive for—whether it be at Wallsend or the Central Coast. It should not be a terrifying time where your livelihood and your life savings fly away, with no outcome. The New South Wales Government supports the hard work of building these homes. We are encouraging people to build their home with the First Home Owner (New Homes) Grant. Indeed, many people in the Hunter and on the Central Coast have taken that first foray and dipped their toes into the water of being a first home owner. It should be a pleasurable experience. It should deliver the fantastic dream home that people want. It should not be a nightmare because of a rogue operator who does the wrong thing.

Assistance and support is available through many government agencies, including the incredible team at Service NSW. I speak regularly in this Chamber about the great work they do. Service NSW also works with the Department of Fair Trading, which is responsible for the administration of consumer protection laws in New South Wales. It is unfortunate that Fair Trading is so busy in this area. I am sure the electorate of Heathcote has similar sorts of issues. These builders shine a bad light on all the good builders who do the right thing—follow the rules, employ people in an honest, hardworking way and deliver good homes. It is a pity that Privium Homes did not do that.

The Department of Fair Trading aims to achieve fairness for all in the marketplace by undertaking a range of activities, including giving consumers and

tradies information about their rights and responsibilities; providing information about the department's services; helping to resolve consumer complaints and disputes, which can be incredibly complex when building a home; and licensing businesses, contractors, tradespeople and property professionals, all of whom need to do the right thing. If that chain starts to break down, it can be a very messy end. Registering associations and cooperatives is another part of its jurisdiction; conducting compliance, inspection and testing programs; developing and enforcing laws to safeguard consumer rights; informing businesses and traders on fair and ethical practices; and safeguarding rental bonds.

Fair Trading is committed to our regional communities—be it the Central Coast or the Hunter—with over 18 Fair Trading centres providing services in regional New South Wales. The member for Upper Hunter knows about the good work that Fair Trading does. In any industry there will always be rogues. They should not be tolerated. They should be called out and held to account because their victims have to live with their bad behaviour. These centres work with their local community to provide information and assistance on consumer issues, whether it be motor vehicles or home building and renovation—which is usually very expensive—and alternatives to high-cost credit, property and tenancies, plus cooperatives, associations and business licensing. They do a very good job.

Service delivery is extended to more regional and remote areas through a range of regional access programs, outreach and community education activities. We cannot take our regions for granted. Since the start of the COVID-19 pandemic there has been a huge increase in the number of people moving to the regions. I am sure the member for Wallsend, like I, has seen a massive increase in occupancy for both rental and residential properties. That is putting even more pressure on the building industry across New South Wales. We have to make sure that builders do the right thing. They have to be held to account.

The member for Wallsend is to be congratulated on bringing these shonky lurk merchants to the attention of the Parliament. They should be held to account. It does not matter where they are in New South Wales, this sort of behaviour is absolutely unacceptable. I again acknowledge the great work being done by Fair Trading. It offers so much support. As I mentioned, my building experience was not the most pleasurable. It may have been slightly more enjoyable if I had utilised them. I again thank the member for Wallsend for bringing the appalling behaviour of Privium Homes to the attention of the Chamber. It should be called out. We should be providing protection to both the workers and the home owners across New South Wales. The Minister is in the Chamber. I also thank the Minister for her attention to this issue.

**Mr Mark Coure:** Name her!

**Mr ADAM CROUCH:** I do not need to name her because she is right here. She is doing an outstanding job and I congratulate her on her appointment to the ministry.

She will be a fierce advocate for home owners across New South Wales. I thank the member for Wallsend for bringing the motion to the Chamber.

**Ms JENNY AITCHISON (Maitland) (12:17):**

Building a home can be one of life's most exciting dreams and is certainly the largest personal investment most people ever make. But that dream has turned into a nightmare for many people because of the collapse of Privium Homes. While the Minister was settling herself in as a new Minister—and I congratulate her on her new role—families across New South Wales spent Christmas knowing that their nightmare was just beginning as they looked at half-completed homes and dealt with furious and desperate subcontractors who had not been paid and were in financial strife.

I thank the member for Wallsend for bringing this motion to the House. I acknowledge her work and that of the member for Port Stephens, who has been a very strong advocate, as well as the work of the member for Lismore. We have all raised this issue in this place. Over the past few months we have all been inundated with calls and emails from people as they slowly became aware that something was wrong with their home build. Then they faced the terrible, gut wrenching reality of how they were going to continue to build their homes. A constituent I spoke to on the Saturday prior to the collapse told me she and her husband had been saving for 30 years to build their own home. They had dreams of a new home. They are now paying rent on one house as well as nearly \$2,000 a month on a mortgage, without any idea when they will be able to move into that house. People who have paid deposits were later told that the insurance they paid for was not activated, which is completely unacceptable. At the time, icare advised these people that it was not a triggering event, before advising them it would be at least 2024 or 2025 before their builds could get back on track at all.

The member for Wallsend talked about the damage that can be sustained. Think about the wet summer in the Hunter while people sat there with frames and trusses up but no roof. That is a disgrace. This situation cannot be solely blamed on Privium, though. It is also the fault of the New South Wales Government. We know that icare was the baby of the Premier, and he should have been addressing it to make sure that it was a fit-for-purpose vehicle for people to protect their assets, their life's work towards getting a new home. The member for Wallsend also talked about the Collins inquiry, which I put on the record in this place. For more than a decade, this Government failed to put in a retention trust, which was a recommendation of that inquiry.

What really gets to me is the lack of ministerial responsibility. When icare was advising people that they were not covered, I reached out to Minister Dominello. He told me it was the responsibility of the then Minister for Better Regulation and Innovation, who said, "No, it's Service NSW." In desperation, I reached out to the then Treasurer on the ministerial roundabout of no responsibility. Since then, we have had a reshuffle. We have a new Minister for Fair Trading, but where has she been on this issue? This Government has no care and no responsibility. People are sitting with plans to new homes that will never be built, and this Government has nothing for them.

We already have a housing crisis in the Hunter—68 per cent of the people in my electorate have housing and mortgage stress. Imagine having mortgage stress but no house that you are paying the mortgage on; it is just sitting there half built on a building site. Under the Perrottet Liberal-Nationals Government, you can have mortgage stress without a house. What an innovation! I call on the Minister to urgently assist and provide the victims of Privium and other collapsed construction companies with certainty to ensure that their investments can be protected and their homes completed. As the member for Terrigal said, these people have our sympathy. But they deserve more than sympathy. They need more than thanks. More than anything else that the Government can give them, they want to know what they can do to ensure the house of their dreams can be completed. Both sides of the House have been in government at different times, but this Government has been in power for over a decade. It has done nothing, and people of the Hunter and across the State are suffering from rogues and lurk merchants because this Government failed to act.

**Mr DAVID LAYZELL (Upper Hunter) (12:22):**

I thank the member for Wallsend for bringing the motion to the attention of the House. Unfortunately, this is something that happens far too often in the construction industry, which I worked in my entire life until my recent appointment to this House. It is an industry that is very fragmented. It works with subcontractors, suppliers and family-owned businesses, when we break it down to the small elements that come together in construction. It is an industry with a lot of pressure. The margins are small. Achieving quality is really challenging. It is an industry that works really hard. It takes up a huge part of our economy, and it certainly is the backbone of it. But it is tough, and it is tough for all subcontractors. My career has been in commercial construction, and I have dealt with the consequences of subcontractors and main contractors going under. I have seen the personal ramifications and the devastating effects it has on people. I have sat around the table with people who have been affected.

Today we are talking about the home building industry, which is another sector altogether. It particularly hurts when those companies go under because it affects families and people who have invested everything they have into the home they are building, which is their greatest investment. Extra special care and support is required when those companies go under. The collapse of Privium Homes has had particularly far-reaching implications. We have seen a huge building boom across Maitland and the western parts of Newcastle as the population has exploded. The member for Maitland raised some good points about the amount of housing we have in that area.

The Privium building company stretches all across Victoria, New South Wales and Queensland, so the impact of its collapse can only be imagined. On 17 November 2021 it was placed under voluntary administration and FTI Consulting was appointed as the voluntary administrator. NSW Fair Trading immediately contacted the external administrator and obtained copies of documents confirming its appointment. All three parties—Privium, Impact and Mr Harder—have surrendered their contractor licences. Thankfully, many of those impacted by the collapse are covered by the Home Building Compensation Fund, which provides a safety net for home owners in New South

Wales faced with incomplete or defective building work carried out by a builder or tradesperson.

In New South Wales a licensed contractor that takes on residential work worth over \$20,000 needs insurance cover through the Home Building Compensation Fund, and it must obtain this cover before starting any work or taking any money under the contract, including the deposit. A certificate of insurance is issued by icare, and HBCF compensates the original home owners. That is common throughout the industry. [Extension, by leave, granted.]

In response to customer complaints and inquiries, Fair Trading continues to provide customers with a letter detailing the administrator's contact details, an outline of its role and the steps that the customer should take in order to help them get through this traumatic time. It also provides information on how to lodge a claim and gives general advice. A statement on the builder's recent failures and advice to impacted home owners about where to go for help remains on the home page of the Fair Trading and State Insurance Regulatory Authority websites. I commend the member for Wallsend for raising this issue and bringing the motion before the House. We know real people are hurting in this situation, and the Government's role is to support governmental departments supporting those who have been impacted.

**Ms JANELLE SAFFIN (Lismore) (12:27):**

The member for Wallsend finished her contribution to the debate by stating, "I call on the Minister for Fair Trading to step in and do the right thing." I start my contribution by echoing the member for Wallsend's call. In his contribution, the member for Upper Hunter said this happens all too often, and it does. Now there is an opportunity to work towards fixing this, and it can be fixed at State government level. I make the point that some of these companies also require Federal intervention and support to make sure that the people who are most impacted, the home owners, are not left totally out of pocket.

I speak in strong support of the motion moved by the fabulous member for Wallsend. Other members have already noted the fantastic work that she does in bringing important notices of motions to this House, ones that we can all speak on. The collapse of Privium Homes does not directly impact my area, but it could. It could impact any electorate across the State; therefore, I am happy to speak in strong support of the motion.

It is a tragedy for families. Imagine the trauma and the financial and emotional stress. They are out of pocket and have nowhere to go. That is where the Government can act. We often hear conversations in this place about big government and small government, but my response is that we need strong government and smart government. Before speaking on this motion, I did some research into construction company collapses. The first one I found was in 2019, but I am sure they go back before that. Three years ago there was an ABC News article with the headline "Construction companies in NSW collapsing at record rate as building slowdown bites". The Government already knew this was a problem that it should be trying to fix.

I then looked at an article on realestate.com.au from 2021. It talks about Privium and another company that has gone into administration. It also talks about all of the problems that are endemic in the industry, and offers a few solutions. Come January 2022, and there is more about the industry's collapse. There is clearly action that can be taken. The 2021 independent inquiry into construction industry insolvencies produced the Collins review, which made 44 recommendations for vulnerable would-be homeowners who were impacted by the collapse of construction companies. Ten of those recommendations were supported, but 13 were not. Others were given in-principle or qualified support. It is time to revisit that. One key recommendation was that money should be held in trust. I thank the member for Wallsend, and I commend the motion to the House.

**Ms ELENi PETINOS (Miranda—Minister for Small Business, and Minister for Fair Trading) (12:32):**

Like the members who have spoken before me today, I acknowledge the contribution of the member for Wallsend. I appreciate her bringing this very important matter before this place today. I also acknowledge the contributions of all members in this place who have spoken on this issue because, like them, I sympathise with the position of those individuals and families impacted, both workers and homeowners. I understand that families from Maitland, Cessnock, Newcastle, Lake Macquarie and Tweed Heads have been affected by the collapse of Privium Homes.

Building or renovating a home is one of the largest investments a person will ever make. I assure this place that NSW Fair Trading and associated agencies are continuing to investigate building company Privium Pty Ltd. It is a major builder in New South Wales, with an estimated 145 open home jobs, including in the Newcastle and Hunter regions. On 17 November 2021 Privium Pty Ltd and associated companies were placed under voluntary administration. NSW Fair Trading immediately contacted external administrators and obtained copies of documents confirming the appointment of the voluntary administrators. Matters currently being assessed for potential breaches of the legislation that NSW Fair Trading administers include the Home Building Act 1989 and the Australian Consumer Law. If potential breaches are identified, these matters will be included in NSW Fair Trading's current investigation.

NSW Fair Trading received 104 complaints and inquiries about the company between 1 November 2021 and 24 December 2021. A letter was provided in response, outlining how to make a claim and where to obtain more information on the options available. It should be noted that there were no complaints or inquiries to indicate the presence of any issues with Privium before 1 November 2021. NSW Fair Trading continues to work with impacted consumers to help them understand their contractual rights. Before being placed under voluntary administration, an estimated 11 certificates of insurance per month were being obtained by Privium in New South Wales. Placing the company in administration enabled consumers to make a claim where home building compensation cover is available.

If evidence in NSW Fair Trading's investigation establishes breaches of the legislation, prosecutions with maximum penalties of up to \$110,000 for a corporation,



or \$22,000 for an individual per offence may apply. Larger fines are available under the Australian Consumer Law and prison terms may apply where an offender has two or more convictions for the same offences. Disciplinary action can also be taken against licence holders or former licence holders. I encourage anyone impacted by Privium entering administration to contact NSW Fair Trading for support. As the company is now under administration, further questions about contractual obligations and financial affairs of the company should be directed to the administrator or the Australian Securities and Investments Commission.

Anyone impacted by the Privium situation is encouraged to contact NSW Fair Trading, icare or the State Insurance Regulatory Authority for guidance and support. These agencies are maintaining intensive oversight of this matter to ensure that impacted homeowners are aware of their entitlements and can access guidance about assistance. Any investigation by NSW Fair Trading will focus on potential breaches of the Home Building Act and, potentially, the Australian Consumer Law. I thank the member for Wallsend for bringing this important matter before the House, and I look forward to working with all members whose constituents are impacted.

**Ms SONIA HORNER (Wallsend) (12:36):**

In reply: I thank members representing the electorates of Terrigal, Maitland, Upper Hunter, Lismore and Miranda for this considered debate. I appreciate the concern and the sympathy from Government members, but people need more than sympathy. They need action from the Government. We need to look carefully at the legislation, provide greater restrictions and, as the member for Lismore said, work with our Federal colleagues so that inappropriate companies like Privium are not allowed to do what it is doing right now. I appreciate that the Minister for Fair Trading and others keep referring to and advertising NSW Fair Trading and other New South Wales services. That is fantastic. We know that all of the people who are victims of Privium have used those services; however, many of them are still up to hundreds of thousands of dollars out of pocket, even after contacting a website.

We need to look at tightening the legislation and how it works, and keeping a weather eye on contractors. I agree with the member for Upper Hunter that we have a construction boom in the Hunter, like we have in many other areas of New South Wales. We support the construction industry because it provides jobs and assists our economy. People want to live in beautiful new houses, and who can blame them? Meanwhile, they need to be protected. The particular family that I referred to is still out of pocket by many thousands of dollars, even with all of the compensation they have received and after doing the right thing. These people are victims of a company, and the Government needs to look at why these companies are getting away with what they do.

The Collins report was important, but we need to enact more legislation and look very strictly at these companies to ensure that consumers are not left with half a home that they cannot put a roof on before Christmas because of complications with the contract. They are the people, the members of our community, who are left out of pocket. So let us really consider what companies like Privium Homes are doing. I

expect more, and the community expects more, than the Minister to say, "Well, I sympathise and I refer you to a website". I want the Minister to take action, to look seriously at these companies and to prevent it from happening in the future, so we can protect our communities. I thank members for the considered debate and urge them to support the motion.

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

**Motion agreed to.**