New South Wales

Legislative Council

PARLIAMENTARY DEBATES
(HANSARD)

Fifty-Sixth Parliament
First Session

Wednesday, 14 November 2018

Authorised by the Parliament of New South Wales

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LEGISLATIVE COUNCIL

Wednesday, 14 November 2018

The PRESIDENT (The Hon. John George Ajaka) took the chair at 11:00.

The PRESIDENT read the prayers.

Bills

WORKERS COMPENSATION LEGISLATION AMENDMENT (FIREFIGHTERS) BILL 2018

First Reading

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Don Harwin.

The Hon. DON HARWIN: According to sessional order, I declare the bill to be an urgent bill.

The PRESIDENT: The question is that the bill be considered an urgent bill.

Declaration of urgency agreed to.

The Hon. DON HARWIN: I move:

That the second reading of the bill stand an order of the day for a later hour.

Motion agreed to.

JUSTICE LEGISLATION AMENDMENT BILL (NO 3) 2018

CRIMES LEGISLATION AMENDMENT (VICTIMS) BILL 2018

GOVERNMENT INFORMATION (PUBLIC ACCESS) AMENDMENT BILL 2018

First Reading

Bills received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Don Harwin.

The Hon. DON HARWIN: According to sessional order, I declare these bills to be urgent bills.

The PRESIDENT: The question is that these bills be considered urgent bills.

Declaration of urgency agreed to.

The Hon. DON HARWIN: I move:

That the second reading of the bills stand an order of the day for a later hour.

Motion agreed to.

Motions

RUSSIA DAY

The Hon. DAVID CLARKE (11:03): I move:

(1) That this House notes that:

(a) on Thursday 14 June 2018 a celebration of Russia Day hosted by Mr Sergey Shipilov, Consul-General of the Russian Federation in Sydney, was held at the Consulate of the Russian Federation, Woollahra and attended by more than 250 guests;

(b) Russia Day celebrates the formal adoption on 12 June 1990 of the Declaration of the Russian Federation's Sovereignty and Independence as a result of the dissolution of the Soviet Union and its proclamation of a new national flag, national anthem and national symbol; and

(c) those who attended as guests included:

(i) His Excellency Mr Grigory Logvinov, Ambassador of the Russian Federation to Australia;

(ii) Reverend Father Samuel Vishnevsky, Russian Orthodox Church;

(iii) Reverend Father Nikita Chemodakov, Russian Orthodox Church;

(iv) members of the Diplomatic and Consular Corps;

(v) Councillor John Wakefield, Mayor of Waverley Council;

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

(vii) Councillor Will Nemesh, Waverley Council;

(viii) Dr Frank Alafaci, Associate Professor at UBSC Sydney and President of the Asian Australian Business Council;

(ix) Mr Albert Vella, OAM, President, New South Wales Federation of Community Language Schools;

(x) Mr Nicholas Maksymow, Director, Russian Resurrection Film Festival, Sydney;

(xi) Mr Vladimir Kuzmin representing *Unification* (Russian language community newspaper in Australia); and

(xii) representatives of various Russian-Australian cultural, social and religious organisations.

(2) That this House:

(a) extends greetings and best wishes to the people of the Russian Federation and the Russian-Australian community on the occasion of Russia Day 2018; and

(b) commends the Russian-Australian community for its ongoing positive contribution to the cultural, social and economic life of our State.

Motion agreed to.

TRIBUTE TO MAJOR GENERAL GORDON LINDSAY MAITLAND

The Hon. LYNDA VOLTZ (11:04): I move:

(1) That this House notes:

(a) the passing of Major General Gordon Lindsay Maitland on 18 October 2018;

(b) that Major General Gordon Lindsay Maitland, AO, OBE, RFD, ED, (1926-2018) was born in Rockdale on 25 August 1926;

(c) he was aged just 17 when he enlisted in the 2nd Australian Imperial Force during the Second World War;

(d) Major General Maitland was a member of the Allied Translator and Interpreter Service within Timor Force, supervising compliance with surrender terms, and locating and questioning possible war criminals across the Netherlands East Indies islands of Soemba, Soembawa and Flores;

(e) in the immediate post-war period, he was principal interpreter at the Darwin War Crimes Trials and later saw overseas service in Papua New Guinea and Vietnam, later in his Army career he served as Chief of Reserves at Army Headquarters and as a member of the Chief of Army's Advisory Council;

(f) General Maitland holds the distinction to be the only Private to have attained the rank of Major General and to be appointed to the Chief of Army's Advisory Council;

(g) he also had a distinguished civilian career as CEO of the Royal Agricultural Society, member of government committees, and Chief Manager of the Commonwealth Bank;

(h) for the last 30-odd years of his life he was devoted to commemorative and community activities, particularly assisting veterans and their organisations, a number of which he has led; he also had a lifelong dedication to military history, publishing six books on the topic; and

(i) that his appreciable influence on organisations such as Sydney's Dawn Service, Defence Reserves Association, Sydney Legacy, the Army Museum and the Royal United Services Institute will be enduring, and he was a long time champion and supporter of the Battle for Australia Association.

(2) This House passes its condolences to the family and friends of Major General Gordon Lindsay Maitland, AO, OBE, RFD, ED.

Motion agreed to.

NATIONAL POLICE REMEMBRANCE DAY

The Hon. NATALIE WARD (11:04): I move:

(1) That this House notes that:

(a) on 29 September 2018 the NSW Police Force and the New South Wales community acknowledged National Police Remembrance Day, an annual event that commemorates the service and sacrifice of members of the NSW Police Force who have lost their lives in the line of duty;

(b) this day is of great importance to so many and is also a time to remember police officers who have lost their lives through illness or other circumstances; and

(c) each year 29 September holds significance for police throughout Australia, New Zealand, Papua New Guinea, Samoa and the Solomon Islands to honour officers whose lives have been lost while performing their duty as police officers.

(2) That this House acknowledges:

(a) the great service of all members of the NSW Police Force in supporting and protecting our community;

(b) all police officers whose lives have been lost in the line of duty, as well as those whose devotion and dedication to the service of others and their duty has left them with injuries to body or mind; and

(c) the great support provided by family and friends of all of those serving in our police force.

NEW SOUTH WALES VOLUNTEER OF THE YEAR AWARDS

The Hon. NATALIE WARD (11:05): I move:

(1) That this House notes that:

(a) the 2018 NSW Volunteer of the Year Awards, Northern Beaches Region, was held on Friday 24 August 2018 in recognition of the outstanding contribution to volunteering in New South Wales of volunteers from across the northern beaches;

(b) the NSW Volunteer of the Year Awards is an annual event launched in 2007 by the Centre for Volunteering to recognise the two million plus volunteers in New South Wales, and to promote the importance of volunteering to the community;

(c) these awards are the biggest celebration of volunteering across the country, and together with many other volunteers from across the State, the northern beaches community was acknowledged for their enormous contribution to the local community; and

(d) northern beaches community volunteers were acknowledged for their support across a broad range of areas including hospitals, sporting clubs, helping in schools, the environment and with many community-based organisations.

(2) That this House congratulates:

(a) the following recipients of NSW Volunteer of the Year Awards for the northern beaches region;

(i) Young Volunteer of the Year: Sophie Rothery, Whale Beach Surf life Saving Club from Whale Beach;

(ii) Adult Volunteer of the Year and Overall Regional Winner: Rebecca Fitzpatrick, Lou's Place from Manly;

(iii) Senior Volunteer of the Year: Robyn Wynen, Cerebral Palsy Alliance from Collaroy; and

(iv) Volunteer Team of the Year: Northern Beaches Palliative Care Volunteers from Mona Vale.

(b) all volunteers across New South Wales who contribute to the wider community, adding billions of dollars to the New South Wales economy each year;

(c) Dee Why RSL on its support and hospitality at this year's event; and

(d) the principal partner supporters of the NSW Volunteer Awards, the Department of Family and Community Services and ClubsNSW, as well as Etchcraft and Thrifty Car and Truck Rentals.

Motion agreed to.

TOGETHER FOR HUMANITY FOUNDATION YOUTH AWARDS

The Hon. NATALIE WARD (11:05:0): I move:

(1) That this House notes that:

(a) on Wednesday 17 October 2018 the Together for Humanity Foundation held a youth summit in the theatrette at New South Wales Parliament House;

(b) the youth summit brought together students from a number of schools across New South Wales to explore the issue of creating a sense of belonging and connectedness for all groups within Australian society;

(c) the theme for this year's summit was values, narratives and action; and

(d) schools attending this year's summit included:

(i) Australian International Academy-Kellyville;

(ii) Arkana College;

(iii) Burwood Girls High School;

(iv) Gawura School;

(v) Illawarra Sports High School;

(vi) J J Cahill Memorial High School;

(vii) Lewisham Public School;

(viii) Neutral Bay Public School;

(ix) Revesby Public School;

(x) Waverley College; and

(xi) Wiley Park Girls High School.

(2) That this House acknowledges:

(a) Together for Humanity Foundation representatives:

(i) President Madenia Abdurahma;

(ii) Chairperson Chris McDiven, AM; and

(iii) board member Valerie Hoogstad.

(b) keynote speaker, the Hon. Rob Stokes, MP, Minister for Education;

(c) also in attendance:

(i) the Hon. Ray Williams, MP, Minister for Multiculturalism;

(ii) the Mr Jihad Dib, MP, shadow Minister for Education; and

(iii) the Hon. Natalie Ward, MLC.

(d) religious representatives:

(i) Father Shenouda Mansour;

(ii) Rabbi Jacquie Ninio;

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

(iv) Father Patrick McInerney.

(e) sporting representatives:

(i) Billy Dib, retired boxer; and

(ii) Angela Priftis, Auburn Giants Football Club.

(3) That this House congratulates:

(a) the ongoing commitment of the Together for Humanity Foundation working with schools to foster tolerance and promote intercultural understanding; and

(b) the following schools for their insightful and informative presentations at the youth summit:

(i) Burwood Girls High School;

(ii) J J Cahill Memorial High School;

(iii) Revesby Public School; and

(iv) Waverley College.

Motion agreed to.

BOURKE STREET TERROR ATTACK

The Hon. PAUL GREEN (11:06): I move:

That this House:

(a) condemns the Melbourne terror attack that occurred on Bourke Street, Melbourne on 9 November 2018;

(b) acknowledges that:

(i) our thoughts and prayers go to those who were harmed in the attack, including one victim who was fatally wounded and two more victims who were wounded;

(ii) the role of the Victorian Police and brave bystanders who risked their lives to stop the attacker; and

(iii) the words of our Prime Minister, "I condemn the act of terrorism in Melbourne today that has tragically taken the life of a fellow Australian who has died as a result of this evil and cowardly attack. Australian will never be intimated by these appalling attacks and we will continue to go about our lives and enjoy the freedoms that the terrorists detest."

(c) reaffirms its commitment to free speech, but its opposition to acts of terrorism, hate speech and inciting violence.

Motion agreed to.

THOMAS HARDY POEM THE MAN HE KILLED

The Hon. MARK PEARSON (11:06): I move:

(1) That this House commends the works of Thomas Hardy, poet and author, who:

(a) was born near Dorchester in 1840 into a stonemason's family; and

(b) became renowned for his poetry and novels critiquing the social mores of Victorian and Edwardian England.

(2) That this House notes that Thomas Hardy's poem *The Man He Killed*:

(a) reflects upon the senselessness of two strangers engaging in mortal combat on a battlefield; and

(b) for reasons unexplored, and in acknowledgement that had they met outside the arena of war, they would likely have shared a drink together in friendship.

(3) That this House, in honour of the centenary of the World War I armistice:

(a) contemplates the folly and tragedy of sending humans and animals to war; and

(b) considers the words of Hardy's poem:

Had he and I but met
By some old ancient inn;
We should have sat us down to wet
Right many a nipperkin!

But ranged as infantry;
And staring face to face;
I shot at him as he at me;
And killed him in his place.

I shot him dead because—
Because he was my foe;
Just so: my foe of course he was;
That's clear enough; although

He thought he'd 'list, perhaps;
Off-hand like—just as I—
Was out of work—had sold his traps—
No other reason why.

Yes; quaint and curious war is!
You shoot a fellow down
You'd treat if met where any bar is;
Or help to half-a-crown.

Motion agreed to.

TRIBUTE TO DR ANNE FAIRBAIRN, AM

The Hon. SHAOQUETT MOSELMANE (11:06): I move:

(1) That this House notes that:

(a) Dr Anne Fairbairn, AM, passed away at the age of 90 on Monday 22 October 2018;

(b) Dr Fairbairn was an iconic Australian poet, artist, journalist and a long-time bridge builder between Australia and the Arab world;

(c) Dr Fairbairn championed the rights of Palestinians and Indigenous Australians and was a great supporter of the Arab-Australian community;

(d) Dr Fairbairn was the granddaughter of Australia's fourth Prime Minister, George Reid;

(e) Dr Fairbairn's poetry has been translated and published in Arabic, Persian, and Turkish, and she has lectured extensively at universities in the Arab world and Asia on Australian poetry; and

(f) in September 2005 Dr Fairbairn received the award, "Living for Others—Promoting Peace through Media, Arts and Culture" from the International and Inter-Religious Federation for World Peace presented in Sydney by Professor Marie Bashir, AO, Governor of New South Wales.

(2) That this House notes the contribution of Dr Fairbairn to the New South Wales community, and extends its condolences to her family.

Motion agreed to.

PROFESSOR ASHRAF SABRI LECTURE

The Hon. SHAOQUETT MOSELMANE (11:07): I move:

(1) That this House notes that:

(a) on Monday 5 November the School of Languages and Cultures in the Faculty of Arts and Social Sciences, University of Sydney, and the Australian Egyptian Forum Council co-presented a lecture by Professor Ashraf Sabri on Egypt and the Anzacs in the Middle East campaign of World War I;

(b) Professor Sabri's lecture focused on the important role Egypt played during the First World War, especially on its contribution to the deployments of Australian troops and other allied armies that camped and trained on Egyptian soil during the Middle East campaign; and

(c) the lecture shed light on the comradery between the Anzacs and the Egyptian troops, who fought together alongside the Allies of 18 countries against the invading German-led Ottoman Army for the liberation of Syria, Palestine, Lebanon, and Iraq, and the defence of the Suez Canal in 1915.

(2) That this House further notes that:

(a) this is Professor Sabri's second trip to Australia, following his first visit in 2015 attending the 100-year commemoration of World War I on Anzac Day; and

(b) Professor Sabri is a highly respected Professor of Military History at the Nasser Military Academy in Cairo, Egypt and has dedicated the last 18 years of his life to researching the history of World War I, with particular focus on Egypt's role during this war.

(3) That this House notes the work of Professor Sabri in bringing attention to the significant relationship between the Anzacs and Egyptian troops and congratulates the University of Sydney and the Australian Egyptian Forum Council on highlighting that relationship.

Motion agreed to.

WHITE RIBBON EVENT

The Hon. SHAOQUETT MOSELMANE (11:07): I move:

(1) That this House notes that:

(a) on Tuesday 20 November 2018 the annual White Ribbon event will be held in the New South Wales Parliament, organised by White Ribbon Foundation Ambassador, Vincent De Luca, OAM, and hosted by the Hon. Shaoquett Moselmane, MLC;

(b) this year's event will raise funds for the White Ribbon Foundation, the Redfern Women's and Girls' Emergency Centre as well as the Brewarrina Safe House, all of which do outstanding work and are committed to supporting and caring for victims of violence;

(c) the White Ribbon campaign has been remarkably successful in making violence against women part of the national conversation;

(d) White Ribbon continues to inspire men to understand and to embrace the incredible potential they have to be a part of positive change;

(e) in 2017 White Ribbon raised more than $5.5 million to fund primary prevention initiatives including public information and awareness raising campaigns, partnerships and political advocacy, and educational resources programs in schools and workplaces; and

(f) last year's parliamentary event raised $60,000 and over the past 10 years the event has helped raise more than $600,000.

(2) That this House notes the work of White Ribbon Foundation, the Redfern Women's and Girls' Emergency Centre, the Brewarrina Safe House as well as White Ribbon ambassadors in ensuring that all women can live in safety, free from violence and abuse.

Motion agreed to.

TONY STALEY AWARD RECIPIENT FATEN EL DANA, OAM, 2MFM

The Hon. SHAOQUETT MOSELMANE (11:08): I move:

(1) That this House notes that:

(a) at the 2018 Community Broadcasting Association of Australia [CBAA] Gala Dinner on Queensland's Gold Coast, the prestigious Tony Staley award was presented to Faten El Dana, OAM, and 2MFM; and

(b) the prestigious Tony Staley award recognises the following achievements:

(i) the station or initiative is able to demonstrate a clear vision and strategy;

(ii) management uses best governance practices to contribute to the station or initiative's sustainability;

(iii) the station or initiative provides compelling and creative programming that serves its community of interest;

(iv) the station or initiative's activities have clear benefits for the community and the community broadcasting sector as a whole; and

(v) the station or initiative demonstrates a considered approach to its technical and online operations.

(2) That this House congratulates Faten El Dana, OAM, and 2MFM Islamic Radio Station on winning the Tony Staley 2018 award at the Community Broadcasting Association of Australia.

Motion agreed to.

BANKSIA TIGERS FOOTBALL CLUB

The Hon. SHAOQUETT MOSELMANE (11:08): I move:

(1) That this House notes that:

(a) the Banksia Tigers Football Club Inc. was founded in 2005 by a group of local business people and professionals with a common goal to deliver sporting and recreational services to the wider community;

(b) since its inception, the club has grown from 70 players in 2005 to more than 600 players and volunteers in 2018, making Gardiner Park, Banksia, their home ground; and

(c) the Banksia Tigers has emerged as a most successful club within the St George district with several success stories including:

(i) the Premier League Men's Champions in 2010, 2012 and the current 2018 Champions;

(ii) the Women's Premier League Minor Premiers in 2015, 2017, 2018, and Club Champions for 2017 and 2018;

(iii) President Hassan Chebli was awarded Gold Medal Winner for 2018 by the St George Football Association; and

(iv) the Banksia Tigers were the 2013 St George Association Club Champions.

(2) That this House notes the successes of Banksia Tigers and congratulates club executives, mums and dads on their ongoing commitment to sport and young people in the St George region and wishes them every success with their 2019 competition year.

Motion agreed to.

MACEDONIAN LITERARY ASSOCIATION FORTIETH ANNIVERSARY

The Hon. SHAOQUETT MOSELMANE (11:09): I move:

(1) That this House notes that:

(a) the Macedonian Literary Association "Grigor Prlichev" was formed on 31 March 1978, with the purpose of uniting Macedonian emigrants in Australia who actively participate in the field of literature to preserve Macedonian literary language and literature;

(b) the association celebrated its fortieth anniversary on Friday 19 October 2018 at Hurstville City Theatre;

(c) the event featured the best poem and short story of the year awards, short drama performances by the Macedonian Theatre of Sydney and traditional music performance by "Ilinden" Ensemble;

(d) the event also saw the launch of the following books:

(i) *Rainbow* an anthology of Macedonian poetry in Australia;

(ii) *Going Abroad for a Little Luck* by Grozdan Jovanovski; and

(iii) *The Stone of Robi* by Dushan Ristevski.

(e) over the past four decades, the association has held annual poetry and short story award winning competitions for adults and children; and

(f) a certificate of appreciation was presented to the Hon. Shaoquett Moselmane, MLC, Opposition Whip, for his valuable contribution in promoting the Macedonian language and community.

(2) That this House congratulates the President of the Macedonian Literary Association, Dushan Ristevski, and his entire team on their ongoing contribution towards preserving the Macedonian identity, language, culture and historical achievements.

Motion agreed to.

KURT FEARNLEY, AO

The Hon. NATASHA MACLAREN-JONES (11:09): On behalf of Mr Scot MacDonald: I move:

(1) That this House notes that:

(a) three-time Hunter-based Paralympic gold medallist Mr Kurt Fearnley, AO, has been named by Premier Berejiklian as the 2019 NSW Australian of the Year;

(b) Mr Fearnley was born without the lower portion of his spine, having a congenital disorder called sacral agenesis which prevented foetal development of certain parts of his lower spine and all of his sacrum;

(c) as a child, Mr Fearnley focused on long- and middle-distance wheelchair races, and has also won medals in sprint relays;

(d) at the age of 14 Mr Fearnley took up wheelchair racing and has since become an elite international athlete;

(e) he participated in the 2000, 2004, 2008 and 2012 games, finished his Paralympic Games career with silver and bronze medals at the 2016 Rio Paralympics, won a gold and silver medal at the 2018 Commonwealth Games and was the Australian flag bearer at the closing ceremony;

(f) competing in the marathon at the Athens Paralympics, he pushed his chair for the last five kilometres on a flat tyre to win gold;

(g) Mr Fearnley during the New York marathon in 2006 hit a pothole at full speed and crashed face first, but still went on to set a course record;

(h) in 2007 Mr Fearnley won 10 out of the 11 international marathons he competed in, breaking six course records in the process;

(i) in 2009 Mr Fearnley was NSW Young Australian of the Year; and

(j) in 2004 he was awarded the Medal of the Order of Australia and in 2018 was elevated in the Order of Australia and appointed an Officer of the Order for distinguished service to people with a disability, as a supporter of, and fundraiser for, Indigenous athletics and charitable organisations, and as a Paralympic athlete.

(2) That this House commends and congratulates Mr Kurt Fearnley on being named NSW Australian of the Year in honour of his outstanding achievements as an elite athlete and extraordinary service to the community.

Motion agreed to.

PORT STEPHENS EXAMINER BUSINESS AWARDS

The Hon. NATASHA MACLAREN-JONES (11:09): On behalf of Mr Scot MacDonald: I move:

(1) That this House notes that:

(a) on Wednesday 31 October 2018, at the new Shoal Bay Country Club Convention Centre, over 400 people attended the *Port Stephens Examiner's* Annual Business Awards;

(b) special guests at the event included:

(i) Mr Scot MacDonald, MLC, Parliamentary Secretary for Planning, the Central Coast, and the Hunter;

(ii) Ms Kate Washington, MP, member for Port Stephens;

(iii) Ms Meryl Swanson, MP, Federal member for Paterson;

(iv) Councillor Sarah Smith, Deputy Mayor, Port Stephens Council;

(v) Ms Anna Wolf, Editor, *Port Stephens Examiner*;

(vi) Ms Sharon Fitter—Local Sales Director, Fairfax Media;

(vii) Ms Sue Prescott—Local Sales Director, Newcastle/Hunter; and

(viii) Mr Chad Watson—Managing Editor at Fairfax Media/ACM.

(c) this year the Overall Business of the Year Award went to Kathy Rimmer and her team at Yin Yang Consultancy and Yin Yang Consultancy also won the Learning, Training/Recruitment award; and

(d) winners of the other award categories were:

(i) Category 1: Accommodation: The Bay Holidays—Raine & Horne Nelson Bay;

(ii) Category 2: Accountant—Addison Partners, Nelson Bay;

(iii) Category 3: Animal Services—Raymond Terrace Veterinary Clinic;

(iv) Category 4: Automotive Services—Bartlett Automotive, Raymond Terrace;

(v) Category 5: Bakery—Bakers La Vie, Salamander Bay;

(vi) Category 6: Beauty Therapy—Fresh Salon, Nelson Bay;

(vii) Category 7: Boating, Fishing or Camping—Cove Marine, Oyster Cove;

(viii) Category 8: Building, Construction and Renovation—Greeny's Garage Doors, Heatherbrae;

(ix) Category 9: Butcher—Hodges Butchery, Salamander Bay;

(x) Category 10: Café—Heather's Place, Lemon Tree Passage;

(xi) Category 11: Childrens Services—Tilli Tadpoles Early Learning Centre, Tanilba Bay;

(xii) Category 12: Club—Nelson Bay Golf Club;

(xiii) Category 13: Dance Studio—Ultimate Dance & Performing Arts, Tanilba Bay;

(xiv) Category 14: Fashion or Footwear, Ladies—Privvy Salamander Bay;

(xv) Category 15: Fashion or Footwear, Mens—Totally Workwear Salamander Bay;

(xvi) Category 16: Financial Services—Greater Bank Raymond Terrace;

(xvii) Category 17: Fitness—Imugi Martial Arts, Williamtown;

(xviii) Category 18: Florist/Nursery—Salamander Village Florist, Salamander Bay;

(xix) Category 19: Fresh Produce or Markets—Real Food Culture, Bobs Farm;

(xx) Category 20: Furniture/Home Décor—FAB Furniture & Bedding, Taylors Beach;

(xxi) Category 21: Gift Store—Boho Luxe Trader, Nelson Bay;

(xxii) Category 22: Hair Salon—Hair Art by Ashlie, Fingal Bay;

(xxiii) Category 23: Hardware—H&D Timber, Heatherbrae;

(xxiv) Category 24: Health & Medical—OPAAT Health, Nelson Bay;

(xxv) Category 25: Hotel or Bottle Shop—McCauley's Bottleshop, Salamander Bay;

(xxvi) Category 26: Jeweller—Terrace Showcase Jewellers, Raymond Terrace;

(xxvii) Category 27: Learning, Training or Recruitment— Consultancy, Salamander Bay;

(xxviii) Category 28: Legal Services—LMC Lawyers, Nelson Bay;

(xxix) Category 29: Newsagency—Salamander Bay Newspower;

(xxx) Category 30: Pharmacy—Karuah Pharmacy;

(xxxi) Category 31: Real Estate, Sales—Century 21 Curtis and Blair Medowie;

(xxxii) Category 32: Real Estate, Property Management—Raine & Horne Nelson Bay;

(xxxiii) Category 33: Restaurant, Australian Cuisine—Little Beach Boathouse, Nelson Bay;

(xxxiv) Category 34: Restaurant, International Cuisine—Tilli Thai, Tanilba Bay;

(xxxv) Category 35: Shopping Complex or Precinct—Salamander Bay Square;

(xxxvi) Category 36: Takeaway Food—Soul Origin Salamander Bay;

(xxxvii) Category 37: Technology Industry—Bay Electronics Centre (Jaycar), Salamander Bay;

(xxxviii) Category 38: Tourist Attraction—Hunter Region Botanic Gardens, Heatherbrae;

(xxxix) Category 39: Specialised Services—Bays Landscape & Property Maintenance, Nelson Bay; and

(xl) Category 40: New Business (1st Year)—Central Beans Cafe, Williamtown.

(2) That this House:

(a) acknowledges and commends the *Port Stephens Examiner* for conducting the Annual Business Awards;

(b) congratulates and commends all 2018 *Port Stephens Examiner's* Business Award winners;

(c) acknowledges the sponsors of the event, Port Stephens Council, Tomaree Business Chamber, Shoal Bay Country Club, Just Mattresses, Forever Hair and Beauty, D. J. Cooper Accounting, Medowie Family & Sports Physio and Tackle World Port Stephens; and

(d) acknowledges the organisers of the event, Samantha Newman—Lower Hunter & Port Stephens Sales Manager; Judi Bot-Wessler, Adam Neville, Tracey Marjoram, EllieMarie Watts—Journalist, *Port Stephens Examiner.*

Motion agreed to.

NINETEENTH ANNUAL KOORI NETBALL TOURNAMENT

Mr SCOT MacDONALD (11:10): I move:

(1) That this House notes that:

(a) on 27 and 28 October 2018 the nineteenth annual Koori Netball Tournament consisting of 103 teams and with more than 1,500 people in attendance was held at Charlestown Netball Association;

(b) the tournament is aimed at increasing participation of Aboriginal women in sport and recreation in a fun competitive environment;

(c) special guests at the tournament included:

(i) Ms Jodie Harrison, MP, member for Charlestown;

(ii) Councillor Colin Grigg, Lake Macquarie City Council;

(iii) Councillor Barny Langford, Lake Macquarie City Council;

(iv) Councillor Vincent De Luca, OAM, Director, Netball NSW Ltd; and

(v) Mrs Diane Pascoe, President, Charlestown Netball Association Inc.

(d) winners and runners up at the tournament were:

(i) U/12 Years: Winners—BNC; Runners-Up—La Perouse;

(ii) 12-15 Years: Winners—Kookaburras; Runners-Up—La Perouse;

(iii) Junior Mixed: Winners—Wandiyaci Warriors; Runners-Up—BNC;

(iv) Senior Mixed: Winners—Malikas; Runners-Up—Wagga Wagga;

(v) Open B: Winners—Dungutti; Runners-Up—Wagga; and

(vi) Open A: Winners—Grafton, Runners-Up—BNC.

(e) the excellent work of the tournament coordinator, Ms Donna Coady, State Project Officer, NSW Office of Sport, and Charlestown Netball Association's Executive Committee: Mrs Dianne Pascoe, Ms Yvonne Webster, Ms Annette Hicks, Ms Jodie Hadden, Ms Gail Mayers, Ms Elly Tindall, Ms Jodie Mortimer and Mr Anthony Jarvis.

(2) That this House:

(a) acknowledges and congratulates winners and runners up of the nineteenth Koori Netball Tournament; and

(b) acknowledges and commends the outstanding work of the organisers of the Koori Netball Tournament: Ms Donna Coady, State Project Officer, NSW Office of Sport and members of the Charlestown Netball Association Executive Committee: Mrs Dianne Pascoe, Ms Yvonne Webster, Ms Annette Hicks, Ms Jodie Hadden, Ms Gail Mayers, Ms Elly Tindall, Ms Jodie Mortimer and Mr Anthony Jarvis.

Motion agreed to.

NETBALL NSW LTD AWARDS DINNER

Mr SCOT MacDONALD (11:11): I move:

(1) That this House notes that:

(a) the Annual Netball NSW Ltd Awards Dinner was held on Saturday 3 November 2018 at Rooty Hill RSL Club with representatives from each district association coming from across the State; and

(b) 2018 award recipients included:

(i) Anne Clark, BEM, Service Awards: Tracey Connolly, Campbelltown District Netball Association; Lyn Hahn, Camden & District Netball Association; Elizabeth Konza, Blue Mountains Netball Association; Maureen Nation, Young and District Netball Association; Catherine Walls, Grafton Netball Association;

(ii) Marilyn Melhuish, OAM, Medal—SSN Player of the Year: Jo Harten, GIANTS Netball;

(iii) Marj Groves, AM, Scholarship: Latika Tombs, Manly Warringah Netball Association;

(iv) Nance Kenny, OAM, Medal: Premier League Player of the Year, Amy Wild, Central Coast Heart;

(v) Lynn Quinn, OAM, Bench Official Award: Margot Paterson, Northern Suburbs Netball Association;

(vi) Neita Matthews, OAM, Umpires Award: Jessica Clay, Ku-ring-gai Netball Association;

(vii) Margaret Corbett, OAM, Coaches Award: Amber Cross, Wyong District Netball Association;

(viii) Judy Dunbar Media Awards: Matthew Findlay, *Central Western Daily*, Community Media Excellence; Brittany Carter, ABC Grandstand, Best Feature; Richard Dobson, News Ltd, Best Photograph; *Sydney Morning Herald*, Best Overall Media Coverage;

(ix) 2018 Hall of Fame Inductions: Megan Anderson and Mo'onia Gerrard, OAM;

(x) Heritage Hall of Fame Inductions: Netball NSW State Championships, Netball NSW State Age Championships.

(2) That this House congratulates and commends all award recipients at the Netball NSW 2018 Awards dinner.

Motion agreed to.

Documents

UNPROCLAIMED LEGISLATION

The Hon. SCOTT FARLOW: According to Standing Order 117, I table a list detailing all legislation unproclaimed 90 calendar days after assent as at 13 November 2018.

Committees

STAYSAFE (JOINT STANDING COMMITTEE ON ROAD SAFETY)

Report: Review of Road Safety Issues for Future Inquiry

The Hon. SCOTT FARLOW: I table report No. 5/56 of the Joint Standing Committee on Road Safety entitled "Review of Road Safety Issues for Future Inquiry", dated November 2018. I move:

That the report be printed.

Motion agreed to.

The Hon. SCOTT FARLOW (11:12): I move:

That the House take note of the report.

Debate adjourned.

JOINT COMMITTEE ON THE OFFICE OF THE VALUER GENERAL

Report: Report on the Twelfth General Meeting with the Valuer General

The Hon. NATALIE WARD: I table report No. 3/56 of the Joint Standing Committee on the Office of the Valuer General entitled "Report on the Twelfth General Meeting with the Valuer General", dated November 2018. I move:

That the report be printed.

Motion agreed to.

The Hon. NATALIE WARD (11:12): I move:

That the House take note of the report.

Debate adjourned.

Notices

PRESENTATION

[*During the giving of notices of motions*]

The PRESIDENT: If the Deputy Leader of the Government and the Deputy Leader of the Opposition wish to have a discussion they should do so outside the Chamber.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. ROBERT BORSAK: I move:

That Business of the House Notice of Motion No. 1 be postponed until the next sitting day.

Motion agreed to.

Mr DAVID SHOEBRIDGE: I move:

That Business of the House Notice of Motion No. 4 be postponed until Tuesday 20 November 2018.

Motion agreed to.

The Hon. DON HARWIN: I move:

That Government Business Orders of the Day Nos 1 and 2 be postponed until a later hour.

Motion agreed to.

Sessional Orders

CONSIDERATION OF COGNATE BILLS

Mr DAVID SHOEBRIDGE (11:28): I move:

That for the remainder of the current session, on cognate bills having been read a first time and printed, any member may move that the bills, or any one of the bills, proceed through the remaining stages as single bills.

The reason The Greens moved the motion is that, in the dying days of this Government, in the last two weeks of Parliament's sittings—

The Hon. Dr Peter Phelps: It is not so much dying as hibernating.

Mr DAVID SHOEBRIDGE: The Hon. Dr Peter Phelps says "hibernating" but I see it as dying. In the terminal period of this Government, the death throes of Cabinet produced a series of cognate bills that are totally unrelated to each other. For example, one set of cognate bills before the House is the Crimes Legislation Amendment Bill 2018, the Crimes (Domestic and Personal Violence) Amendment Bill 2018, the Mental Health (Forensic Provisions) Amendment (Victims) Bill 2018, and the Victims Rights and Support Amendment (Motor Vehicles) Bill 2018, and they deal with totally unrelated matters. The only commonality that the bills have is that they come from the Justice cluster and share two Ministers in support.

The PRESIDENT: Order! There is too much audible conversation in the Chamber. I cannot hear Mr David Shoebridge. Members who want to have loud conversations should take them outside.

Mr DAVID SHOEBRIDGE: Putting them together as cognate bills greatly reduces the ability of the House to scrutinise what are complex and quite disparate pieces of legislation. Our second reading debate contributions—apart from those of the Minister and the member leading for the Opposition—are limited to 20 minutes each, which gives us a grand total of five minutes to consider each of the bills. The bills are complex pieces of legislation and removing the ability of this House to properly scrutinise them by shoving them together as cognate bills is contrary to the traditions of this House.

The Hon. Walt Secord: We are a House of review.

Mr DAVID SHOEBRIDGE: As the Deputy Leader of the Opposition says, we are a House of review, and we cannot do our job if we have to deal with such an extraordinary amount of totally unrelated legislation in the forms of these cognate bills. If it was only one set of cognate bills perhaps we could let it slide, but we are faced with a whole series of cognate bills. The next set includes the Surveillance Devices Amendment (Statutory Review) Bill 2018, the Terrorism (Police Powers) Amendment (Statutory Review) Bill 2018 and the Road Transport Amendment (National Facial Biometric Matching Capability) Bill 2018. All the three bills have in common is that they come from the Justice cluster, have the letter "C" in their title and all contain the word "bill" and the date "2018". Apart from those things, the bills deal with fundamentally different matters.

The Surveillance Devices Amendment (Statutory Review) Bill 2018 deals with a series of recommendations that came out of a long-running parliamentary inquiry into Operation Prospect and the extraordinary police bugging scandal that divided the NSW Police Force, created terrible internal difficulties for the NSW Police Force and highlighted the lack of oversight of secret surveillance operations in New South Wales. Now, three years later, the Government has responded. While the Government response is largely positive, putting in place some form of monitor, it is inadequate and there is a very real matter of principle to be explored in the bill about the adequacy of the monitor that has been put in place. But we will not have time to explore it because our second reading debate contributions will be limited to 20 minutes and we will have to consider not only the Surveillance Devices Amendment (Statutory Review) Bill but also the Terrorism (Police Powers) Amendment (Statutory Review) Bill.

This Terrorism (Police Powers) Amendment (Statutory Review) Bill is also the result of a detailed statutory review, which in this case was run by the agency itself. The review dealt with a whole series of inadequate protections in the terrorism legal framework in New South Wales. The bill makes a number of consequential amendments, some good and some not good. It deals with a highly controversial area of legislative action over the past decade and with a complex set of recommendations that came out of the statutory review and we will have a grand total of six minutes and 40 seconds to address it in our second reading contributions. That is not a House of review; that is a rubber stamp.

If that is not bad enough, the set of cognate bills also contains the Road Transport Amendment (National Facial Biometric Matching Capability) Bill, also known as the "capability". I note that the Chair of the Law and Justice Committee is present in the Chamber. The committee received detailed, careful contributions during the course of a short, sharp inquiry into the matter. Not every member of the committee agreed with the submissions but we would all agree that there were matters of real substance raised during the inquiry. I believe that the bill is the Australia Card on digital steroids and takes us down a very dangerous path. But regardless of my pejorative view of the bill, there was a series of contributions from stakeholders—including law societies, law reform bodies and civil liberties bodies—that raised real concerns with the bill.

The bill is part of a very complex piece of Federal legislation and a very complex Federal database, which involves an interoperability hub and a series of discrete State, Territory and Federal databases that will be instantaneously integrated by that interoperability hub. Our right to privacy is being diminished and statutorily removed. The bill deals with a facial recognition regime that has been producing an error rate of 91 per cent in England and Wales. How long will we have to consider the bill? We will have six minutes and 40 seconds to

consider that complex piece of legislation. Introducing these bills as cognate bills removes the ability of this House to properly scrutinise the legislation.

As I said, if it was only that we could probably say, "Well, it is the end of the term and maybe we should just say okay". But we then have another set of three unrelated bills rammed together as cognate that includes the Justice Legislation Amendment Bill (No 3) 2018, the Crimes Legislation Amendment (Victims) Bill 2018 and the Government Information (Public Access) Amendment Bill 2018. They are utterly unrelated pieces of legislation. I will deal with two of them in my contribution to the debate. The Justice Legislation Amendment Bill (No 3) 2018 does good and bad things.

One good thing is that it lifts the retirement age of future judges in New South Wales to 75. That is the community standard and we all agree with that. But the sting in the tail is that it also allows all of the existing members of the judiciary to opt in to raise their retirement age as well. Significant stakeholders in the legal community are deeply concerned that the provision will delay important generational change in the judiciary and that the current crop of largely white privileged males will remain in the judiciary for yet another three years and we will not get the kind of generational change that is needed so the judiciary reflects the diversity in the community. They are very real concerns.

There are also concerns about how that retrospective position was proposed and where the policy position came from. There are real concerns about one of the most important institutions in the State, the judiciary. But the bill will be rammed through as one of three cognate bills. We will have six minutes and 40 seconds to discuss it in the second reading debate. Then there is the Government Information (Public Access) Amendment Bill 2018. The statutory review produced 18 recommendations, 16 of which have been implemented in the bill. How can we deal with such a vast amount of complexity in a very contentious area of government operations—the absence of freedom of information contained in the Government Information (Public Access) Act—in only six minutes and 40 seconds?

These bills are utterly unrelated and they have been pulled together in this way to allow the Government to ram its legislation through in the last six sitting days. The Government should have got its act together and introduced these bills to the House in a proper and timely fashion. The Government has had eight years to complete this legislative review and has had all of this calendar year to introduce this legislation and find appropriate times to debate it. There have been times in the past year when this House has been basically turning its wheels on largely irrelevant matters because the Government has not had adequate legislation to keep the House occupied. But these substantive issues have been running away behind the scenes with statutory reviews and agency reviews. Legislation that should have been introduced to the House in a timely fashion should not be rushed through.

The last set of cognate bills that I will address includes the Children and Young Persons (Care and Protection) Amendment Bill 2018 and the National Disability Insurance Scheme (Worker Checks) Bill 2018. They are utterly unrelated pieces of legislation, other than that they both come from the same Minister, both include the word "bill" and both include the date "2018". The Children and Young Persons (Care and Protection) Amendment Bill makes radical and highly contentious changes to the care and protection legislation in New South Wales. The bill has largely stepped over any stakeholder consideration and is taking us down the path of more forced adoptions. It diminishes the rights of parents to object to adoptions and permanent separations of children from their parents and diminishes the rights of children to maintain important connections with their families.

Yet that is being tacked on to another bill about the National Disability Insurance Scheme, which is all about a kind of working with children or working with disabled people's scheme that has been set up for the NDIS, a kind of parallel, not quite scrutinised—nobody quite knows the shape of it—integrity test that has been set up for people who are providing services under the NDIS. It seems to have been dreamt up by the Commonwealth and State agencies as a kind of working with children regime. Will it work? Is it adequate? Have the appropriate stakeholders been consulted? Are the checks and balances right? Are there the right administrative reviews? We do not know; we have not had a chance to properly look at it because we have been dealing with all these other cognate bills and again we have just 10 minutes to deal with it. I took the opportunity to review the Lovelock and Evans consideration about cognate bills at pages 346-347 of the *NSW Legislative Council Practice*. They say that before 1978 there was no procedure to allow simultaneous consideration of bills in the Legislative Council. They further state:

> Between 1978 and 1986, bills were taken as cognate on motion, by leave to allow for the bills to be considered together, and for one question to be put for the first, second and third readings. The bills still had to be considered separately in committee of the whole.

So before 1978 this could not be done at all because it is an inappropriate, illegitimate way of putting legislation through the House, but between 1978 and 1986 there was an agreed position, which was if the House agreed and leave was granted, then it could happen. One could see how there might be circumstances where the House would

allow this, such as contentious bills or bills that do not require the level of scrutiny of these bills. If we agree as a House of review, it should be our right to do that. I will return to Lovelock and Evans, who state:

> From 1986 until the adoption of the new standing orders in 2004, a sessional order was passed each session allowing that whenever a minister intimated to the House that certain bills were cognate they could be dealt with on one motion for introduction and second reading stages, but the bills were to be considered separately in committee of the whole ...
>
> Since 2004, standing order 139 has provided for the simultaneous consideration of related bills to proceed through the various stages together, except in committee of the whole where, unless there is unanimous agreement, they are considered separately. However, unlike the original sessional order adopted from 1986 to 2004, the standing order allows any member to request that the questions on the respective readings be put separately. This allows members to debate cognate bills concurrently, while still affording the opportunity to move amendments to the second reading motion on individual bills. There have also been occasions when one bill from a series of cognate bills has been discharged, while the other bills have progressed.

There is a history of slow erosion of this House's role as a House of review to allow the Government to pull together these cognate bills. There have been instances in the past where cognate bills have come to the House by negotiation, the contentious ones have been carved off and we have been allowed adequate time. I have been in negotiation with the Government on behalf of The Greens for the last week to try to separate out at least two of these cognate bills, being the Children and Young Persons (Care and Protection) Amendment Bill and the Road Transport Amendment (National Facial Biometric Matching Capability) Bill. We wanted to separate those two but the Government has said that it would not do that. The Government will not consider separating those two cognate bills; it just wants to ram them all through.

Had we just separated out those two bills, there still would have been adequate time to address the bills we have in the last two weeks of sitting but the Government's intransigence means that we are forced into the position of moving this motion and importantly putting on the record the inappropriate, undemocratic and cavalier approach the Government has adopted to what is a longstanding tradition of this House, being a House of review, if for no other reason seeking to get a commitment that this will not become a fresh pattern where we literally destroy the capacity of this House to properly scrutinise the legislation that often passes the other place while it is still warm off the photocopier. I commend the motion to the House.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (11:44): The Government completely rejects the characterisation of what is occurring with these cognate bills and, in particular, rejects some of the assertions that have been made by Mr David Shoebridge in relation to them. Since 1978 there have been procedures to allow cognate bills to be considered together and allow one question to be put for the first, second and third reading, with the bills considered separately in Committee of the Whole. Standing Order 139 of the Legislative Council states:

> (1) Cognate bills may be introduced on one motion for leave and proceed through all subsequent stages, except committee of the whole, in a similar manner as a single bill.
>
> (2) At the request of any member, the motion will be put as separate motions.
>
> (3) In committee of the whole cognate bills will be considered separately, unless the committee agrees unanimously.

This procedure for cognate bills ensures that bills with related subject matter are presented to the Legislative Council as a package for simultaneous consideration and debate. This supports the efficient management of the business of the House in a holistic approach to the consideration of the issues before it. Current procedure under Standing Order 139 allows any member who may consider it more appropriate for the bills to proceed separately to request this when the notice of motion introducing the bills is dealt with. It also allows any member to request that the questions on the respective readings be put separately. This allows members to debate cognate bills concurrently while still affording members the opportunity to move amendments to the second reading motion on the individual bills once they have been considered and debated together. Let me again make that point. The current procedure allows any member who may consider it more appropriate for the bills to proceed separately to request this when the notice of motion introducing the bills is dealt with. That appears not to have been done.

The honourable member's motion would mean a request to separate the bills could occur at any time after they have been read for the first time and printed. It is the position of the Government that it is unnecessary and that the joining of the bills, as the honourable member described in his contribution, is not inappropriate. We take the view also that there is ample opportunity within the standing orders for the honourable member to debate the matters that are before the House in those pieces of legislation. We oppose the motion. However, we recognise that the member is quite within his rights to move this sessional order and the House ultimately is the master of its own destiny. If the House wishes to give Mr David Shoebridge that option in this particular case, of course it is able to do so. However, it is our view that it is unnecessary and we will not be supporting the motion.

The Hon. ADAM SEARLE (11:47): The Opposition will be supporting the motion, in large part for the reasons outlined by Mr David Shoebridge, but let me say this: The House is the master of its own destiny and I am sure the Government has adhered to the rules at its disposal. However, the real question here is not just voting

separately on bills—and I understand that any member of the House can request that bills that are cognate be voted on separately, and I indicate that in relation to the Children and Young Persons (Care and Protection) Amendment Bill, I will be asking for that to be voted on separately from the National Disability Insurance Scheme amendment bill because the conflation of those two bills is, frankly, a rort. The Government can do it—it has done it—but it is a complete rort because the two bills have nothing to do with each other, just as, in the justice space, the three bills are not linked by theme or subject matter, except at the most tenuous level.

By means of these devices, which are available to the Government, what do we do? We have one second reading debate rather than two or three, as the case may be, and as Mr David Shoebridge has indicated, the amount of time that members then can devote in their contribution to one or other bill must, of necessity, be limited and rationed. If they were all part of the one reform agenda, for example in a particular area of government administration or policy, and they were all part of one project, as it were, then that would be fine, that would be appropriate, and that is what the cognate mechanism was designed to do. But what I suspect we have here is the Government not only wanting to reduce scrutiny by having a single debate at the second reading stage rather than multiple debates, but also avoiding the fact that it has missed the cut-off date for legislation and is condensing the consideration by this House and the other House of the different elements. It is a device that is available to the Government but which it ought not use at this time.

I know time is short—there is but this week and next week—but I remind honourable members that we also have the reserve week. There is always a reserve week. This Government in its eight years in office has chosen never to avail itself of that safety valve to take the pressure off, to give members the time and the consideration to deal properly with these matters without sitting crazy hours or trying to unduly rush the consideration of bills.

We on the Opposition benches support Mr Shoebridge's motion because we think this is a misuse of the cognate capacity and it is not appropriate in these cases. Take the children and young persons legislation, which we will deal with in more detail. It is a bad bill. It is riddled with horrible measures, with all the stakeholders united in opposition. If we take the Government's approach, members will be invidiously forced to choose between opposing those retrograde measures and running the risk that they may be perceived in the community as opposing the National Disability Insurance Scheme. Yes, we can vote against those matters, but these bills need to be separately considered in detail. Members should not have to choose or ration how much time they give to one or other bill, particularly in the justice space, for the reasons I have outlined.

The Government has used the tools available to it. It ought not to have on this occasion. It is doing it because we are running to the end of the Parliament. It is frightened of using the reserve week, because it knows that every day it spends in here is another day that goes wrong for it. It is trying to get around the cut-off dates and the other oversight mechanisms provided by this House and the Parliament. I ask honourable members to support Mr Shoebridge's motion and remind them that the standards they set are the standards they live by in this place. In a few short months the seating arrangements in this House could be reversed. All honourable members in this place have an interest to ensure that the mechanism by which Executive Government is scrutinised and held to account is not diminished.

The Hon. WALT SECORD (11:53): I support the motion moved by Mr David Shoebridge, and the comments made by the Leader of the Opposition, the Hon. Adam Searle. I will make several points. First, this is another example of a government in chaos in its dying days, a government that is unable to manage its legislative program and has no plan. Its only plan is to demolish stadiums.

The Hon. Don Harwin: Point of order: The issue of stadiums policy has no relevance to this debate. It is not covered in any of the cognate bills.

The PRESIDENT: I remind the Hon. Walt Secord that we are dealing with a motion that for the remainder of the current session, any member may move that cognate bills, having been read a first time and printed, the bills or any one of the bills may proceed through the remaining stages as a single bill. I believe that the member is deviating from the motion that is before the House.

The Hon. WALT SECORD: Honourable members will be aware that this is a government that is unable to manage its legislative program and to properly plan. Members will also remember that we have had days in this Chamber where the Government scrambled to find things to debate. We had hours and hours of this Parliament dedicated to the library bill, when we could have been debating—

Mr David Shoebridge: Grandparents Day.

The Hon. WALT SECORD: Grandparents Day is another example, which I very much support.

Mr David Shoebridge: I support it too, briefly.

The Hon. WALT SECORD: Unfortunately, the Government is using the rare necessity to have cognate bills. Therefore, there are a number of bills slammed together, often unrelated to each other, to meet the Government's timetable. The Government is doing everything that it possibly can to avoid using the reserve week. We have all freed up our diaries, we are all available.

The PRESIDENT: Order! The member will be heard in silence.

The Hon. WALT SECORD: Mr David Shoebridge attests that he too has freed up his diary. We can all be here and debate these bills in full separately. Secondly, we are also a House of review, and we have a very important role to examine and scrutinise bills. Mr David Shoebridge illustrated very clearly that members have less than seven minutes to examine some bills. This is the Government that introduced the guillotine, limited debate and put time restrictions on. Again, I fear this is another example of a government trying to restrict our role as a House of review, which I take very seriously. We are being put on a path to the Americanisation of the Australian political system. In the United States cognate bills are put forward where bridges are tacked on to bills about foster parenting—things that make no sense whatsoever are pushed together.

Mr David Shoebridge: Remember Michael Moore reading it out?

The Hon. WALT SECORD: A perfect example. This is another example of a government that is unable to manage its program and is simply cobbling together major bills. These bills should have been attended to much earlier. I leave my comments there.

Mr DAVID SHOEBRIDGE (11:56): In reply: I thank all honourable members for their contributions. I think there are no rules in this debate, so I do not think I shut it by reply at this point. Nevertheless, I am not intending to speak after this.

The Hon. Don Harwin: Does he have a right of reply?

The PRESIDENT: I confirm, yes, Mr David Shoebridge has the right of reply. The ordinary rules of debate apply.

Mr DAVID SHOEBRIDGE: I listened carefully to the Government's response from the Leader of the Government. He asserted that what I had said about the unrelated nature of the bills was false. He rejected that analysis. What we failed to hear was any kind of reasoned response to that. Simply saying it does not make it true. Those bills are fundamentally not related. They are only being brought together as concurrent bills because the Government has run out of time by not being able to manage the flow of business. It does not want to have another sitting week, because it knows another sitting week will put it under further scrutiny, and at the moment most of the scrutiny is showing this Government up. That is the reality.

The Hon. Wes Fang: The scrutiny is on you guys.

Mr DAVID SHOEBRIDGE: I note the interjection from a member of The Nationals. The Government does not want another sitting week because it does not want the additional scrutiny. For the Leader of the Government in his high-handed fashion to simply say that these bills are related—I do not think he could bring himself to say that; he simply said that my proposition that they were unrelated is wrong—then to laugh it off, as he is doing now, with a smirk on his face, in circumstances—

The Hon. Don Harwin: Point of order: Mr David Shoebridge is now making reflections about another member and is actively misleading the House.

The Hon. Walt Secord: To the point of order: I beg to differ. The Leader of the House was smirking and Mr David Shoebridge was not misleading the House. I know a smirk when I see a smirk.

The PRESIDENT: Order! I call the Hon. Walt Secord to order for the first time. He did not speak to the point of order and he is well aware of that.

Mr DAVID SHOEBRIDGE: To the point of order: I reject the proposition that what I said was untrue and that I was misleading the House. However, I do accept that it is contrary to the standing orders to make a reflection on another member, and I therefore withdraw.

The PRESIDENT: I remind Mr David Shoebridge that reflections on other members are disorderly at all times. I note that he has withdrawn and I thank him for that.

Mr DAVID SHOEBRIDGE: The Leader of the Opposition made the relevant point in his contribution that this House sets its standards. If we set the standards so low now, it is an invitation for a future government to meet those low standards and to abuse the concurrent bill process as this Government is abusing it in this instance. Even if we had had an acknowledgment from the Government that it accepted it was probably an abuse but it was doing it because it had run out of time and it promised not to do it again, we could tolerate it. However, we did

not get even that acknowledgement. It has simply said it is perfectly fine and it is happy to keep doing it. It is not fine; it is wrong; it is an abuse. It also diminishes this House as a house of review. For those reasons, I commend the motion to all members of the Chamber.

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

The House divided.

Ayes 16
Noes 20
Majority.....4

AYES

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

NOES

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

PAIRS

Mookhey, Mr D	MacDonald, Mr S

Motion negatived.

Business of the House

ORDER OF BUSINESS

The Hon. DON HARWIN: I move:

(1) That on Tuesday 20 November 2018 proceedings be interrupted at approximately 6.00 p.m., but not so as to interrupt a member speaking, to enable Ms Dawn Walker to give her valedictory speech without any question before the Chair.

(2) That on Wednesday 21 November 2018 proceedings be interrupted at approximately 5.30 p.m., but not so as to interrupt a member speaking, to enable Mr Jeremy Buckingham and then Mr Scot MacDonald to give their valedictory speeches without any question before the Chair.

Motion agreed to.

Bills

CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT BILL 2018

NATIONAL DISABILITY INSURANCE SCHEME (WORKER CHECKS) BILL 2018

Second Reading Debate

Debate resumed from 24 October 2018.

The Hon. ADAM SEARLE (12:09): I lead for the Opposition in debate on the Children and Young Persons (Care and Protection) Amendment Bill 2018 and the National Disability Insurance Scheme (Worker Checks) Bill 2018. As we have already canvassed in this House, the bills have been introduced as cognate bills,

notwithstanding the fact that they are unrelated. Therefore, I make a request that the second reading votes be separated and voted on sequentially. That is because the Opposition opposes the first bill. We will have amendments should we not succeed in opposing the bill at the second reading stage. However, we do not oppose the National Disability Insurance Scheme (Worker Checks) Bill, which is a Labor project, albeit one that is not being handled very well by the current governments, State and Federal. We do not oppose the measures in that bill. We express those clear views on the way in which we vote.

The Children and Young Persons (Care and Protection) Amendment Bill 2018 seeks to amend the Children and Young Persons (Care and Protection) Act and the Adoption Act 2000. It is a matter of record that a discussion paper entitled "Shaping a Better Child Protection System" was issued in December 2017 outlining proposed legislative amendments to a select group of stakeholders and requesting submissions. Those submissions have never been made publicly available. The community legal sector and other important stakeholders in this space formed what we consider to be a reasonable expectation that a draft exposure bill and a further, more detailed consultation would be released prior to the introduction of the legislation. The Government could also have produced an exposure draft and let it sit upon the table. Instead, the report on the consultative process was released on the same day as the bill was introduced in this place. Affected stakeholders, including Aboriginal and Torres Strait Islander communities and organisations, have simply not had sufficient time to consider or respond to the full implications arising from the proposed reforms. Consequently, I move:

> That the question on the second reading of the Children and Young Person's (Care and Protection) Amendment Bill be amended by omitting "be now read a second time", and inserting instead, "be referred to the Standing Committee on Social Issues for inquiry and report".

Frankly, this bill is being rushed. Its content is hastily put together and ill-conceived. Without wishing to be alarmist, the measures in the legislation, if made law, run the risk of creating an instrument by which we would create the potential for another stolen generation of children to be removed from their families. We should step back from that. That is a reason to look very closely at the provisions and to make sure that in the Government's desire to improve the system and to provide additional protections for vulnerable children, we do not, in fact, do more harm.

What does this legislation do? The amendment bill changes guardianship orders to allow the Children's Court to make an order by consent to reallocate parental responsibility without the requirement of a care application or the finding that the child or young person is in need of care and protection. The Children's Court may also make a guardianship order by consent without the necessary finding that there is no realistic possibility of restoration of the child or young person to his or her parents. The amendments to the Adoption Act will also enable the Supreme Court to make an order without parental consent, permitting the adoption of a child by the child's current carers or guardians.

The bill also limits the period for which the Children's Court may allocate all aspects of parental responsibility to the Minister, and the period in which the feasibility of restoration of a child or young person to his or her parents may be considered, to a period of just 24 months. The bill makes amendments that require the Children's Court to take into consideration the amount of time that the child or young person has been with the present caregivers and the stability of present care arrangements when considering granting leave to vary or rescind the existing care order. The amendments also require the department to offer alternative dispute resolution processes to the families of children and young persons at risk of significant harm before seeking care orders.

The bill amends the current legislation to enable the secretary of the department to ask a government department or agency or a government-funded non-government organisation to provide prioritised services to a child assessed at risk of significant harm and their family, as well as extending the time frame that the court is able to make orders allowing a child subject to a guardianship arrangement to have contact with their parents or family to the duration of the guardianship order. The bill also allocates responsibility for a child whose guardian or carer has died to the secretary for 21 days or until the court makes an order allocating parental responsibility for the child. While the secretary has responsibility for the child, he or she must investigate and assess the most appropriate care arrangements for that child.

The National Disability Insurance Scheme (Worker Checks) Bill gives effect to obligations in New South Wales under the Intergovernmental Agreement on Nationally Consistent Worker Screening for the National Disability Insurance Scheme [NDIS]. Under this bill, all NDIS workers will be required to apply for a check consistent with the working with children and vulnerable persons check. It is designed to protect persons with disabilities from abuse, violence, neglect and exploitation. As I indicated at the outset, the Labor Opposition does not oppose that second bill or its contents.

To return to the first bill relating to the care and protection system, the Opposition is widely concerned about the 24-month time frame about which I spoke earlier. The introduction of an arbitrary time limit for families to work towards restoration is a great concern. The proposal restricts the court to considering whether the children

can be restored to their families within two years or less. That effectively limits the court's discretion to grant flexible care and protection orders on a case-by-case basis and to make orders crafted to meet the needs of individuals and their families.

That is really important. Families, particularly broken families, and vulnerable children are not machines. You are not repairing a house, car or piece of equipment. You cannot just patch it back together. It takes time. It takes investment. It takes care. Everybody moves and develops at a different pace. Members such as the Hon. Peter Primrose and the Hon. Mick Veitch know about caring for vulnerable kids and working in that sector. It is important to have a system that is responsive to individual needs. Members of the Liberal Party—trading under a false name—nevertheless always talk about the freedom of the individual and the fact that government needs to be responsive to individual needs and yet there is this sledgehammer-to-crack-a-nut proposal. The Opposition thinks that there should remain an open ended mechanism rather than one that is so limited.

The proposal fails to impose corresponding obligations on the department to provide intensive, holistic support to families to achieve restoration within the proposed time frame. Many families face systemic barriers to achieving restoration within two years, including a chronic and well-documented lack of public housing and public housing that is not fit for purpose. I note, in parenthesis, that the several hundred million-dollar maintenance backlog, which this Government said it inherited from the previous Government, has not been filled in eight years, despite $50 billion worth of privatisation. Obviously, looking after vulnerable families and individuals is not a priority for this Government.

The Hon. Peter Primrose: Building stadiums.

The Hon. ADAM SEARLE: Yes, the funding is all going into building stadiums. There is also a lack of accessible support and rehabilitation services. Rather than setting families up to fail by imposing arbitrary time limits, the Government should introduce a scheme of comprehensive legislative supports that prevent removals in the first place or provide support towards restoration that is tailored to individual families' needs.

In relation to guardianship and adoption orders, the proposal would allow the court to make a guardianship order under section 38 with a parent's consent, even where the department has made no finding that a child is at risk of significant harm or should be subject to a care and protection order. The requirement that parents considering consenting to guardianship orders have access to free legal advice does not go far enough to ensure appropriate accountability once such orders are made. Proposed changes to the Adoption Act that broaden the Supreme Court's power to dispense with a parental consent where an adoption order is sought by a child's current guardian should also be opposed. The two proposals create a fast-tracked pathway to adoption without an adequate regulatory framework to provide oversight and protect the best interests of vulnerable children.

As I said, there are additional barriers to seeking variation of care and protection orders. The changes to section 90 of the Act make it harder for parents to apply to vary or dismiss care and protection orders. According to the department's report on the outcomes of its consultations on proposed reforms, there is little community support for changes to section 90. The explanatory materials to the bill give no clear rationale for the proposal requiring the court to consider the stability of a child's current placement when granting leave to a parent to make an application to vary or dispense current care and protection orders. In its current form, section 90 already sets a high bar for parents seeking to change care and protection orders. The section also enables the court to dismiss unmeritorious applications where the applicant cannot demonstrate an arguable case. Rather than further limiting parents' access to the courts, the Government should ensure they have access to free, independent legal advice when seeking the court's leave to make an application under section 90.

There is inadequate provision for independent legal advice and representation in this bill. To be effective, requiring Family and Community Services to engage families in alternative dispute resolution before seeking care and protection orders from the court requires accessible, independent legal advice to address power imbalances between families—particularly vulnerable and dysfunctional families—and a government department. This is necessary in order to support parents to fully participate in the process, and to ensure that placing a child in out-of-home care is always considered as an intervention of last resort.

It is no good having a technical right, or a technical avenue, for parents to pursue if they lack the means to properly engage and they lack support. This legislation deals with broken and vulnerable individuals and families. If the processes are to be meaningful and to give substantive rights—not bare technical legal rights—we need to make sure that all persons can properly engage. This is not a criticism of the Department of Family and Community Services or its officers, whom we know work tirelessly in the public interest and in the interests of vulnerable communities, families and individuals, but there is no use creating a new process if people cannot use it.

Families with specialist needs—including people with cognitive disabilities and Aboriginal and Torres Strait Islander people—should also be guaranteed access to specialist non-legal support. Community legal centres are perfectly placed to support families participating in alternative dispute resolution with the department and, along with the Aboriginal Legal Service (NSW/ACT) and Legal Aid NSW, should be adequately funded to provide these services.

These matters are very important if we are going to raise the bar with respect to these issues, which I assume is the Government's intention. As I indicated, there is a significant group of stakeholders in this space, who are shocked and alarmed at what the Government is doing. Today a group involving AbSec, Community Legal Centres NSW and the Jumbunna Institute located at the University of Technology, Sydney have, along with many other groups, authored a joint letter to the Premier. The letter states:

> Dear Premier,
>
> We are writing to urge the NSW Government to act in the interests of children and communities in NSW, by turning away from the path of forced adoptions and avoiding the mistakes of the past.
>
> Forced adoptions played a central role in the trauma that led to the National Apologies to Survivors of Institutionalised Child Sexual Abuse, the Forgotten Australians, and the Stolen Generations. There was also a specific national apology to victims of forced adoptions in 2013 and a NSW Government apology in 2012. It is our collective responsibility to learn from these mistakes and ensure that children are safe and families have the supports they need to be part of creating strong, safe and healthy communities.
>
> The NSW government is on track to repeat these mistakes, with potentially devastating consequences for children and their communities. The Care and Protection Amendment Bill (2018) is currently being rushed through NSW parliament without genuine input and engagement with Aboriginal communities and other organisations that work with the children and families who will be impacted by these reforms.
>
> Decades of research, and multiple Royal Commissions and inquiries have provided strong recommendations about meeting the needs of children and young people. Reducing the number of children in out of home care requires community development and the provision of early support services that families need when they are going through hard times. The NSW government is ignoring this advice and returning to the failed policy of forced adoptions.
>
> The NSW government is on a dangerous path to ruining lives and tearing families apart. The legacy of these reforms will be another government apology for traumatizing another generation of children.
>
> We urge the NSW government to put these reforms on hold and engage in genuine dialogue with all stakeholders, including Aboriginal communities and community organisations supporting children in families in this area.

The letter ends, "We look forward to your response." There are 61 organisations that have put their names to this letter. They include Community Legal Centres NSW, AbSec, Jumbunna, Domestic Violence NSW, Grandmothers Against Removals NSW, the Elizabeth Evatt Community Legal Centre in my region of the Blue Mountains, Just Reinvest NSW and Western Sydney Community Legal Centres. There are 61 separate organisations, the names of which I could read onto the record one by one, but will not. A range of individuals are also active in this space or have first-hand knowledge of the defects in system. They know the further damage that the provisions in this bill would do.

There are 700 names of people who have supported this letter, along with the 61 specialist organisations, asking the New South Wales Government to pause and reflect on what this really means. The Law Society of New South Wales, the peak organisation of solicitors in this State, has also written to the relevant Minister, the Hon. Pru Goward, MP, making a number of recommendations. Its first recommendation is that the bill should be referred to an inquiry, which is why I have moved the amendment to the second reading motion before the House. It also opposes the maximum two-year time limit for restoration and indicates that clauses 20, 25 and 27 to schedule 1 to the bill should be removed or amended to exclude indigenous children.

The Law Society also opposes guardianship orders by consent and dispensing with parental consent where adoption is sought by the child's current guardian. It indicates that clauses 13 and 14 of schedule 1 and all clauses in schedule 2 should be removed or amended to exclude Indigenous children and to state that each party, other than the secretary of the department, be provided with independent legal advice. In the case of Indigenous parties, culturally competent advice should be given.

I ask members to pause and remember that not long ago, when this House—with goodwill everywhere—debated the Aboriginal language legislation, we reflected on the need for cultural sensitivity and awareness. The goodwill that was apparent in this Chamber on that occasion is entirely missing from debate on this bill or at least from Government awareness. We well understand—and Mr Assistant President well understands from his long years in public life and in this place, his strong association and knowledge of Indigenous matters—that Aboriginal and Torres Strait Islander families and communities have experienced particular disadvantages since European settlement and the dispossession they experienced. I urge all members in this Chamber to listen to the pleas of the 700 individuals, the 61 organisations and the Aboriginal and Torres Strait Islander communities to not inflict this legislation on them without a full inquiry as to its consequences.

The Law Society also opposes the additional limitations on applications to vary or dispense with care or protection orders. Its considers that section 90 of the Children and Young Persons (Care and Protection) Act should remain unchanged and that the factors set out in subclauses 29 (2A) and 29 (2B) should be given equal weight. The Law Society notes that the reference to the stability of present care arrangements in subclauses 29 (2B) and 32 (c) should be removed. It supports the requirement for alternative dispute resolution processes, but indicates they must be supported by independent legal assistance. The Law Society advises that clause 12 of schedule 1 be amended to require the provision of independent legal assistance to the family of a child or young person at risk of significant harm and, for Indigenous parties, that culturally competent legal advice be provided.

The Law Society is deeply concerned about the lack of opportunity for public scrutiny of this legislation and that is why its first recommendation is that the bill be referred to a parliamentary committee for inquiry. Review by a committee will allow for adequate public engagement and scrutiny of what are, on any view, significant reforms to the care and protection system. The Law Society has noted a range of other concerns in its letter to the relevant Minister. I have summarised those concerns—the substance remains the same—the Government should not rush this legislation.

Earlier in this process, a joint statement was issued by a number of organisations: Save the Children, Community Legal Centres NSW, the Aboriginal Legal Service and others. I will provide the House with the flavour of the statement. The documents can be tabled if necessary and I seek the indulgence of the House to be able to do so. A quote from the joint statement is as follows:

> The recent announcement by the NSW Government that significant legislative reforms to the statutory care and protection system will be introduced to Parliament has stunned stakeholders including Aboriginal community bodies and community legal advocates, citing the lack of transparency and public dialogue on this important area of public policy.
>
> The group, including AbSec—the NSW Child, Family and Community Peak Aboriginal Corporation, the Aboriginal Legal Service (NSW/ACT), Community Legal Centres NSW, Public Interest Advocacy Centre, Kinchela Boys Home Aboriginal Corporation, Burrun Dalai Aboriginal Corporation [Inc,] the Benevolent Society, Professor Terri Libesman (UTS Law), KARI, Save the Children Australia and Armajun Aboriginal Health Service have repeatedly called for greater transparency and consultation with respect to reforms that go to the heart and soul of our society; our treatment of the most vulnerable members of our community.
>
> Following a brief consultation process in response to a Family and Community Services discussion paper, *Shaping a Better Child Protection System*, in October 2017, there has been a disturbing silence about the scope and substance of the proposed changes, with the public and sector stakeholders apparently having to wait for the draft bill to be tabled in parliament to see what the government has decided to do.

The statement further notes:

> This lack of openness is deeply troubling for Aboriginal communities in particular, given the significant and disproportionate impact that the statutory child protection system continues to have on the lives and wellbeing of Aboriginal children and young people, their families and communities.

That statement continues:

> We call on the NSW Government to reconsider the progress of these amendments and urge all members of the Legislative Council to send this bill to committee, allowing a meaningful public engagement and consultation process, so that the public, including children and young people, and Aboriginal communities can genuinely inform the proposed changes, understand their implications, and take part in an open and transparent dialogue about the scope and detail of legislative reforms needed to achieve a modern, rights-based statutory child protection system.

On 25 October a statement was issued directly by AbSec which says, and I will quote briefly:

> AbSec, the New South Wales Aboriginal child and family peak organisation, is once again calling on the NSW Government to listen to Aboriginal people and communities, instead of making blanket changes to child protection legislation that will adversely impact Aboriginal children, young people and families in NSW.

I also table that document. In short, these changes have been dropped on the sector dealing with vulnerable communities, families and individuals without adequate consultation. The people who will be directly affected have not been given or afforded an opportunity to meaningfully engage with government about the terms of the legislation, its impact on their lives and how possible adverse consequences—no doubt unintentionally put into the bill—could be avoided. They have raised the real risks of it inflicting further harm on vulnerable communities, particularly Aboriginal and Torres Strait Islander communities, and there is an alarm, a clarion call, to pause and to reflect upon the terms of the legislation through an inquiry process.

The Government has not made a case in this legislation for either its reforms or the need for urgency. In our view there is no good reason that the legislation needs to pass this week, or indeed next week. There is no good reason that its passage should not await a proper inquiry so that the House, stakeholders and people who are to be subject to the new regime can have the opportunity to fully engage with government about these very significant changes. To address a number of concerns that I have outlined, I foreshadow that the Opposition has some 29 amendments to discuss in Committee. I understand that The Greens have approximately 24 amendments.

The Hon. Scott Farlow: More than 24.

The Hon. ADAM SEARLE: I note the interjection by the Parliamentary Secretary that The Greens have more than 24 amendments. What that reveals or discloses is very significant disquiet in this House reflecting the even greater disquiet in the wider community, particularly on the part of those who will be directly concerned. To give members a flavour of the Opposition's amendments, which I will address in greater detail in Committee, obviously the two-year time limit is a real problem and the Labor Opposition will visit that. Any time limit on restoration should be balanced with clear obligations on government and the secretary of the department to provide proper support to families and children facing permanent removal.

It is all well and good for government to lay down the law to people who are broken and struggling and, more particularly, to make permanent and far-reaching decisions for vulnerable children without providing resources or putting a reciprocal obligation on government to do its part more fully. If the Government wants to raise the bar that vulnerable individuals and families have to clear, the Government should lift its own game. I make it clear that my comments are not directed to the agency or its hardworking employees: I am talking about the Government's policy. The Labor Opposition is very concerned about the proposal to make a guardianship order, even when there is no finding that a child is at risk of significant harm or should be subject to a care and protection order. The Labor Opposition will address that issue as well in Committee.

The Opposition also will propose a variety of other changes in relation to the expanded regime being proposed by the Government. We oppose any change to section 90 of the care Act, at least as it is currently configured. It is very difficult to bring an application to vary or rescind care orders under section 90, and the Children's Court is already empowered by section 90 (2A) (e) to dismiss unmeritorious applications at the earliest stage. As I said earlier, section 90 is already a high bar. There is strong opposition to any changes in the consultative process run by the Government last year. The additional limitations in the bill are unnecessary but also restrict the court's discretionary decision-making. The Government has not made the case for this change.

The Opposition will ensure that families are provided with legal advice and representation in any alternative dispute resolution [ADR] process. The Opposition welcomes ADR processes more generally prior to initiating court proceedings, but it is very concerned that families will not be able to participate in those processes on a footing equal to the department's without access to independent legal advice and representation. Hopefully, the Opposition's position on the Children and Young Persons (Care and Protection) Amendment Bill 2018 has been made very clear. The Opposition will not support the bill on the second reading vote but will move a range of amendments in Committee to try to salvage the legislation.

What the Opposition hopes to do prior to the second reading vote is persuade this House to press pause and to refer the legislation to the Legislative Council Standing Committee on Social Issues to inquire into and report on the issues raised by the bill. For completeness, I point out that the Opposition does not oppose the measures in the cognate bill dealing with Working With Children Checks to be required of all those working in the National Disability Insurance Scheme.

The ASSISTANT PRESIDENT (Reverend the Hon. Fred Nile): The Hon. Adam Searle mentioned in his speech certain documents he wishes to table. Would he identify those documents?

The Hon. ADAM SEARLE: Certainly, and I am happy to show them to the Parliamentary Secretary. There is a statement by the New South Wales Aboriginal Child, Family and Community Care State Secretariat [AbSec] dated 25 October, a joint sector statement made by various bodies and a letter with today's date addressed to the Premier from 61 organisations and 700 individuals. I have read extracts from them, but for completeness I would like them to form part of the record of this debate, if there is no objection.

The ASSISTANT PRESIDENT (Reverend the Hon. Fred Nile): Does the member seek leave to table those documents?

The Hon. ADAM SEARLE: I seek leave to table those documents.

Leave granted.

Documents tabled.

The Hon. PAUL GREEN (12:44): On behalf of the Christian Democratic Party, I join in debate on the Children and Young Persons (Care and Protection) Amendment Bill 2018 and the National Disability Insurance Scheme (Worker Checks) Bill 2018. The bills before the House today seek to strengthen the child protection system in our State and implement the national agreement for screening workers in the National Disability Insurance Scheme, which is known as the NDIS. Child protection is part of our core business. It is certainly a passion of mine and has been over the many years I have been a member of this House. We must do everything we can to protect our children. We must give every child the opportunity to live their dreams and to achieve their

goals in their life. When I was elected to this House nearly eight years ago, I indicated my commitment to making New South Wales the safest place in which to raise a child. I have not wavered from that stance.

Family is the basic building block of society. It is the means by which we all connect and establish a sense of belonging. We are raised and shaped by our families and communities. We are socialised through our families by their likes and dislikes and by their experiences and opinions. Our childhood lasts for only a short time before we begin to develop into young adults and then, hopefully, continue to mature as responsible citizens of this State and nation. In 2015 the Christian Democratic Party welcomed the Government's continued commitment to supporting vulnerable children by tightening and strengthening the legislative frameworks and systems that underpin their safety and wellbeing. The Children and Young Persons (Care and Protection) Amendment Bill 2018 must not be considered as a lone part of our child protection system—rather, it builds upon previous Acts considered by this House.

That bill establishes a responsibility for Family and Community Services to ensure that we do not have children and young people, in what should be the most carefree time of their lives, caught up in a system that does not seek to place them in a permanent and stable environment, such as through the restoration of their immediate family, through the placement of a child into guardianship or through adoption. The Pathways of Care Longitudinal Study, which commenced in 2011, was designed to track children and young people in out-of-home care. It examined the experiences and permanency outcomes of 4,126 children who entered care for the first time between May 2010 and October 2011. It was found that, of the children who were restored to their parents, most unfortunately 23 per cent re-entered the department's care. This is compared to children who were placed in guardianship, only 1 per cent of whom re-entered care, and to children who were adopted, of whom zero per cent re-entered the care of the department.

Legislation relating to the wellbeing of our children is something we cannot afford to get wrong, especially when children are placed in a vulnerable position due to no fault of their own. We must ensure that our care of children and young people always focuses on their best interests. I now turn to deal in detail with the bill before the House, which seeks to provide prioritised access to services for children and young persons at risk of significant harm, and their families. The secretary of the Department of Family and Community Services will have the ability to decide what action should be taken to promote and safeguard the welfare and wellbeing of a child or young person who is at risk of significant harm.

The secretary can request prioritised access for a child or young person to government agencies and government-funded non-government agencies. Given the recent report on youth suicide, the ability of our most vulnerable children and young people to access the support they need is paramount. Yesterday, we heard that over 10 years there was an increase of 76 per cent in instances of suicide by girls under the age of 25. That is unacceptable. No number of suicides is acceptable. The bill also gives authorisation to certain agencies to exchange information whilst providing services to children and young people at risk of significant harm. This is to ensure that reasonable steps can be taken to coordinate decision-making and service delivery. It also defines "children's services" with regard to mandatory reporting.

Under the bill the secretary is required to offer the family of a child or young person at risk of significant harm an alternate dispute resolution process before seeking care orders from the Children's Court. A dispute resolution process does not need to be offered if there are exceptional circumstances—for instance, if there are criminal proceedings or police investigations underway or if the secretary decides it is not appropriate following advice from the Commissioner of Police. The bill restates the circumstances in which the Children's Court can make an order by consent that gives the parental responsibility of a child or young person to a carer other than the child or young person's parents.

As this order is made by the consent of the parent, it can be done without the necessity of a care application or finding that the child or young person involved is in need of care and protection. In addition, the court can make a guardianship order by consent without the need to find that there is no realistic possibility of restoration of the child or young person to their parents. This goes a long way in removing stigma and preserving the dignity of a parent. It means that that a court finding against a person of being an unfit parent is alleviated. This point has been overlooked in this debate, but it is a much more constructive approach. It should also be noted that parties entering into such an agreement must do so freely and once they have received independent legal advice about the nature and effect of the proposed order.

It is the responsibility of the secretary to ensure that the proposed guardian in the consensual guardianship order has satisfied the prescribed suitability requirements. A care plan must still be provided to the court, along with any required reports as prescribed by the legislation. Under the Children and Young Persons (Care and Protection) Act 1998 there are a number of steps that must be followed prior to the Minister making any decisions on the placement of an Aboriginal child or young person entering care, including ensuring Aboriginals and Torres Strait Islanders participate in the decision-making of placement options for children within their communities.

Further, section 13 of the Children and Young Persons (Care and Protection) Act 1998 explicitly outlines the placement principles for Aboriginal and Torres Strait Islander children.

The bill before the House today does not remove or negate the responsibility of the department when it comes to the placement of Aboriginal and Torres Strait Islander children on guardianship orders or should a child be adopted. All of these principles still remain. It is remiss of anyone to suggest that the bill before the House overrides or removes these principles. This bill will also enable the Children's Court, based on its own dissatisfaction, to conduct a review of progress with regard to the implementation of a care plan for a child or young person where parental responsibility has gone to a person other than the parent.

My wife has always had a deep love for Aboriginal children and she ministered to many of them when she first went to Nowra some years ago. Recently we applied to be foster carers, hoping to look after an Aboriginal child. An Aboriginal elder wrote us a reference and we had all the right things in the right places. The foster care system made very clear that, if we received the blessing of looking after a child who was unable to be connected to their family or community, we had an obligation as foster carers to ensure that we connected them to culture and community and all the opportunities available to them as an Aboriginal person.

The review can be conducted only after considering a report under section 82 of the principal Act. The court must give notice of the progress review and invite the parties to present evidence and to make submissions. Following the report under section 82, the progress review will replace the need for the court to invite parties to make an application under section 90 of the principal Act to vary or withdraw the order. One of the biggest changes the bill makes is to introduce a period of time—not exceeding 24 months—within which the feasibility of the restoration of a child or young person to his or her parents is to be considered in connection with the preparation and approval of permanency plans. The Hon. Adam Searle said something about the removal of section 90, but my understanding is that it stays—

The Hon. Adam Searle: No, it's the amendment to section 90. We don't support the amendment. It's unnecessary.

The Hon. PAUL GREEN: Okay, sorry. The bill requires that the feasibility of restoration is considered in two contexts. First, by the secretary for the purpose of preparing an appropriate permanency plan to the Children's Court if the secretary applies for a care order of removal of the child. Secondly, by the court prior to approving the permanency plan that involves restoration. The bill also clarifies that a decision may be made in the best interests of a child or young person as to whether to accept the secretary's assessment of the feasibility of restoration.

During the recent sitting break, I met with representatives from Community Legal Centres NSW, the Aboriginal Legal Service NSW/ACT, the Wirringa Baiya Aboriginal Women's Legal Centre, Grandmothers Against Removals and the Public Interest Advocacy Centre. They raised a number of concerns with the bill, particularly around the introduction of the provision that allows for the placing of a child on a guardianship order or in a permanent placement or adoption. First, they feel that it will become harder for Aboriginal children in care to be seen by and connected with their culture as there is no oversight of these children by the department. Children and young people may become lost within the system and, more importantly, lose their connection with their culture, which plays a vital role in their growth and development. When I raised this concern with the Government, it advised that under guardianship orders it is a requirement of such a plan to contain contact orders for the life of the guardianship order.

As I previously stated, there are placement guidelines in place that must be considered when looking to place a Aboriginal and Torres Strait Island child or young person on a guardianship order. I note also that adoption for Aboriginal children is the least preferred permanency option. The matter can be considered only for movement to the Supreme Court for its independent consideration if it is clearly the best legal alternative for the interests of the child. That operates as one would expect it to, as evidenced by the small number of Aboriginal children who have been adopted from care. Guardians who agree to provide care for vulnerable children are required by law to abide by any contact order, and if the guardian should break the contact order then the parent has the ability to take the matter back before the court. I ask the Minister to further address the definition in the bill of "... a reasonable period, not exceeding 24 months, within which the feasibility of restoration of a child or young person to their parents is to be considered ..."

The organisations I met with wanted further clarification of the role of the department and the support it is expected to provide the parents to enable family restoration—and, in particular, what happens if a parent cannot access necessary services in a timely manner and this delays a parent's ability to receive treatment within the 24-month time frame. In my meeting with the Minister the fact was raised that this bill is building on systems and processes that already exist within the Department of Family and Community Services. Prior to considering the

feasibility of restoration of a child, it must be noted that the department must ensure that a number of pathways have been undertaken before a recommendation can be made regarding feasibility.

Much investment is put into empowering families to find their own solutions when looking at the care of a child or young person. This could include the extended family undertaking a family group conference. Family group conferences require the department to connect with all members of a family, including extended family members, to look at the options for keeping a child or young person in care within the context of their known family. This can provide additional support to parents, giving them the opportunity to work through any issues they are facing whilst ensuring their child or young person is adequately supported by the rest of the family. Again this works to remove stigma, to empower parents, to give them an opportunity to change and to grow and, ultimately, if appropriate, to see the child restored to their family.

The Minister advised that the reasonable period of time is about ensuring that the department acts quickly to restore children where appropriate; it is not about removing children from parents. This is the whole point. We do not want to take children away from their parents. Parents can disqualify themselves from being parents because of their drug abuse or because they are unable to look after themselves on a daily basis. No-one wants to take the children but, in the children's best interests, especially in those crucial younger years between nought and five years of age when the brain is developing, it is important that children have the best educational opportunities and are in places where they can achieve their hopes and dreams in the future.

This bill is about ensuring that families and parents receive any help and support they may require whilst their child is cared for. It considers also the opportunity for the child to be placed in a safe and stable home, away from serious risk, giving the child or young person the best opportunity to live a happy and vibrant life in the meantime. We do not want to see children languishing in care when they have a right to a home and a childhood. I ask the Minister to clarify in reply how the department will be supporting families prior to the court ordering a feasibility of restoration time frame and what support will be offered to parents and the child throughout this process. Further to the reasonable period not exceeding 24 months, can the Government provide advice on whether the child or young person has been placed with one carer for the entire 24 months, or it is possible that children may have been through multiple placements?

Finally, I turn to the National Disability Insurance Scheme (Worker Checks) Bill 2018. The object of this bill is to establish worker screening arrangements in New South Wales for the purposes of requirements under Commonwealth law for the screening of workers engaged in or associated with the provision of supports or services to people with disability under the National Disability Insurance Scheme [NDIS]. These arrangements are for the purposes of the State's obligations under the Intergovernmental Agreement on Nationally Consistent Worker Screening for the National Disability Insurance Scheme entered into between the States, Territories and Commonwealth.

The bill seeks to ensure the safety and security of people with disabilities from risks posed by support workers under the National Disability Insurance Scheme. The role of New South Wales is to administer quality and consistent worker screening decisions. The check includes a national criminal history check and workplace misconduct information. Once the worker check is completed, ongoing compliance will continue as monitoring or criminal and workplace records will be regularly checked. The national database will ensure that workers excluded in one State or Territory jurisdiction cannot receive approval elsewhere. The bill also introduces interim bars. They will be utilised where workers who apply have evidence against them, indicating that they are likely to present a risk of harm. We must do all we can to ensure that those who utilise the NDIS are protected and have confidence that any vulnerable clients cannot be exploited. This bill installs standards and protections.

I have passed over a couple of important points but, at the end of the day, we have heard from the stakeholders and the Government. We are very keen to ensure that children are not left languishing in the system. We want them to receive care. We would love that to be with their biological parents but, if that fails and the parents disqualify themselves from taking on that care, we seek to ensure that these kids get the best possible future with a loving family. Therefore, we commend the bills to the House.

The ASSISTANT PRESIDENT (Reverend the Hon. Fred Nile): I will now leave the chair. The House will resume at 2.30 p.m.

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

Questions Without Notice

STONE AXE PASTORAL COMPANY

The Hon. ADAM SEARLE (14:30): My question is directed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Given that the departmental brief signed by

Jobs for NSW in relation to the investment of public funds in Stone Axe Pastoral on 14 December 2017 reveals that discussions had been held with the Director General of the NSW Department of Primary Industries, why did the Minister tell the House yesterday:

> In fact, I was with the director general in Dubai when it was announced. It was he who showed me the press release; we both were unaware of this.

Did the Minister mislead the Parliament, or did his director general mislead him?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:30): No, I did not mislead Parliament. I took the specifics of that question and the details on notice yesterday. The member will get those details when the answer comes back.

DISPATCHABLE ENERGY

The Hon. SHAYNE MALLARD (14:31): My question is addressed to the Minister for Energy and Utilities. Will the Minister update the House on what the Government is doing to increase the supply of dispatchable energy and to accelerate the uptake of smart technologies in New South Wales?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:31): I thank the Hon. Shayne Mallard for his question.

The Hon. Adam Searle: I had something to say about that on the radio this morning.

The Hon. DON HARWIN: And I had something to say then. With more variable renewable energy entering the electricity system and older power stations scheduled for retirement, the New South Wales system needs dispatchable electricity capacity to transition to a modern system. As we saw recently in the Australian Energy Market Operator's Integrated System Plan, by 2040, under a neutral scenario, New South Wales is likely to have around 4,000 megawatts of storage capacity in the mix. That is good news. The Government's role is to ensure an orderly transition and to support the private sector's delivery of dispatchable supply. That is why we have created the Emerging Energy Program. This $55 million program will prompt the market to accelerate development of dispatchable supply. I was pleased to address an industry briefing for this exciting project on 31 October 2018, where more than 500 people attended or viewed online.

The program will support two application streams: pre-investment studies and capital projects. This allows for both new innovative technology and capital projects to be developed. Funding for capital projects under the program is anticipated to be up to $10 million per project, and up to $500,000 for pre-investment studies. There are four key objectives for the program. The first is to enhance electricity system reliability and system security in New South Wales. The second is to promote competition in the National Electricity Market to place downward pressure on wholesale electricity prices and to promote affordability for New South Wales electricity users.

The third is to promote diversification of electricity supply through the development of new, dispatchable, emerging technologies at utility scale. The fourth is to reduce greenhouse gas emissions. Projects that may be eligible include those using technologies like pumped hydro, bioenergy, batteries, concentrated solar thermal and hydrogen. We are open to a mixture of technologies applying, because this can only help drive more competition in the market, lowering prices for consumers. We are working closely with the Australian Energy Market Operator to make sure the program delivers system benefits.

Today I also announced the Smart Energy for Homes and Businesses Program. This innovative $50 million program is designed to maximise the potential benefits to the grid of the uptake in smart devices, such as batteries, electric vehicles, pool pumps and air conditioners. Consumers are starting to lead the way in purchasing these new smart technologies, and this program is expected to help drive that investment. By contributing to the grid just five days a year, more than 40,000 consumers across New South Wales will receive up to $1,000. Over four years, this smart energy scheme is expected to generate up to 200 megawatts of new dispatchable energy during peak energy events. These programs are just two examples of work underway by the Government to deliver more reliable and affordable power for households and businesses across New South Wales. We are getting on with the job of providing secure, reliable and affordable power to supply our State.

SYDNEY THEATRE ROYAL

The Hon. WALT SECORD (14:35): My question without notice is directed to the Minister for the Arts, and Leader of the Government. Given that he has said that he is one of the State's strongest supporters of musical theatre, and that to save the Sydney Theatre Royal will require action not just words, has he approached the planning Minister to ensure that the Theatre Royal site will continue as theatre space?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:36): In fact, this is really not a matter that is relevant to the planning system, as such. It is a building that is in existence. The Government and the City of Sydney have looked very carefully at all of the circumstances surrounding the granting of development approval for that project. Suffice it to say that there were not the controls put in place that we would have liked, and there is not much that we can rely on to force Dexus and GPT Group, through the planning system, to keep Theatre Royal open. That is the advice that I have received from my officials. I will certainly check that for the honourable member so that he has the best available information. I can assure the member that if the City of Sydney felt that it had the weaponry to be able to force the company to reopen the theatre it would already have done that.

The Hon. Walt Secord: So the answer is no.

The Hon. DON HARWIN: I have not spoken to the Minister for Planning because I have received the relevant advice from the City of Sydney, which would have the planning power to do something about it, given that it was something that went through development approval with the City of Sydney. The advice—which I promise to check—that I have had from my officials is that there is nothing in State law that can be brought to bear by the State Government to force them to reopen the theatre.

I have assured the honourable member that I will take that aspect of his question on notice and get him some more information. It raises the question—I raised it yesterday—about the honourable member coming in here and talking a big game about the Theatre Royal. If he were really serious about supporting more theatres he has that opportunity now. The Opposition is talking about "reset". His new leader is talking about reset. This is the time to reset—to get behind the Government and to support Sydney having more theatres.

He should get behind the Government and support a 1,500-seat lyric theatre at Ultimo. He should get behind the Government and support a 1,500-seat riverside theatre. He should stop opposing it. He should stop threatening to cancel it—that is what he is doing—if the Opposition is elected to government. Luke Foley is not the leader any more. He had a brain snap and changed his position on this. We all remember that. The Hon. Walt Secord was out there spruiking the move to Parramatta on the radio and then three days later Luke Foley pulled the rug out from underneath him by changing his position.

I have heard various theories about why that happened, but I will not detain the House with them now. This is the opportunity for members to get serious. Yesterday I painted the scenario: At the moment we have two theatres that are suitable for the highly commercial musical and theatre sector, which is widely popular in Sydney and is very good for our visitor economy. I painted the scenario of moving from two suitable theatres to five within five years. Members should get behind us and back us.

The Hon. WALT SECORD (14:39): I ask a supplementary question. Will the Minister elucidate on his comments about the Powerhouse Museum Ultimo site and when the proposed lyric theatre will be opened to the community?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (14:40): As I have already said publicly, the future of the Ultimo site, the creative industries precinct that we are currently considering, is subject to the preparation of a business case prior to an investment decision by the Government. Market soundings have been taken regarding all of the possible different cultural uses for the heritage power station at Ultimo. One of the uses that we are looking at closely—and I have made that clear—is the possibility of locating a 1,500-seat lyric theatre.

The Hon. Walt Secord: When? When?

The Hon. DON HARWIN: I have given a time frame which I believe is achievable. It is late 2018 and I believe that it is achievable to have a 1,500-seat theatre in Ultimo by the beginning of 2024. However, as I have said before, this is subject to a business case and the usual processes that are undertaken before an investment decision is made by government.

ABORIGINAL HERITAGE

Mr DAVID SHOEBRIDGE (14:41): My question without notice is directed to the Minister for Aboriginal Affairs. Despite promises by her Government and the previous Labor Government to produce standalone Aboriginal heritage laws, none has progressed in this term of government. In fact I joined with a number of Aboriginal groups, including land councils, to seek to defer her Government's proposed bill because it failed to deliver on real self-determination. Will the Minister commit to working with all parties, whether in government or opposition, to implement a new open process to deliver these reforms in the first half of the next Parliament?

The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (14:42): I thank the honourable member for his question and the opportunity to provide an update on Aboriginal cultural heritage reform because it is an important issue. As members would be aware, the current legislation for protecting Aboriginal cultural heritage in New South Wales is in the National Parks and Wildlife Act 1974. The member may not be aware—although he may be, given his interest in this area of policy—that a standalone Aboriginal cultural heritage bill was first mooted in the early 1980s when the Aboriginal Land Rights Act was under consideration. The Aboriginal cultural heritage provisions in the Act focus on archaeology and a lack of formal roles for Aboriginal people in the management and regulation of their cultural heritage. That is why our Government committed to creating new standalone legislation to protect Aboriginal cultural heritage, while providing clear and consistent processes for economic and social development.

The member asked about my commitment to working with all parties on this piece of reform. One of the issues that has been evident to me in my time as Minister, and working in this space through OCHRE and other past experiences with Aboriginal affairs, is that laws, policies and programs impacting on Aboriginal people must be developed and implemented with Aboriginal people. Through OCHRE we will commit to a different way of working with and supporting Aboriginal communities by building those strong working partnerships, and that is what we have done on the consultation for this legislation. As the member would be aware, my carriage of this matter is in conjunction with the Minister for the Environment, who is the lead Minister on these reforms.

As a government we have canvassed feedback from the community, the Aboriginal community, State agencies, peak community bodies, industry and the broader community to examine how the Aboriginal cultural heritage reform can be developed. As the member alluded to in his question, in February 2018 we released the draft bill for public consultation. The draft bill offers a model for reform of the current system and looks to develop better outcomes for Aboriginal people, industry and the wider community. Consultation on these reform proposals began with information sessions that were held in 19 locations during September and October 2017. In March and April of this year we returned to those same locations, as well as Tamworth, to hold consultation workshops and to receive feedback on the draft bill. We also invited public submissions on the draft bill.

As I said, there has been a range of public consultation. We have asked for community feedback and have received more than 300 submissions regarding what is proposed by the potential legislation. As the Minister for Aboriginal Affairs, I am working passionately and closely with my colleague Minister Upton and we are continuing to consult on the legislation. Interestingly, the member spoke about having meetings with Aboriginal land councils. I have a close working relationship with the peak body of the New South Wales Aboriginal Land Council [NSWALC] and I have also spoken with many individual land councils in their communities.

Yesterday I attended the NSWALC conference in the Hunter where the topic was raised and people said to me, "We understand what we are all trying to achieve but we need to talk this through more." There are more issues. The traditional owners and many people need to be at the table as part of this conversation. That is why the consultation is ongoing. It is continuing and is something I remain committed to as the Minister because we need to see reform in this space. Reform is important and it is important to get it right and ensure that people's views are heard. As Minister for Aboriginal Affairs I will continue to do that and we will work to achieve this legislation in due course.

Mr DAVID SHOEBRIDGE (14:45): I ask a supplementary question. I thank the Minister for her answer and, in particular, the reference to the current laws under the National Parks and Wildlife Act. Will the Minister elucidate her answer by stating clearly that her Government accepts that it is wrong in principle, practice and policy to continue to have Aboriginal heritage and culture covered by the National Parks and Wildlife Act and effectively to treat Aboriginal people as flora and fauna?

The Hon. Scott Farlow: Point of order: My point of order relates to the supplementary question. The question seems like an exercise in dictation and it is not a supplementary question in the standing orders. I ask that the question be ruled out of order.

Mr DAVID SHOEBRIDGE: To the point of order: The Minister, in what I thought was a genuine answer, referenced the fact that until the law changes Aboriginal heritage and culture will continue to be dealt with under the National Parks and Wildlife Act. The issue of Aboriginal people being treated as flora and fauna is a matter that the Minister would have heard repeatedly in the community.

The Hon. Don Harwin: To the point of order: I am not detracting from any of the points which the member has made, which were almost by way of debating points, nevertheless it could be argued that the question he asked was seeking an opinion from the Minister rather than information. But if the Minister wants to answer, I have no problem.

The Hon. Walt Secord: Break new ground, Sarah. Answer the question.

The PRESIDENT: I think it would be more appropriate if I were to make the ruling, but I appreciate all the help. If the Hon. Walt Secord wants to comment on the point of order, I am happy to give him the call. No? Thank you. The supplementary question did cover part of what the Minister answered and it was seeking elucidation. I believe the question went further than seeking an elucidation on what was asked; however, it is available to the Minister to answer that part of the supplementary question she wishes to answer.

The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (14:47): I believe I made it clear and I am happy to reiterate what I said earlier. Where the current legislation is in the National Parks and Wildlife Act, we have made a commitment to implement new standalone legislation because it is important. I am happy to put that on the record. We will continue to consult to ensure the legislation is ready and before the House.

VIETNAM TRADE VISIT

The Hon. LOU AMATO (14:48): My question is addressed to the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry. Will the Minister update the House on his recent visit to Vietnam?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:48): I thank the honourable member for his question. Vietnam has a population of more than 90 million people with many of those around the age of 30. Its economy is growing at more than 6 per cent a year, lifting millions out of poverty. Vietnam is a country on the rise and it is looking to Australia—where there is a large and vibrant Vietnamese community—to partner in that growth. Last week I visited Vietnam to see for myself this growth and to build on the relationships that began when Sydney played host to the ASEAN-Australia Special Summit in March of this year.

I was privileged to witness the signing of a memorandum of understanding between one of Vietnam's largest private sector companies, the TNT Group, and New South Wales' HunterNet. The TNT Group is a multisector powerhouse that contributes enormously to the growth of the Vietnamese economy across real estate investment, food, finance, industry, sports and important export trade. HunterNet is well known to many members of this House, and deservedly so. It is a remarkable network of more than 200 companies and businesses spread throughout the Central Coast and Hunter region of New South Wales. It is the vanguard of New South Wales's strengthening relationship with Vietnam. I state for the record my praise for the HunterNet's chief executive officer, Tony Cade, Wayne Diemar and the rest of the HunterNet team for the years of patient work they undertook to establish relationships in Vietnam.

I also met with the Vietnamese Vice-Minister of Agriculture and Rural Development to discuss further opportunities for cooperation following the success of our joint oyster development project. The expertise of the New South Wales Department of Primary Industries has been invaluable in establishing Vietnam's oyster industry, which provides employment and income for many farmers and their families. I also had the chance to see Australian food and beverage products on sale in Vietnam during my visit. Beef jerky is popular in Vietnam, and Casino-based company, New World Foods, is the only Australian company to export beef jerky to Vietnam, where the company is enjoying 25 per cent growth in sales every year. This is regional exporting at its best.

I also attended the Vietwater 2018 expo, where a number of New South Wales companies were exhibiting. The Government of Vietnam is committed to transforming the water sector so that all people have access to clean water in their homes by 2020, and New South Wales is helping by playing a role. New South Wales companies brought expertise in water filtration, extraction, treatment and decontamination that will help Vietnam achieve that goal. I also had the honour of speaking at the opening of the Vietwater 2018 Women in Water conference. The conference aims to further the participation of women within the water sphere in Vietnam and across the region. I was pleased to speak not only in my own capacity as the Minister for Regional Water but also because I have a wonderful story of success to tell, right here in New South Wales, where 60 per cent of the most senior roles in the Department of Industry's water area are filled by women.

It is difficult not to be impressed by what is happening in Vietnam. There are significant opportunities for New South Wales companies that are willing to pursue them and that look forward to supporting Vietnam's growth. I will continue to spread the word and do all that I can to ensure that New South Wales's relationship with Vietnam continues to strengthen. This was a very important trip. I hope it signifies one of many trips that any representatives from New South Wales can undertake to foster and build upon those relationships with Vietnam. The growth numbers are enormous. The opportunities for New South Wales are enormous. But it is a win-win. This is a mutually beneficial relationship that we must continue to foster on behalf of the people of New South Wales and Vietnam.

NATIVE FOREST TIMBER INDUSTRY

Ms DAWN WALKER (14:52): In directing my question to the Minister for Lands and Forestry, represented in this House by the Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry, I refer to recommendation No. 10 of the independent review into the implementation of the New South Wales Regional Forest Agreement by Ewan Waller that was tabled in the Australian Parliament in June 2018 that recommended a contemporary review of the native forest timber industry be conducted to consider the effects of climate change, the overall decline in the conservation value of native forests and the socio-economic views of rural communities. I ask: Will the Government be undertaking this review? If not, why not?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (14:53): I thank Ms Dawn Walker for her question, which she directed to me as the Minister representing the Minister for Lands and Forestry in this House. I also thank her for her ongoing interest in forest sustainability measures. This is a truly renewable and sustainable industry and one that is well placed not only to mitigate potential climate change impacts but also to play a role in finding innovative solutions and sequestering carbon. As the member noted, the New South Wales Government is working jointly with the Australian Government on a review of the current Regional Forest Agreements [RFAs] and their renewal. The independent reviewer appointed by the Commonwealth, Mr Ewan Waller, submitted his review report to the New South Wales and Commonwealth governments for consideration. The New South Wales RFA implementation report was tabled in the Commonwealth Parliament on 25 June 2018.

A joint Government response is under development and will be released shortly when the renewed RFAs are signed. The independent reviewer made a number of recommendations to improve the delivery of RFAs in New South Wales. Undertaking the review at the same time as renewing RFAs now provides New South Wales with a unique opportunity to carefully consider these recommendations and address areas of improvement in the renewed RFAs. This work is now underway as part of negotiations between the New South Wales and Commonwealth governments. The New South Wales Government is carefully reviewing each and every recommendation, including those on climate change, and looking at ways to further strengthen the already sustainable management of forests in New South Wales.

Importantly, the review found that a core underlying driver of the RFAs, namely ecologically sustainable forest management, has been successfully executed. Without pre-empting the final joint government response, climate change was an issue we heard loud and clear as part of our RFA consultation, both in terms of climate change impacts on our forests and Forestry's role in responding to climate change and carbon sequestration. The original RFAs were developed some 20 years ago, so we know this is an emerging issue that the industry will need to respond to over the coming years. The New South Wales Government is committed to ensuring the renewed RFAs deal with climate change and other emerging issues. This includes a major $7.2 million investment by the New South Wales Liberals-Nationals Government to strengthen its forest monitoring, and to ensure the future health and sustainability of our forests.

Climate change will be front and centre in that work, and improved monitoring will ensure that the New South Wales Government is closely monitoring impacts and meeting its reporting requirements under national and international sustainability standards. The use of native forest products can have a positive impact on the carbon balance. Plantation forests also can assist in improving the net carbon balance as well as provide social and economic benefits for people in New South Wales, especially those in regional communities. Active forest management can assist our native forests to adapt to changing climatic conditions. Current research being undertaken across Australia is contributing to our understanding of the management options and the resilience of the forests. But what we will not do is have a narrow focus on climate change alone.

The New South Wales Government is committed to continuous improvement and implementation of contemporary forest management practices, reflecting emerging issues, including climate change and the carbon economy, socio-economic issues, biodiversity, protection of threatened species and opportunities to enhance carbon storage in forests and in forest products. Unlike The Greens, the Liberal-Nationals Government takes a pragmatic and strategic approach to these issues and sees enormous opportunities for the forestry sector in contributing to the climate change solution. Further demonstrating our focus and expertise in this area, the DPI has a substantial investment in climate-related research, which includes vulnerability assessments, adaptation and mitigation research.

ABORIGINAL OUT-OF-HOME CARE

The Hon. PENNY SHARPE (14:57): My question without notice is directed to the Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education. Given community concern about the overrepresentation of Aboriginal children in the out-of-home-care system, has the Minister met with the New South Wales Aboriginal Child, Family and Community Care State Secretariat [AbSec], the Burrun

Dalai Aboriginal Corporation Inc., KARI, the Armajun Aboriginal Health Service, the Bunjum Aboriginal Corporation, the Katungul Aboriginal Corporation and the Aboriginal Legal Service to discuss these issues?

The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (14:58): I thank the Hon. Penny Sharpe for her question, which relates to the removal of Aboriginal children from their families. Obviously, the Hon. Penny Sharpe would know that this area primarily falls under the responsibility of the Minister for Family and Community Services but, clearly, as I am the Minister for Aboriginal Affairs, it is relevant to me and it is something in which I am involved. In terms of those with whom I have met to discuss these issues, my diary is made public, but I am happy to say that I have been at meetings with some of the organisations to which she has referred.

Most recently—just last week in fact—representatives from AbSec and the Aboriginal Legal Service attended a meeting that I attended. They were part of the council of Aboriginal peak organisations and issues around these matters were raised. I believe I am seeing AbSec again next week, so they are organisations with whom I have met, but I would have to check on others she has mentioned. I am happy to meet with any and all Aboriginal organisations. I make it very clear that my door is always open to discuss these issues.

The matter about Aboriginal children and the number of children in out-of-home care is something that I speak to my colleague Minister Goward about on a very regular basis. The information that I have received from her and my agency reiterates the fact that the Government is committed to making sure that every young person has the chance to have a loving, permanent home for life, whether it is with their own parents, families, extended family or kin; through guardianship; or through open adoption. It is particularly important for Aboriginal children to have a strong sense of their Aboriginal identity and to be raised in their own culture to value family, extended family, kinship networks, culture and community. That is why we have the Aboriginal and Torres Strait Islander Child and Young Person Placement Principles, which remain.

Recently I was advised that, in the past five years, of the 501 successful adoptions in New South Wales, 13 were of Aboriginal children. Since 2015 there has been a 42 per cent reduction in the number of Aboriginal children in out-of-home care. This was achieved by seeing more children earlier, engaging families in family group conferencing and supporting families to access support services when they are needed. There is more work to do and, as I said, I meet with organisations to speak about these issues on a regular basis and will continue to do so.

The Hon. PENNY SHARPE (15:00): I ask a supplementary question. Will the Minister elucidate her answer with regard to the concerns those organisations are raising about proposed changes to adoption?

The Hon. Scott Farlow: Point of order: The question seeks an answer from the Minister with regard to a matter that is before the House and should be ruled out of order.

The Hon. PENNY SHARPE: To the point of order: I am aware of that, but I have chosen my words carefully. It is a general question that did not go specifically to the bill that is before the House.

The PRESIDENT: The supplementary question is out of order. It is anticipating the debate on a bill that is before the House.

SHOALHAVEN AND SOUTH COAST EARLY CHILDHOOD EDUCATION

The Hon. WES FANG (15:02): My question is addressed to the Minister for Early Education, Minister for Aboriginal Affairs, and Assistant Minister for Education. Will the Minister update the House on how the New South Wales Government is supporting early childhood education in Bega and on the South Coast?

The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (15:02): I thank the honourable member for his question and interest in the South Coast and far South Coast regions. Recently my ministerial colleagues and I made the trip south for community Cabinet. It is a lovely part of the State and it is always great to spend time there. My first stop was in Nowra, where I visited the Shoalhaven Community Preschool with the fantastic member for South Coast, Shelley Hancock. We met with the director, Kim, who showed us around the service. She took great pride in showing off the new bike track, which was made possible thanks to the Government's Quality Learning Environments program. It was great to see the children enjoying the bike track. I almost had a turn on a scooter, but then I remembered I am 36 years old and should leave it up to the kids—that is how you hurt yourself, as the Hon. Niall Blair knows!

Shoalhaven Community Preschool was one of four services in the South Coast to receive a grant, alongside Central Shoalhaven Mobile Preschool, Lyrebird Preschool Kindergarten and Milton Ulladulla Preschool. Shoalhaven Community Preschool is also one of six community preschools in the South Coast electorate that received drought relief funding, a program introduced in September to support services and families

throughout the State struggling through this dry period. In the South Coast electorate, $131,700 has been invested by the Government to support the initiative. It was a great opportunity for me to discuss the effectiveness of the program directly with the preschool and to see how well it has been received.

After my time in Nowra I drove south into the Eurobodalla shire, where my first stop was Narooma Preschool to congratulate local educator Lisa O'Mahony on her recent Rural and Remote Early Childhood Teaching Scholarship. The scholarships support the delivery of quality preschool programs by qualified early childhood teachers working in rural and remote preschools and long day care services. It was great to have the opportunity to spend some time with Lisa to talk about how the scholarship will help her. It was wonderful to hear her say that it will be an enormous help to her while she studies, works and supports her children. Well done to Lisa for achieving the scholarship.

I am happy to say that Justine Tominey from Dalmeny Long Day Child Care Centre has also been successful in receiving a 2018 Rural and Remote Early Childhood Teaching Scholarship. I wish both educators all the best as they upskill and pursue their educational journey in early childhood education. Narooma Preschool was also a recipient of a Quality Learning Environments grant, which will be used for the refurbishment of the cubby house, the removal of a chicken pen, the purchase of new movable pens—which will be a great benefit to the chickens—a new entrance gate, new open bike and sandpit shed, and the restoration of the grass area.

A passionate and dedicated educator at the Narooma facility, Kathy Phipps, showed me around the service and gave me the opportunity to look at some of the work that had been made possible thanks to the support of the Government. It is great to see that in the community. Kathy was kind enough to send an email to my office thanking me for the visit and saying how grateful they were for all the grant money received. She outlined how the centre will continue to apply to help support and maintain the preschool's quality program and grounds. That is nice to hear. The Government has also invested in a number of other initiatives in Bega and the Eurobodalla, including almost $100,000 in Quality Learning Environments grants for preschools, $30,000 in before and after school care, and $5,000 in Early Childhood Professional Development grants. Feedback like this from the sector is very valuable for me as Minister and it is why I travel so extensively to meet with services across the State. It also instils in me confidence that the Government is on the right track. I will continue to work hand in hand with the sector and listen to what it is saying.

[*Business interrupted.*]

Visitors

VISITORS

The PRESIDENT: On behalf of all honourable members, I welcome into the President's Gallery Dr Rahmat Shah, a two-term independent Senator from the Parliament of Indonesia, who is here as a guest of the Hon. Robert Borsak.

Questions Without Notice

TRAVELLING STOCK RESERVES

[*Business resumed.*]

The Hon. ROBERT BORSAK (15:06): My question without notice is directed to the Minister for Primary Industries. Does the Minister believe that the Travelling Stock Reserves system is effective for farming communities, and, if so, why was there a reduction in the number of TSR permits issued between 1 October and 31 October 2017 and 1 October and 31 October 2018? Does the Minister accept that the reduction in the number of TSR permits issued is driving up the price of fodder?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:07): I thank the honourable member for his question on Travelling Stock Reserves [TSRs]. The very short answer is that the main reason for the difference between the dates directly correlates to the seasonal conditions and the biomass on those TSRs. The TSRs are there for our farming communities to move stock and, in a lot of cases, to graze stock. But we also need to manage those TSRs and we need to provide an equitable system that provides access to those who want those TSRs and need those TSRs. As seasonal conditions deteriorate and the biomass deteriorates on those TSRs, we have to move to a different system of access. In a lot of cases, we have moved from access permits to destination-only permits, which give people the ability only to walk stock along the TSRs, rather than the ability to graze on the TSRs for weight gain. That is definitely the main reason for the difference between the number of permits granted in 2017 and 2018.

Our TSR network is there for everyone to access. Unfortunately, when we have a reduction in biomass on those TSRs, Local Land Services [LLS] is put into the situation where often it may have to refuse permits or

issue an instruction to move to a destination-only permit. We try, where possible, through Local Land Services to communicate that information to landholders or those who access the TSR network. The destination-only conditions are implemented on walking stock to conserve the pasture, which is limited due to the lack of forage and water on some drift ways if the welfare of the stock or land degradation is a concern.

It is important to keep in mind that animal welfare is a consideration that LLS must take into account along with the quality of forage, and water on drift ways needs to be adequate for the livestock for which access is being requested. Any restrictions put in place to manage current pastures on TSRs will be lifted when pasture and forage have recovered. There still has not been enough rainfall across the State to lift the restrictions. Destination-only conditions require travelling stock to have a genuine point of destination that is able to receive them and that requires only a minimum movement distance each day. This reduces grazing pressure on the available pasture and helps ensure the TSR resource remains available to producers needing to use it.

Destination-only does not restrict local routine stock movements between properties. The New South Wales Government and LLS are committed to a viable and connected TSR network for drovers and graziers. This has been explained to TSR stakeholders on several occasions. It is also important to consider that TSRs are not immune to drought and LLS must continue to manage them in accordance with those conditions to allow for quick recovery when conditions improve. As I said at the start, the numbers, permits and access varies according to seasonal conditions. Unfortunately, that is what we have seen between 2017 and 2018. I hope that provides as much information to the member as possible.

PARRAMATTA RIVER WATER QUALITY

The Hon. LYNDA VOLTZ (15:11): My question without notice is directed to the Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts. Given the recent raw sewage contamination of the Parramatta River was caused by a collapsed pumping station in Northmead, will the Minister guarantee that the Government's decision to maximise Sydney Water dividends is not leading to this and other infrastructure failures?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:12): I thank the honourable member for her question. Yes, I certainly am aware of the incident. I know that Sydney Water was well and truly on top of it as soon as it occurred. In fact, the incident was on the morning of Sunday 21 October when Sydney Water responded to an issue at its wastewater pumping station on the Parramatta River at Northmead. As a result of an issue at the plant some wastewater flowed into the Parramatta River. I understand Sydney Water's first priority was to contain the overflow and to protect the waterway. Arrangements were put in place within a few hours to minimise and then stop the overflow and pump out the accumulated wastewater. As always, Sydney Water has been working with customers and stakeholders to initially advise them of the incident and then to keep them updated with progress.

Sydney Water has installed signage at key points along the Parramatta River between Parramatta Park and the University of Western Sydney, Parramatta. I am advised that Sydney Water has been constantly monitoring water quality in the Parramatta River, Darling Mills Creek and Toongabbie Creek since the incident. It has implemented a range of measures to improve water quality, including pumping out some affected areas, installing aerators along the Parramatta River and flushing the waterway with fresh water. I am pleased to advise that water quality monitoring indicates that the Parramatta River is returning to normal conditions. Sydney Water takes its responsibility to protect public health and the environment seriously and will conduct a full investigation of the incident to prevent it from happening again across the network.

The Hon. LYNDA VOLTZ (15:14): I ask a supplementary question. Will the Minister elucidate the monitoring and how many litres of solids were released?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:14): I will take the question on notice as to the specific volume and provide it to the honourable member as soon as convenient.

MUSEUM OF APPLIED ARTS AND SCIENCES

The Hon. CATHERINE CUSACK (15:14): My question is addressed to the Minister for the Arts. Will the Minister update the House on the future of the Museum of Applied Arts and Sciences?

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:15): I thank the Hon. Catherine Cusack for her question. Following an extensive recruitment process, I am absolutely delighted to advise the House that Ms Lisa Havilah has been appointed as the new Chief Executive Officer of the Museum of Applied Arts and Sciences. Lisa has a proven track record of executive management experience in the arts and cultural sector across Greater Sydney and is one of the most respected

creative industry professionals in Australia. This was front of mind in her appointment, with the transition of the Powerhouse Museum to Parramatta requiring expert governance and strong engagement with stakeholders and the community.

Ms Havilah has been the Director of Carriageworks for the past seven years. During this period, Lisa has overseen the transformation of Carriageworks into a leading contemporary multi-arts venue that has become the fastest growing cultural precinct in Australia, attracting 1.23 million visitors in 2016-17. Prior to that, Lisa helped grow two highly successful cultural institutions in Western Sydney—the Campbelltown Arts Centre and the Casula Powerhouse Arts Centre, which provided her with a great understanding of Western Sydney's vibrant and growing arts and cultural sector.

The PRESIDENT: Order! The Minister will resume his seat. The Clerk will stop the clock. Government members will cease making commentary. Opposition members will not acknowledge and respond to the comments being made by Government members. It is incredibly difficult for the Chair and Hansard to listen to the Minister while these comments are being made across the Chamber. I will start calling members to order if it continues, irrespective of which side of the Chamber they are on. The Minister has the call.

The Hon. DON HARWIN: Lisa will now bring her skills, both as a leader of cultural organisations and with a significant network of arts stakeholders, in developing a world-class Powerhouse Museum at Parramatta. Her proven record of museum sector experience, the development of commercial and community partnerships and her executive leadership qualities, make her the ideal person to drive the transformation and transition of the museum to its new home in Parramatta.

Lisa's appointment coincides with the exciting next step in determining the new museum's architectural design competition. The international design competition, to be launched early next month, will be managed by Create NSW, with Malcolm Reading Consultants as independent architectural competition organisers advising them. Malcolm Reading Consultants will drive the search for diverse and transformative designs of culturally significant buildings. Mr Reading has been involved with other transformational cultural infrastructure projects, such as moving part of the Victoria and Albert Museum to East London.

Searching worldwide for the best architectural design ideas is key to the Government's fulfilling its commitment to delivering a landmark museum for Parramatta. This is the next step in our promise to the people of New South Wales to deliver a state-of-the-art cultural institution for families, industry and school children to discover and learn. We are leading the charge to bring this fantastic cultural institution to the people of Western Sydney. It is all part of our commitment to arts and culture, just like every other sector, to build a stronger and better future for the people of New South Wales.

NSW FIREARMS REGISTRY STAFF SECONDARY EMPLOYMENT

The Hon. ROBERT BORSAK (15:19): My question is directed to the Minister for Primary Industries, representing the Minister for Police. Will the Minister advise how many current and/or former employees of the New South Wales Firearms Registry have or have had approval for secondary employment during the years 2016, 2017 and 2018?

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:20): I thank the Hon. Robert Borsak for his question.

[*Interruption*]

Point of order: I am trying to answer the question the best way I can. I cannot hear myself think because of the interjections coming from all sides of the Chamber.

The PRESIDENT: I uphold the Minister's point of order. The Minister has the call.

The Hon. NIALL BLAIR: I thank the Hon. Robert Borsak for his question asked of me representing the Minister for Police in this House. The question asks for specific information over a number of years. I do not have that information with me this afternoon. I will take the question on notice and refer it to the Minister. I am sure that he will look at the dates involved. I will ensure that the member receives a response as soon as practicable.

PRESCHOOL DROUGHT RELIEF FUNDING

The Hon. COURTNEY HOUSSOS (15:21): My question is directed to the Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education. Why did Hunter Mobile Preschool, Branxton Preschool and Greta Community Preschool receive almost $33,000 in drought relief funding when they stated that they did not apply for drought funding and "feel really bad for receiving it"?

The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (15:22): I thank the Hon. Courtney Houssos for her question. It is an interesting one, because in the earlier question from the Hon. Wes Fang I spoke about drought funding. That package has been well received across New South Wales. We have had very tough seasonal conditions. I live in Gunnedah, a regional area, and I see it every day in my community and as I travel around. Members on this side of the House would certainly see it too. We have the drought relief funding because we are a government that listens to the community and we can respond when there are issues. We have a strong commitment that we want children to be able to access 600 hours of quality preschool education in the year before school, no matter where they live or the circumstances.

As Minister I had feedback from individual services and from peak bodies, such as Community Connections Solutions Australia [CCSA] through Meg Mendham, telling me about families who are struggling to send their children to preschool because the fees were expensive for them when their household budgets were under pressure from the drought. We know that is a real issue. There might be difficulties getting children off the farm if parents are feeding stock and cannot get in. We wanted to help those communities deal with the effects of drought, and that is a good thing. We know that managing the impact of drought on social, emotional and economic wellbeing grounds is incredibly important. That is why we have provided the additional financial support to community preschools and mobile preschools that have been identified as being impacted by drought.

The Hon. Walt Secord: Point of order: While I know that Ministers have a wide latitude, at no point has the Minister answered any part of the question, including that these three groups did not apply for drought relief funding and "feel really bad for receiving it". The Minister has not addressed the three community groups; she has talked about drought funding in other areas.

The PRESIDENT: The Deputy Leader of the Opposition is now well and truly straying into a debating point. The Minister was being generally relevant to the question asked of her. The Hon. Walt Secord has indicated that the Minister was not being specifically relevant to the question. She is not required to be specifically relevant; she is required to be generally relevant, which she clearly was. There is no point of order. The Minister has the call.

The Hon. SARAH MITCHELL: The Department of Education used information from the Department of Primary Industries to identify 383 community preschools and mobile preschools in rural and remote areas of the State adversely affected by drought. The goal was to alleviate some of the pressures on families by supporting those services where attendance may have dropped due to socioeconomic pressures, and to boost service operations coping with additional challenges. Funding was allocated to services based on their enrolment numbers and location and were scaled according to the level of drought intensity.

Community and mobile preschool services in drought-affected areas received a minimum payment of $3,000, with services in drought areas receiving a minimum payment of $4,000, and services in intense drought areas receiving a minimum payment of $5,000. Recipients of the one-off drought relief payment were issued program guidelines that outlined the spending rules. These included initiatives for maintaining participation for families where drought is limiting access to early childhood education, such as transport arrangements and fee subsidy support; initiatives aimed at increasing sustainability, such as forming and implementing sustainability plans and staff training; and service and environmental adjustments, such as water management equipment and repair or enhancement of drought-damaged service environments.

Activities funded under the one-off payment must commence during the 2018-19 financial year, and all funds must be expended during this period. Examples of effective use of this fund can already be seen in the early childhood education sector. The member mentioned some preschools in her question. I am told that Hunter Mobile Preschool has successfully allocated its one-off payment to future fee reductions for its families. Greta Community Preschool, also mentioned by the member, used the one-off payment for the purchase of water management equipment. What I know from visiting many preschools across the State that have benefited from this drought program is that they are thankful for the support. It is making a difference to their services and their families. That is what we see when we visit services and spend time in regional communities. Maybe those opposite should do more of the same.

The Hon. COURTNEY HOUSSOS (15:27): I ask a supplementary question. My question relates to the 383 preschools that received funding, and the representations the Minister received for drought funding. How many of those preschools made representations to the Minister to receive drought funding?

The Hon. SARAH MITCHELL (Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education) (15:27): As I thought I said quite clearly in my answer, I got a lot of feedback from services saying that they were struggling. I had services go through their peak body—CCSA does a lot of work for services in regional communities—to say that families were needing help. We have provided

this support because we have had feedback from the sector that it was something that it would like us to consider. We have guidelines in place because our community preschools, as members would or should know, are run by local volunteer committees. We have said to them that they have been allocated this funding because they fit the criteria that we formatted working with the Department of Primary Industries and they are able to make the decisions about how the funding will best support their families and preschool service. As I said, some are using it for transport arrangements for families, some are using it for fee support, and some are using it to upgrade and deal with the effects of drought on their playgrounds.

They have the choice within the funding framework and within the guidelines to make this work. As I said, I have had nothing but overwhelmingly positive feedback from those services, which are thankful for this support from the Government. One person said, "It's so nice that people in government are actually listening to us and giving us support." I am happy that the honourable member can read the article in the Maitland newspaper. The feedback the Government has had from services across New South Wales is that they are thankful for this support, and I am happy we have provided it to them.

The Hon. Ben Franklin: Point of order: I am finding it extremely difficult to hear the Minister's answer. It is not only members opposite but also members on my side of the Chamber who are interjecting. I am being very balanced in my approach; I am a reasonable man.

The Hon. Walt Secord: You can't trust this bloke! What they say about you is true. Don't trust him, guys.

The PRESIDENT: Order! I call the Hon. Walt Secord to order for the second time. That went way beyond what I would normally expect from him. I definitely uphold the point of order taken by the Hon. Ben Franklin. What makes it worse is that not only is he correct about the interjections and comments coming from the other side of the Chamber, but his colleagues were also interjecting and making comments while he was trying to take the point of order, which corroborates his point. I again remind Government members that their interjections are too loud and too frequent, and they should cease.

The Hon. SARAH MITCHELL: I will conclude by pointing out that I believe the Parliamentary Secretary for the Hunter visited some of those services recently and they expressed their thanks for the funding. That is important to put on the record.

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

PARRAMATTA RIVER WATER QUALITY

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (15:31): I have some additional information to provide to the Hon. Lynda Voltz in response to my earlier answer. It will not be possible to get information about the volume immediately—

The PRESIDENT: Order! I call the Hon. Bronnie Taylor to order for the first time.

The Hon. DON HARWIN: As I was saying, it will not be possible to get the information about the volume of wastewater immediately for the Hon. Lynda Voltz because Sydney Water is still concluding its investigations into the incident. When that information becomes available, we will endeavour to get it for her.

STONE AXE PASTORAL COMPANY

The Hon. NIALL BLAIR (Minister for Primary Industries, Minister for Regional Water, and Minister for Trade and Industry) (15:31): Earlier in question time the Leader of the Opposition asked me about a Jobs for NSW brief dated 14 December 2017 and whether the Director General of the Department of Primary Industries was aware of the proposed investment in Stone Axe Pastoral Company. I note that the question was a variation of a question I took on notice yesterday from the Hon. John Graham. Given the eagerness of members opposite to get to the bottom of this issue, and to save them asking me yet another variation of the question tomorrow, I advise that the director general spoke to the Jobs for NSW board on 27 November 2017 about the growth of export opportunities due to the profound and long-term changes in that region. I gave an example of some of those changes when I was speaking about Vietnam earlier in question time.

The director general has confirmed that he was not aware of any specific investment consideration involving Stone Axe Pastoral Company. That stands to reason because, as I have said many times, the investment was a matter for Jobs for NSW. At no stage did Jobs for NSW brief him, nor did it seek his view on Stone Axe Pastoral Company. The director general has confirmed that the first he heard of the investment was via media release while he was with me overseas. That is clear based on a full reading of the documents obtained by the Opposition through the Government Information (Public Access) Act. The Leader of the Opposition also asked

me whether I misled the House. With only four question times left in this Parliament, I can categorically state that I have never misled the House, nor would I ever do so.

Committees

PORTFOLIO COMMITTEE NO. 5 - INDUSTRY AND TRANSPORT

Government Response: Augmentation of water supply for rural and regional New South Wales

The Hon. NIALL BLAIR: I table the Government response to report No. 47 of Portfolio Committee No. 5 - Industry and Transport entitled "Augmentation of water supply for rural and regional New South Wales", tabled in May 2018. I move:

That the report be printed.

Motion agreed to.

Bills

HEALTH LEGISLATION AMENDMENT BILL (NO 3) 2018

SAINT PAUL'S COLLEGE BILL 2018

Returned

The PRESIDENT: I report receipt of messages from the Legislative Assembly returning the abovementioned bills without amendment.

CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT BILL 2018

NATIONAL DISABILITY INSURANCE SCHEME (WORKER CHECKS) BILL 2018

Second Reading Debate

Debate resumed from an earlier hour.

The Hon. PETER PRIMROSE (15:35): If you say sorry, you should not do it again. I repeat: If you say sorry, you should not do it again. That is the message the Aboriginal community of New South Wales is trying to get through to this Government. We have said sorry and the Commonwealth Parliament has said sorry, but the Aboriginal community in New South Wales is saying, "You are doing it again to our children with the Children and Young Persons (Care and Protection) Amendment Bill 2018." Only a couple of months ago, this House participated in a special ceremony that led to the message stick now being permanently displayed in the Chamber. We all did that sincerely, and it was appropriate to do so to show that never again would legislators in this place not listen to the Aboriginal community.

However, it is happening again. The Aboriginal community is saying to this Parliament, "Don't do it. You have said sorry. Don't let it happen again by ramming through this legislation. Have an inquiry, look at the implications and listen to what we, the Aboriginal people, are saying." Despite those pleas from the Aboriginal community and its many representatives and organisations, we have heard from the Liberal Party, The Nationals and now the Christian Democratic Party that they will pass this legislation, again without listening to what Indigenous people are saying about their children. I reiterate my opening comment: If you say sorry, do not do it again. That is the plea from the Indigenous community.

Unfortunately, the House has decided to consider the Children and Young Persons (Care and Protection) Amendment Bill 2018 and the National Disability Insurance Scheme (Worker Checks) Bill 2018 as cognate bills. I doubt that anyone has any concerns about the National Disability Insurance Scheme (Worker Checks) Bill. However, along with the Indigenous community and many organisations representing children, members on this side of the House have serious concerns about the other bill. That is why the Leader of the Opposition has moved that the Children and Young Persons (Care and Protection) Amendment Bill be referred to the Legislative Council Standing Committee on Social Issues. That is what we do in this House; we are a House of review. If there are so many members of the community saying that they are concerned about this legislation and that they have not been adequately consulted, and unless the apology we gave to the Aboriginal community about what happened to their children was totally insincere, we should listen to them and allow this matter to be considered by a committee of this House.

That committee could consider the bill and make recommendations and ensure that we listen to and take account of what members of the Indigenous community have to say about their children. If we fail to do that and this legislation is passed, I am sincere in saying that every time I walk past the message stick I will have a very

sour taste in my mouth because this House, this Government and the Christian Democratic Party have not listened to what the Indigenous community are saying to them.

Reverend the Hon. Fred Nile: We have listened and will listen.

The Hon. PETER PRIMROSE: I acknowledge the interjection of Reverend the Hon. Fred Nile. He has listened! The Aboriginal Child, Family and Community Care State Secretariat [AbSec] in its statement of 25 October, entitled "Vulnerable Aboriginal children and young people: targeted measures required", says:

> AbSec, the NSW Aboriginal child and family peak organisation, is once again calling on the NSW Government to listen to Aboriginal people and communities, instead of making blanket changes to child protection legislation that will adversely impact Aboriginal children, young people and families in NSW.
>
> We have consistently stated that adoption of Aboriginal children from the statutory system is not an option, and that the way forward is to listen to and meaningfully engage with Aboriginal people, communities and organisations to design a system that addresses the alarming overrepresentation of Aboriginal children in care.
>
> …
>
> With more than 1 in 3 children removed from their family being Aboriginal children, these proposed changes will have a huge impact on our families and communities.
>
> …
>
> And yet, the government has not adequately engaged with and genuinely listened to Aboriginal communities about the best interests of Aboriginal children and young people.
>
> …
>
> A deeper look at how the system is operating is needed. We need greater safeguards and investment in prevention, early intervention and restoration, with proactive efforts to engage families and communities in the safety, welfare and wellbeing of children. Speeding up adoptions through artificially imposed timeframes will undermine rather than uphold the best interests of vulnerable children.

I talk about not only AbSec, but also the Public Interest Advocacy Centre, the Kinchela Boys Home Aboriginal Corporation, Burrun Dalai, Community Legal Centres NSW, KARI, the Armajun Aboriginal Health Service, the Aboriginal Legal Service (NSW/ACT), the Save the Children fund and the Benevolent Society. They say:

> The recent announcement by the NSW Government that significant legislative reforms to the statutory child protection system will be introduced to Parliament has stunned stakeholders including Aboriginal community bodies, and community legal advocates, citing the lack of transparency and public dialogue on this important area of public policy.

It then lists about 20 Aboriginal organisations that say they have not been consulted and do not want members of Parliament to pass this legislation. They add:

> Aboriginal communities are particularly concerned by the push towards adoption orders that permanently sever Aboriginal children and young people from their family, community, culture and identity, and emphasise the need to engage with Aboriginal peoples about the appropriate systems and actions to uphold the rights of Aboriginal children and young people.

Community Legal Centres NSW says:

> We are writing to raise serious concerns about the Children and Young Persons (Care and Protection) Amendment Bill 2018, which we understand is being rushed through parliament today. Community Legal Centres NSW is the peak body for 37 community legal centres in NSW. Most of our members provide legal support to families on a wide range of child protection matters. We're concerned these reforms are being unnecessarily rushed through parliament, without consultation or consideration of their impact, and without the support of the members of the legal, Aboriginal and community sectors who work with children, families and communities.
>
> …
>
> In less than a week, over 60 organisations and 1,000 people have signed an open letter to the Premier about these reforms.

It has attached a copy to its media release. It goes on:

> Community Legal Centres NSW and its members share the government's strong commitment to providing safe futures for our children. However, the changes being rushed through parliament pose serious risks for children and communities in NSW.
>
> We urge the NSW parliament and government to not rush these crucial reforms, and to refer this legislation to an inquiry so that the practical consequences of proposed reforms on children and families with complex needs can be fully investigated and understood.

The list goes on. In the space of a few days 1,106 people, along with all the Indigenous organisations, have indicated that they believe this legislation is being rushed. The Opposition is not absolutely opposing this bill. Along with the community, it is pleading that the legislation be referred to the social issues committee. I cannot understand why a House of review that is proud of the standing committees that it has set up would not want this matter referred to the social issues committee, as is being requested by the community. What possible argument can there be to say, "We don't trust them"? We have heard dozens of times: "The Aboriginal community don't

know what they really want. They don't understand. We'll do what is right for them. We're not going to listen to them. We'll simply ram through this legislation because they don't know what's best for their children."

We have been through that; we have apologised. We have learnt our lesson in New South Wales; we have learnt our lesson federally. Or I thought we had. We have been through ceremonies in this House, as I have said. We are proudly displaying a message stick. The one thing we are not doing is listening to what they are saying, because—guess what?—we believe we know better. We are a House of review. They are simply saying, "Listen to us. Give us the opportunity to talk to you," and we are saying, "No, we know better than you. We know what's best for your children. We'll impose it and we're not going to listen when you request that we simply listen to you about the fate of your children." That is what will happen here today. The Liberal Party, The Nationals and the Christian Democratic Party will ram this through and say to the Aboriginal community, "Well, it was all very nice. We enjoyed the ceremony. We enjoyed listening and doing the smoking ceremonies. We are proud of our decoration of a message stick but, when it comes down to it, we don't give a bugger what you really say. We know better and we're not going to listen to you at all."

What a disgusting way to end this four-year parliamentary term. After everything that we have achieved, a House of review does not even trust its own social issues committee to listen and to do a reasonable job, let alone listen to Indigenous people. There have been so many conversations and so many ceremonies to say, "We've learnt our lessons. Things have changed. The New South Wales Parliament has learned its lesson." Let us find out if we have. Let us find out today if we have learnt our lesson, because I suspect from the debate so far that we have not. In a few years time—probably when all of us are not here—when the next Premier of whatever flavour apologises for what we did, the explanation will be, "Well, we didn't know. No-one told us. We weren't aware of this. We didn't have the opportunity." We have that opportunity today.

It is in *Hansard*. It is on the record. All the organisations of the Indigenous community have asked us. If we say no to them, then everything that we have said for the past four years in this place about being sorry is a total joke. Everyone is aware of what is in this legislation; I will not repeat it. I have voluminous material, but the simple decision for this place is that the Government either listens to what the Aboriginal community and their representatives say and respects, honours and trusts in the work of our social issues committee, or it simply throws it all away. That would be a really sad way to end the four-year term of this Parliament.

Mr DAVID SHOEBRIDGE (15:48): On behalf of The Greens I indicate our strong opposition to the Children and Young Persons (Care and Protection) Amendment Bill 2018 and the National Disability Insurance Scheme (Worker Checks) Bill 2018. It is hard to comprehend what has gone so horribly wrong in the department and in this Government that we are, in the last two weeks of this parliamentary term, seeking to rush through legislation that is almost universally opposed by stakeholders in the sector—apart from Adopt Change, the one organisation that seems to have the ear of this Minister. The Government is rushing through legislation about which the Aboriginal community, almost to a person in this State, is saying, "Don't do this. Stop what you are doing. You have stolen our kids in the past and we think you are going to do it again."

Even if the Government believed that the Aboriginal community was wrong on this—for the record, I do not believe it is—and even if it believed that Minister Goward and the bureaucrats informing her knew better than all of the Aboriginal non-government organisations and all of the Aboriginal community members, including all of the children who were stolen and all of the parents whose children or grandchildren were stolen, how could it possibly ignore the united call coming from the Aboriginal community? The Government is saying to that community, "We don't care about you. We are just going to shove this legislation through; we are not listening."

In February 2008 our national Parliament finally apologised to the stolen generation. There was a reason that that occurred in February 2008 and not a decade earlier, and I think we should be clear about the politics of that. It occurred in February 2008 because the nation had to remove a Federal Coalition Government that refused to apologise to the stolen generation before we had a government that would admit to the history and make the apology. To the eternal shame of the Federal Coalition, senior members of the current Government boycotted that apology. We cannot ignore the fact that in the past two decades Coalition governments—State and Federal—have a lot more to apologise for. They have not apologised for their ongoing failure even to acknowledge the reality of the stolen generation.

That apology occurred in February 2008, and in September 2012 the current Minister, who was at the time the Minister for Family and Community Services, went to the other place and, together with the then Premier, delivered a tear-filled apology about forced adoption practices. Across this country more than 100,000 young mothers—largely single young mothers—under a practice that ended only in the 1980s, had their children stolen from them as soon as they were delivered. Those children were stolen from the delivery wards under a forced adoption practice about which we should feel continued collective shame.

That is the history that we start with—two apologies within a decade and a few months. Members of this Parliament would have heard members of the Aboriginal community today out the front of this Chamber calling on the Government not to do it again—to listen to them for once and not to continue with the colonial mentality that this Government, this non-Aboriginal Minister and the bureaucrats that surround her, know better about how to care for their children and about what is at stake. The Aboriginal community is calling on the Government to stop and listen and not to legislate again to take their kids.

Members of the Aboriginal community were making that call outside. They could be heard by the people in this Chamber. Their call was, "What does 'sorry' mean? You don't do it again." They were out in the street making that call while this Government was pushing through this legislation. In the same Chamber where we made the apology, the same classes of politicians who said sorry in 2008 and 2012 are ignoring the Aboriginal community. If it were not happening I would not have believed it could happen. I would not have believed that "sorry" would mean so little that our collective memory would be less than a decade long. I would not have believed it possible. I am standing in this Chamber having to oppose this legislation. It looks like the Coalition, with the support of the Christian Democrats will push it through this House today, or later tonight, because we will fight it for as long as we can. I would not have thought it possible.

Today the Premier had delivered to her an open letter. It is not an open letter that has been crafted by a bunch of politicians; it is not signed by a bunch of paid consultants or stakeholders; and it is not signed by a bunch of political donors who have come together to ask for something. This open letter is signed by pretty much every non-government organisation that deals with the trauma and tragedy of Aboriginal children being removed. That includes Link-Up, the Kinchela Boys' Home Aboriginal Corporation, SNAICC and AbSec or even the Equality Rights Alliance, Homelessness NSW, Burrun Dalai Aboriginal Corporation. I could go on and on and put on the record the number of organisations that are asking the Premier not to do this.

More than 1,000 names of individuals and organisations have been added to the list. The organisations include Binaal Billa Family Violence Prevention Legal Service, Just Reinvest NSW, Shopfront Youth Legal Centre, the National Justice Project, Intellectual Disability Rights Service and the Redfern Legal Centre. Also on the list were countless individuals who work in this area and who know, from experience, what these kinds of legal changes do. There is name after name on this list of people who support this letter—an academic, a mum who had her child stolen, a social service worker. They are united in saying to this Parliament, "Don't do this." They say to the Premier:

> We are writing to urge the NSW Government to act in the interests of children and communities in NSW, by turning away from the path of forced adoptions and avoiding the mistakes of the past.
>
> Forced adoptions played a central role in the trauma that led to the National Apologies to Survivors of Institutionalised Child Sexual Abuse, the Forgotten Australians, and the Stolen Generations. There was also a specific national apology to victims of forced adoptions in 2013 and a NSW Government apology in 2012. It is our collective responsibility to learn from these mistakes and ensure that children are safe and families have the supports they need to be part of creating strong, safe and healthy communities.

The letter goes on:

> The NSW government is on track to repeat these mistakes, with potentially devastating consequences for children and their communities. The Care and Protection Amendment Bill (2018) is currently being rushed through NSW parliament without genuine input and engagement with Aboriginal communities and other organisations that work with the children and families who will be impacted by these reforms.

The letter concludes:

> We urge the NSW government to put these reforms on hold and engage in genuine dialogue with all stakeholders, including Aboriginal communities and community organisations supporting children and families in this area.

I commend the words of that letter to this Chamber. Those are not the words of David Shoebridge, some Greens member—these are the words of pretty much every non-government organisation that works in this area and that is concerned about the future of Aboriginal children and Aboriginal families. Many of these organisations also work with non-Aboriginal children and non-Aboriginal families. They know that this legislation is wrong. AbSec, the peak Aboriginal corporation in New South Wales child, Family and Community Services, has also made representations to the Government and to every member of Parliament. That organisation talks about General Purpose Standing Committee No. 2. I sat on that committee, and I note that a number of members in this Chamber genuinely engaged with that committee. AbSec says: Despite numerous inquiries and repeated recommendations, including the recent Inquiry into Child Protection conducted by the General Purpose Standing Committee No. 2 of the NSW Parliament, for greater self-determination across the system, the current amendments are silent with respect to the need to strengthen the existing *Aboriginal and Torres Strait Islander Principles* within the Act. Given the overrepresentation of Aboriginal children and young people in the Care and Protection system, and based on any previous or current provisions within the Act not adequately affording a tailored approach to bring about change, AbSec proposes the following areas be considered …

AbSec then goes into detail about what is wrong with the bill. When AbSec talks about the over-representation of Aboriginal children in the system, it is referring to the fact that between 38 per cent and 40 per cent of children who are currently in the out-of-home care system—four in 10 children—are Aboriginal children. If we proceed with this legislation and we are blind to the fact that it will have a disproportionate and damaging impact on Aboriginal communities that are already facing structural disadvantage, we will also be blind to history and the reality of the system.

The Government and the people advising the Minister are ignoring that united call from Aboriginal communities because they think they know best. The people who know best about raising Aboriginal kids are Aboriginal parents, families, elders and kinsfolk. They are saying to each and every member of Parliament, "Don't pass these laws". Aboriginal families and communities know best how to raise their kids, not Minister Goward or the shiny, bright Adopt Change lobby group that is in the Minister's ear and that has captured the central part of the bureaucracy in this State on this "adopt anything" agenda.

It is an obscene and false dichotomy to suggest that somehow those who do not support an increase in adoption are supporting children being thrown in a churn of foster care in a dysfunctional system. That is dead wrong, it is divisive and false. It is playing politics with Aboriginal families and communities because we all know that the foster care system is in crisis. We all know there is not enough funding to ensure that foster families can survive and thrive. More importantly, we know from the Tune report—which this Government hid for two years and was forced to release by a majority in this House—what the answers to the system are. It is not stealing more kids or adopting out more kids or removing parental consent. There is one simple, comprehensive answer and it is providing greater self-determination to Aboriginal communities. Resourcing that self-determination and providing funding for early intervention is what keeps families together. This Government is interested only in making a quicker, cheaper path to the permanent separation of families, and that is plain shameful.

I commend the work of Community Legal Centres NSW, which has played an important role in bringing together various groups to oppose this legislation. It has been working hard and talking across the sector, being informed by its members and listening carefully. Today I note the representation from Tim Leach, the Executive Director of Community Legal Centres NSW who has written to all members of Parliament—every Government member will have received this—stating:

> We are writing to raise serious concerns about the Children and Young Person's (Care and Protection) Amendment Bill 2018, which we understand is being rushed through Parliament today.

How right he is. The letter continues:

> Community Legal Centres NSW is the peak body for 37 community legal centres in NSW. Most of our members provide legal support to families on a wide range of protection matters. We're concerned these reforms are being unnecessarily rushed through Parliament, without consultation or consideration of their impact, and without the support of the members of the legal, Aboriginal and community sectors who work with children, families and communities.

The letter goes on at length to detail the critiques of this bill. Before members receive the printed material that is so often distributed by the Minister's office, I urge them to read what is in their inbox from community legal centres. Consider what is before them and ask their party room and their colleagues, "Why are we doing this? Why are we repeating the mistakes of the past?" I note the contribution from the Law Society of New South Wales and I appreciate its detailed consideration of the bill—which has been sent to the Minister and has been roundly ignored. I also note the representations from a vast number of other organisations and individuals. The Bunjum Aboriginal Corporation wants to keep its jarjum—its kids—safe. A letter from Nita Roberts, general manager of the corporation, states:

> I write to raise significant concerns that I hold regarding the proposed amendments to the Children and Young Persons (Care and Protection) Act 1998 and Adoption Act 2000 and the significant adverse affects these changes may have for Aboriginal children. I am deeply concerned that these amendments are being rushed through the Parliament without sufficient review or public consultation. Given more than 37% of all children in out-of-home care are Aboriginal children, it is extremely worrying that these amendments are being progressed without adequate consultation with Aboriginal communities, and without significantly strengthening safeguards to uphold the rights and best interests of Aboriginal children and young people.

What does this bill do? In the limited time I have available to me I will do a Cook's tour of the most offensive elements of the bill. First, the bill puts in place a two-year maximum time limit for restoration. The law says that the courts, when considering whether or not a child can be returned to his or her family, may form the view that if there are no reasonable prospects to restore the child to the family within a hard and fast two-year period a permanent residency order must be made to place the child elsewhere. What that means is permanently removing the child from the family. Members should think about the reality of the situation. The structural disadvantage faced by Aboriginal communities often means they have a chronic lack of housing.

Public housing waiting lists in this State are lengthy and it can be six years before a house is allocated, not two years. If a child has been removed from his or her parents because of so-called neglect—mum may not

have a house, is living in a car but is on the waiting list to get a home—and a court is told that the waiting list will mean a wait of three or four years before a house is available, the children are gone. In most areas of regional and rural New South Wales, parents who experience addiction problems, who have faced their concerns and who are trying to find rehabilitation, have at least a 12-month waiting list for a rehabilitation course. If a judge is aware of that and knows the length of the rehabilitation course, and if it is more than two years, their children are permanently removed from them. The obscene increase in the number of Aboriginal and non-Aboriginal women going to jail in this State will almost certainly see those women having their kids ripped off them as soon as they are sentenced. The two-year time limit is hard and fast. Reality is much more complex than this legislation makes it out to be.

Representations have been received from the President of the Children's Court indicating that somehow this legislation will improve matters because rather than having a point in time consideration, the court will be able to consider issues over two years. That opinion was reviewed by lawyers from PAK Law, the Aboriginal Legal Service and Community Legal Centres NSW and found comprehensively to be wrong. The lawyers indicated that this legal change takes us back substantially and reduces the court's discretion. This law also allows guardianship orders by consent and removes the oversight of the court in many guardianship orders. It permits adoptions to occur without parental consent—the initial position which has led to forced adoptions. We are not talking about a handful of children; we know from the Government's evidence that there are 815 Aboriginal kids on guardianship orders who can be adopted without parental consent if these laws are passed.

There are additional barriers to seeking variation of care and protection orders. Section 90 makes it nearly impossible for parents who want to revisit a permanent order and this legislation makes it harder. Basically, whenever a child has a stable arrangement outside his or her family, the family will be forever barred from bringing a section 90 application to have a child returned. That is the situation even if the family has everything in order and there are other siblings in the family to whom the child will be returned. They will be barred forever from bringing a variation order because of the changes to section 90.

There are also grossly inadequate provisions for independent legal advice for representation on the one potentially positive element of the legislation, which is the requirement for alternative dispute resolution [ADR] before the matter goes to the Children's Court. There is a requirement for ADR but no-one knows what the content of that will be and there is no guaranteed legal representation. All of this happened without meaningful consultation with the community. If we pass this law and we do not throw the Government out and reverse the legislation early next year, we will be back here again in five years or 10 years saying sorry again—only this time we will have known at the outset that what we did was wrong.

The Hon. MICK VEITCH (16:09): I note at the outset of my contribution to debate on the cognate bills, the Children and Young Persons (Care and Protection) Amendment Bill 2018 and the National Disability Insurance Scheme (Worker Checks) Bill 2018, that the Leader of the Opposition in this House, the Hon. Adam Searle, urged the Government to separate the consideration of the bills—and for good reason. The National Disability Insurance Scheme (Worker Checks) Bill 2018 has the object of establishing worker screening arrangements in New South Wales for the purposes of requirements under Commonwealth law for the screening of workers engaged in or associated with the provision of supports or services to people with disability under the National Disability Insurance Scheme. I have no problem with that object. I support that legislation. It is commonsense and I take no issue at all with that legislation, which I am sure is reflective of the attitude adopted by a number of members on the non-Government side of the House; hence our request for consideration to be given to debating the bill separately.

The Hon. Adam Searle: They are being debated separately.

The Hon. MICK VEITCH: Has the Parliamentary Secretary already agreed to that?

The Hon. Scott Farlow: We have already done that.

The Hon. MICK VEITCH: I thank the Parliamentary Secretary. I will deal with the Children and Young Persons (Care and Protection) Amendment Bill 2018 in greater detail. The object of this bill is to implement improvements in the New South Wales child protection system resulting from certain proposals contained in the discussion paper entitled "Shaping a Better Child Protection System", released by the Department of Family and Community Services in October 2017, and to make provision for other matters. The overview of the bill provides details of quite a number of changes that the legislation will effect.

I come to this debate from an angle that is slightly different from the approach of other members. I was a foster parent for a considerable period. My ex-wife and I fostered children with disabilities; in fact, the majority of the children we fostered were children with disabilities. It is important to set the scene in which this legislation will be implemented. In doing so, I will provide the House with a snapshot of reality. Fostering is rewarding.

Fostering has its challenges. Fostering can be difficult. But the reality is that we need more foster parents, and we need to do more to support the foster parents we presently have.

Before a child would come into our home, we would gather our own kids together and have a conversation, if we had the time. Sometimes we did not quite have an adequate time frame in which to do that, but when circumstances permitted we would have a roundtable conversation about what to expect, how we would support the child and what we were going to do. We had some kids staying with us for a couple of nights; we had some kids for a couple of weeks—for example, over the school holidays; we had some kids for three or four months; and we had some kids for 18 years. When some of the kids left us, we had another meeting in the house. We would sit around the table and have a bit of a chat. Generally we would have a bit of a cuddle and a cry because every kid who came into our house was special in their own way. They had their own character traits—some good, and some bad—but their stay with us was always a rewarding experience. From every one of the kids who came into our house we were privileged to have them there and we learned a lot.

Not all the kids who came into our house were in the position on the spectrum that everybody talks about—the bad end, the really difficult placements. We had some of those, but we had other kids whose mum and dad just needed respite for a couple of weeks or a month. They were not bad parents; they were just going through a tough spot. We still engage with some of those parents and kids on a regular basis. Furthermore, not all kids were babies, which is another misconception about fostering—that every child that is fostered is a baby, a little tacker. The reality is that that is not the case. We had some pretty tough teenagers who came into our house. Some of them may have been a little bit more destructive than were others, but they certainly left their mark on our home and our lives.

The reality is that fostering is not easy. When we talk about the fostering sector, we talk about the fostered kids, the foster parents and the fostering organisations such as Barnardo's and others, and there are also the parents of the kids in care who are involved. The concerns I have with this legislation are drawn from my experience as a foster parent. I should add that my ex-wife and I undertook a process of adoption in relation to one of our longer- term foster placements, but in the end that simply proved to be far too difficult for a range of reasons. None of those reasons had anything to do with the agency, which at that time was the Department of Community Services and is now the Department of Family and Community Services. The process fell over for various reasons. The issue in regional areas of New South Wales is that the support systems that are put in place or should be put in place are focused on the parents, but the services simply are not there.

The Deputy President, the Hon. Trevor Khan, is from a regional area of New South Wales and would know that support systems are okay in larger centres, but in some of the smaller communities the support mechanisms are not always there. If they are there, they can be pretty brittle and fragile, and often are heavily reliant upon a well-intentioned and overworked individual who sometimes makes judgement calls that could well be wrong. The parents need support during the fostering process. The court process that applies to the adoption of a child gives pause for thought. Some of the kids who were in our home as foster kids were the children of parents with disabilities. The parents of the child had intellectual disabilities. I ask members of this House to reflect upon that because those parents were not supported. They did not receive the support they should have received as parents who were trying to reconnect with their beloved children.

If this legislation is passed, it behoves all of us to ensure that support mechanisms are in place. If parents with an intellectual disability are about to lose their child and they do not understand the legal system or the legal framework in which they are engaged, that is a terrible situation for which all members of this House would be responsible because we voted to pass this legislation. We cannot allow that to happen. Very specific issues relate to services in regional areas of New South Wales, and those issues impact upon the application and implementation of this bill. Members of this House should think about that. In fact, we should dwell upon it. There are some very special needs, not just for the kids but for their parents because of the circumstances in which they find themselves.

If members take the time to think through the implications of this bill, especially what it means for smaller communities, I am sure they will realise that this is a serious issue. We should always remember that foster children are not based solely in metropolitan Sydney. The reality is that they do not come from families who live in Western Sydney or in the south-western suburbs of Sydney. Rather, they come from areas right across the State and live in all types of different circumstances. As is my wont recently, I referred to the report of the Legislation Review Committee. I regularly read the Legislation Review Digest.

The Hon. Penny Sharpe: At least someone reads it.

The Hon. MICK VEITCH: Yes. The Legislation Review Committee makes some good points in its Legislation Review Digest No. 64/56, dated 13 November 2018. It is important to have those good points on the record to give the Government an opportunity to respond to those statements by the Legislation Review

Committee. The first point deals with limiting judicial discretion as it relates to the rights of children and families. The report states:

> The Committee notes that the bill restricts the Children's Court from allocating parental responsibility solely to the Minister for a period longer than 24 months unless the Children's Court finds special circumstances that warrant a longer period.
>
> The Committee notes the intention of the provision in encouraging parties to work towards restoration, guardianship orders or adoption within a defined timeframe. However, the Committee has concerns that a mandated timeframe reduces the Children's Court's discretion and puts an arbitrary timeframe on efforts for restoration and may result in some families having inadequate time to establish a realistic possibility for restoration. While the Children's Court may impose a longer time period where it finds special circumstances, there is no guidance in the bill as to what may constitute special circumstances, and this may lead to an inconsistent application of the provision. The Committee also notes Article 3 of the Convention on the Rights of the Child which provides that in all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative authorities or legislative bodies, the best interests of the child shall be a primary consideration. The Committee considers that mandated timeframes on any work towards restoration, guardianship or adoption may detract from the primary consideration being the best interests of the child. The Committee refers this issue to Parliament for its consideration.

I would like to hear the Government's response to that statement because it is an important position. I carry the same concerns as the committee on that item. As the legal practitioners in the room would know, if the principal legislation does not articulate what the "special circumstances" are, at some point it is going to be tested in a court of law. It is important to get the Government's intentions on the record. The committee then goes on to talk about the rights of parents and raised a number of issues. The first issue the committee raised, on page 12 of the digest, states:

> The Committee notes the proposed amendments to provide for a two-tiered list of considerations that the Children's Court must consider before granting leave to make an application to rescind or vary a care order.
>
> The Committee acknowledges that primacy is given to the views of the child or young person and the intention of the amendments is to provide stability to children and young people in care arrangements. However, the Committee notes that consideration of the applicant's case is now only an additional circumstance and may lead to insufficient weight being given to that consideration. Applicants can include a person having parental responsibility for the child or young person, or a person from whom parental responsibility for the child or young person has been removed, such as birth parents or family members. The Committee refers this issue to Parliament for further consideration.

The issue around care orders is important. My own experience is that sometimes care orders are not as well put together as they should be. Sometimes not a lot work goes into providing information and the implementation of the care plan will often fall over due to a lack of resources. That is an issue for both sides of the Chamber—it is not beholden to one side of the Chamber—and has been a long-term situation, particularly in regional New South Wales. The other issue raised is the consideration of other family members of a child who is being considered for adoption—it is not only the parents. Familial arrangements are quite complex by nature. There will often be siblings involved. The people who are often forgotten are the grandparents.

It can be quite difficult to find the grandparents, who sometimes, for whatever reason, are not around. I understand there are a lot of complexities in that situation. But we cannot have a process where an adoption arrangement severs all the child's ties to their siblings, parents and broader family. It is absolutely critical that the Government explains how it intends to accommodate those arrangements when implementing this piece of legislation. The second issue around the rights of parents that the committee raises on page 13 of the digest is that:

> The Committee notes that the bill extends the current power of the Supreme Court to dispense with obtaining consent to a child's adoption if an application has been made by a guardian. The amendment is an extension to an existing power of the Supreme Court to dispense with obtaining consent and the Committee notes the number of factors a court must be satisfied of before it can dispense with obtaining consent.
>
> The Committee also notes that the amendment is extending the provision to guardians as they are defined under the Care and Protection Act. To be appointed as a guardian a number of circumstances need to be established including that there is no realistic possibility of restoration of the child or young person to his or her parents.
>
> However, the provisions concern an important issue concerning consent for adoption and it is important for the Committee to note where the rights of parents and families may be impacted and draw these issues to the attention of Parliament.

Again, it is important that the Parliamentary Secretary takes some time during his speech in reply to address the very important concerns that have been raised by the Legislation Review Committee. I am certain that at some point aspects of this legislation will be challenged in court and the views of the Government should be on the public record for people to have a look at when they are giving consideration to what the Government's intent was. In closing, I note that the Hon. Adam Searle has sought to have the bill referred to the Committee on Social Issues. Members have heard me say before that this House does wonderful committee work. The Committee on Social Issues is just the place for this very important piece of legislation to receive the attention it deserves.

A number of organisations have engaged with members on this legislation—some of them were out the front of Parliament today. There is a number of concerns with this legislation and there is a number of concerns about the impact of this legislation once it progresses through the Chambers and becomes law. We need to ensure that there are no unintended consequences arising from the implementation of this bill for all the people I have

spoken about, including the children we are talking about, foster parents, foster organisations and the department itself. I worked with some wonderful members of the department during my time as a foster parent and they do a very good job in often very trying circumstances. I take my hat off to them and extend my consideration and congratulations to members of the department who are out in the field dealing with this on a daily basis.

We should also give consideration to the parents. Not all of the parents are bad parents. They have their own situations and circumstances. I am concerned about the two-year time frame. The mandatory time frame takes away a very important factor—the human element. We should think also about the broader families, including siblings, grandparents, uncles and aunts. There is a broader consideration that needs to be made because there will be an impact on those families. Families are complex units. We are never going to land on the perfect definition of a family. In my house it was one where the kids kept me sane and rational after a long and trying week in Macquarie Street in Sydney. As I said, I will support the National Disability Insurance Scheme (Worker Checks) Bill, but I support referring the Children and Young Persons (Care and Protection) Amendment Bill 2018 to the Committee on Social Issues to ensure that we do not adopt a piece of legislation that delivers unintended consequences into the future.

The Hon. COURTNEY HOUSSOS (16:27): I speak in debate on the Children and Young Persons (Care and Protection) Amendment Bill 2018 and the National Disability Insurance Scheme (Worker Checks) Bill 2018. As other Labor members have indicated, we will be voting to refer the Children and Young Persons (Care and Protection) Amendment Bill to the Committee on Social Issues, as is appropriate. First, I address the support we have for the National Disability Insurance Scheme (Worker Checks) Bill. We welcome this bill, which gives effect to New South Wales' obligations under the Intergovernmental Agreement on Nationally Consistent Worker Screening for the National Disability Insurance Scheme [NDIS]. Under the bill, all NDIS workers will be required to apply for a check that is consistent with the Working with Children Check.

It is designed to protect people with a disability from abuse, violence, neglect and exploitation. I am a member of the committee inquiring into the NDIS implementation and I await the publication of the committee's recommendations to reflect upon the work of the committee. But I do say that the recent Ombudsman report entitled "Deaths of people with disability in residential care" shows that it is incredibly important that these worker checks are implemented and that we ensure that the rapid rollout of the incredible opportunity that is the NDIS does not mean that appropriate checks are not in place for workers.

I turn my comments to the Children and Young Persons (Care and Protection) Amendment Bill 2018. I acknowledge the passionate and eloquent response from my colleague the Hon. Peter Primrose. His comments about the care that we should take when entering this discussion are absolutely correct. I was unable to be here for the contribution of the Leader of the Opposition as I was attending the rally outside at 12.30 p.m. today, with many people concerned about the manner in which this legislation is being rushed through and the implications not being appropriately considered by the House. The appropriate place for this House to have a detailed consideration of bills as complex, and with implications as significant as these, is our excellent committee system. In just a week 64 organisations have signed an open letter. Those organisations wish to have a conversation about the implications of the legislation. Let us engage with them, let us talk to them and find out what is going on. Instead, the Government is ramming through legislation and applying an arbitrary time line to our most vulnerable children.

Let me say this: I acknowledge the importance of stability for any child, irrespective of their situation, and for the vulnerable children in care who may be able to come through adoption. No-one wants to see children languishing in care but we must ensure the appropriate checks and balances are in place, and they are not in this legislation. Last Monday we held a supplementary budget estimates hearing and the secretary of the department tried to say that consultation began in October 2017. A form of consultation began in October 2017 but a draft version of the bills was not broadly circulated, as would be appropriate practice with such a significant change in this area.

Groups in fact thought they would be getting a draft copy of the legislation but that did not happen. Indeed, this House held a detailed investigation into the child protection system in New South Wales only two years ago that did not canvass recommendations in this specific area. Instead, these bills were thrown on the table last sitting week, groups are outraged and now they are being rammed through this Parliament. We are dealing with incredibly vulnerable children with complex issues.

Many members have reflected on the fact that we do not want another stolen generation, and I do not say that lightly. I was incredibly fortunate to serve on the upper House inquiry into reparations for the stolen generations in New South Wales. That inquiry exhibited the best that this House has to offer. It was a collaborative approach with parties from across the spectrum, across the Chamber, coming together in a very long running inquiry—we visited all parts of the State—where we saw firsthand the intergenerational trauma that resulted from

those decisions. It has caused devastation not only for individuals and the way they parent their children but also for the way their children parent their children.

In beginning my research for that particular inquiry I thought I would consult the *Hansard* from that time, from the particular laws that allowed Aboriginal children to be removed from their families, to see if anyone at the time had raised concerns or said that perhaps this was not the appropriate course of action. There were a few brave members who in this place said that it was not appropriate to remove children based on their Aboriginality. They were ridiculed at the time; they were obviously voted down but they took the right approach.

The PRESIDENT: Order! Members will not engage in conversations at this time. The Hon. Courtney Houssos has the call.

The Hon. COURTNEY HOUSSOS: I take comfort that the arguments of people on this side of the House and our vote will stand the test of time. There is broad opposition to these bills that has been circulated to a range of members, not just to me. I refer to correspondence from the Community Legal Centres NSW, which talks about the need for the bill to be referred to the Standing Committee on Social Issues or another appropriate body for a thorough inquiry into the practical consequences of the proposed amendments, particularly for children and families with complex and specialist needs. Other concerns were raised around the two-year maximum time limit for restoration, guardianship orders by consent, changes to the Adoption Act, additional barriers to seeking variation of care and protection orders, inadequate provision for independent legal advice and representation, and a lack of meaningful consultation. Community Legal Centres NSW made a range of recommendations. This should be dealt with in a nuanced, sophisticated and complex way, not rammed through the Parliament in a single sitting.

I refer also to the open letter signed by 64 organisations and 1,106 individuals at last count expressing deep concern. In the joint statement they said that the new legislation announced demonstrates a disregard for transparency and consultation with the public on vulnerable children and families. Some of these organisations include the Aboriginal Child, Family and Community Care State Secretariat [Absec], the Aboriginal Legal Service, Community Legal Centres NSW, the Public Interest Advocacy Centre [PIAC], Kinchella Boys Home Aboriginal Corporation—the list goes on and on—the Benevolent Society, KARI, Save the Children Australia and a range of Aboriginal organisations that are calling for greater transparency and consultation before we take these dramatic actions today.

Other speakers have referred to the chant at the rally today, "Sorry means you don't do it again". At the rally today the Public Interest Advocacy Centre appealed to us not to rush this through, stating that it did not need an arbitrary time line. PIAC talked about the need for parental consent as being the cornerstone of safe adoption practices, the lack of oversight, the importance of maintaining connection with community and family, and how it would be harder for families to seek to vary orders. These are not problems in the current system that are being sought to be addressed. Troy Wright from the Public Service Association talked about the fact there is not one extra worker or one extra dollar in this legislation. He called it a revolution in child protection. Changes as drastic and dramatic as these should not be introduced without serious consultation. As at June 2018 there were 17,387 children in out-of-home care. This legislation will require those children to be adopted within a two-year time frame.

Let us talk about what this legislation actually seeks to do. In 2016-17 there were 129 children adopted from out-of-home care. I do not dispute this number could be higher, and should be higher if it is done appropriately, but by applying an arbitrary time frame with no extra workers and no extra dollars attached to it, what does the Government seek to achieve but a disaster? We know that it is going to be a problem because it is sad to say but Australia's history is littered with these issues—whether it is forced adoptions, the forgotten children or the stolen generation. I cannot believe that this Minister would have such a tin ear as to what was going on. On Monday in Canberra there was an apology to children of institutional sexual abuse. On Tuesday afternoon the legislation was introduced in this place. I am lost for words.

This Government cut caseworkers and presided over a system for eight years that is universally acknowledged as being in crisis. Its solution is to ram through a bill such as this, a revolution so to speak, without consultation, as a thought bubble attempt at a legacy item. It deserves to be thrown out, because one way or another we will be revisiting this to repeal the laws and then, I am deeply saddened to say, we will have to apologise for them. I cannot believe we are here again. We may get voted down tonight but we will be on the right side of this debate. I urge honourable members to vote to refer this to the Standing Committee on Social Issues. I urge honourable members to oppose the bill.

The Hon. PENNY SHARPE (16:40): I make a contribution to the debate on the Children and Young Persons (Care and Protection) Amendment Bill 2018. The technical detail of the bill and some of the numbers around children in out-of-home care have been talked about by other speakers, and I do not seek to traverse that

area again. I want to place on record some of my concerns about this bill. I do not believe that we should be passing this bill today. I do not think it is ready. I do not think it is right. I think that this bill will have long-term consequences for children whom we have never met, and probably will never meet, but who desperately need care and support. It is needed not just from the foster care and out-of-home care system, and the good people who are foster parents, but from their own families that they love.

In some circumstances their families have done the wrong thing and they should not be allowed to return to them. The reality of out-of-home care and how children find themselves in out-of-home care is far more complex than this idea that there are bad parents and these children need to be saved from them, and that is the end of the story. There are children who need to be saved from their own families, and that is the right thing to do. It is right for us to seek to find stability and long-term families—that term, "forever families". It is right for us to try to do that as carefully as possible and to make that as easy as possible. I place on record at the beginning of this debate that I know many foster carers. I have been a foster carer myself and I know some children who have been in foster care who will never return to their families, and nor should they. They have found incredibly loving homes with the people who want to have them in their lives, to adopt them into their family and have the full parental and family responsibility over those young people. Good luck to them.

I know that for many of those foster carers there is a huge degree of frustration with the current system for them to adopt these children. I understand that. I also understand that there are children who are desperately waiting for their foster families to adopt them because that is what they want, and that is what they need. I accept all of those things. But I do not think this bill fundamentally makes that better or easier. There are a lot of things that could be done within the current system that would make that process smoother. For those children who are never going to be able to be restored to their families, it is absolutely appropriate, should be expedited and should not take years and years. We also need to reflect that that is not the case for many children who are unable to live with their families because of drug addiction or their parent or parents have mental health issues—serious issues that mean it is not safe for them to live at home. Sometimes their mothers are subject to horrendous domestic violence and have struggled to deal with that as they also try to protect and care for their children.

Some kids are removed because their parents become homeless. A lot of children are removed because of poverty. Many children, particularly Aboriginal children, are removed because of a combination of those things and fundamentally a lack of understanding about the way that Aboriginal families work, and racism. The children are removed because we have not spent enough time understanding that, we have not listened to the families involved, and we have not listened to their extended kinship networks. We have not provided the support to those families that they need to keep those kids within their families, their First Nations, their culture, and their country. If we fail to understand that, we should not be passing this bill tonight.

One of the things that I learnt as a foster carer was that the young women I was so privileged to have in my life had very complex lives. They had terrible things happen to them, but they were strong and resilient. As they got older they all had some relationship with their families, to varying degrees. They had not been adopted out. Many of them had done the complete churn that we are trying to avoid. To take a child out of their home and have them go through 10, 12, or 13 foster places and a range of youth refuges is a terrible outcome. I have had foster kids who have been through that exact system, and no-one is suggesting that is a good thing.

What always surprised me when I was a foster carer and got to know these young women was that they had strong ties to their own families, and they wished to keep them. Their relationship with their families was up and down as a result of the things that had happened to them. Ultimately, there was a desire for restoration if that could happen, even when one knew the history of what had happened to them. I found it unbelievable, but they wanted that. We need to understand when we are taking children away from their families, particularly if they are smaller but really at any point in the journey, they want to know where they come from, they want to know who their people are and they want to understand the circumstances in which they find themselves. They still love their family and often want restoration.

This bill makes that much more difficult. The history of adoption shows that simply ripping children from their mothers and adopting them out to very good families who want to do the right thing did not work. It does not work because of that innate connection. The changes that we have made around open adoption is one of the most positive things that we have done. We can adopt and children can still have contact with their biological families, as is right. What we are doing here today goes a step too far, by putting arbitrary limits on making those decisions and not providing the support that the families need. It also does not deal with the issues of mothers who lose their children for a variety of reasons. As I said before, I am not talking about the evil amongst us who do terrible things. I am not talking about that.

I am talking about the mums who have disabilities, who have had drug addictions, mental health issues, who have been subject to domestic violence or who have been homeless, and frankly have just done it tough. At the core of everything they have done they have loved their children, and they want to be with them and care for

them. We are forcing them down a path that will do more harm, not just to the children as they seek to understand their family and where they have come from as they get older, but fundamentally we snuff out the hope and the support—which again is not in this bill—for those mothers, fathers as well, but mothers in particular who are desperate to have their kids back and who know that their kids need them. These women work very hard to get rid of their drug addiction, or deal with the trauma of violence that they have lived with, sometimes their entire life, who have been homeless and perhaps finally have found somewhere to live, if our system allows us to do that.

We cannot force through some arbitrary change and say that it is all about stability and kids. It is not. One of the things I fundamentally worry about with regard to this bill is that it is about saving money. Thousands and thousands of children are in out-of-home care and we pay allowances for people to look after them, as we should. However, the minute they are adopted, some of those allowances fall away. That also seriously concerns me, but I do not want to dwell on it because it is not the main reason for my strong opposition to this legislation.

I refer to the haste in which we are dealing with this bill. I am not suggesting a great conspiracy on the part of the Government. I understand that legislation takes time to draft and that it takes a while to get it through the system. However, there is no reason to deal with this bill now. The complex issues have been discussed for the past 12 months. I could say much about why I believe the consultation was ultimately unsuccessful, but I will not do so now. If the Government wanted to pursue this bill, it should have released it as an exposure draft and allowed the community, families, parents and kids in care to have their say. We should then have considered a parliamentary inquiry into these complicated issues. This is fundamentally about the most important thing in people's lives; that is, their families and where they belong, who they belong to and who they belong with. We should not be legislating in this way.

The Hon. SHAOQUETT MOSELMANE (16:51): I make a brief contribution to debate on the Children and Young Persons (Care and Protection) Amendment Bill 2018, and reaffirm that the Labor Party opposes it. As members have said, the Leader of the Opposition has moved to refer the bill to the Legislative Council Standing Committee on Social Issues for inquiry. Members of the Selection of Bills Committee tried to refer the bill to the committee, but the numbers were against us and we lost. Here we are in this place trying again to have it referred. Hopefully, Government members will see sense and support this simple request.

As members have indicated, the consequences of the passage of this bill will be significant for many generations. The bill seeks to amend the Children and Young Persons (Care and Protection) Act 1998 and the Adoption Act 2000, and to take us back many decades to a dark time in Australia's history. It appears that the Government has caught a bad case of amnesia and has forgotten the intergenerational harm and trauma inflicted by past government policies resulting in the stolen generations of Aboriginal and Indigenous Australians who have suffered unimaginable grief and loss.

This Parliament conducted an inquiry into the stolen generations during which committee members met and heard from Aboriginal and Indigenous people whose stories of suffering reduced them to tears. We heard that they had suffered for decades because they did not know who their parents were or where their children had been taken. They were completely isolated and lost. It was traumatic not only for them to recall their experiences but also for members to hear their stories. It was a tough time, but the committee was united in its resolve to support the stolen generations. That is why this bill makes many of us angry, particularly the Hon. Peter Primrose, who clearly expressed our feelings about this bill being rushed through this place in the second last week of the session and knowing its potential consequences. That is happening despite the Government having heard so much from people in the Chamber and outside it, and particularly those who will suffer if the bill is passed.

It has taken years for us to compensate for the harm caused by the removal of young children from their families. We will never be able to fully mend the emotional harm of family support being totally removed and denied and the loss of culture and kinship. Despite that, the Government is saying it is okay to remove a child from the care of their family and to fast-track the process. Removing a child from the care of their family should always be seen as an intervention of last resort. Through this bill, the Government will effectively unravel the national apology given by former Prime Minister Kevin Rudd when he stated on behalf of the nation that the injustices of the past must never happen again. "Never again" means we do not re-inflict the trauma arising from past government policy, particularly on vulnerable and disadvantaged communities such as the Aboriginal and Torres Strait Islander people. As members have said, they have already experienced profound grief, suffering and loss as a result of the disgraceful Australian practice of Indigenous child removal. A victim of the stolen generations who was removed from her family at 12 months of age in 1967 stated:

> I have been a victim and I've suffered and I'll suffer until the day I die for what I've never had and what I can never have …

We know all too well the long-term effects and continual suffering caused by government policies that do not protect the best interests of children. It appears from this bill that the Government is either wilfully blind or

unaware of the enduring negative impacts of its legislation. I believe that the Government is wilful in its blindness and that it should be held responsible for any future pain.

Members on this side of the Chamber have grave concerns about a mandated time frame of 24 months for the Children's Court to allocate all aspects of parental responsibility to the Minister. Such restrictions will unnecessarily burden restoration efforts with an arbitrary time frame and will restrict the discretion of the Children's Court to grant flexible care and protection orders on a case-by-case basis, thereby effectively limiting the court's ability to act in the best interests of a child.

The bill also proposes to allow the Children's Court to make a guardianship order under section 38 with the parents' consent even where the Department of Family and Community Services has made no finding that a child is at risk of significant harm or should be subject to a care and protection order. Even access to free legal advice to parents will not ensure adequate accountability nor protect the best interests of vulnerable children. Again, we have already seen the consequences of permitting the courts to make orders even with parental consent from the experiences of the stolen generations. Another victim states:

> My father was very affected by my mother leaving me at the hospital when I was 4 months old, that he started drinking heavily with my mother. My mother had been badly abused … that by the time she ended up down south she was a heavy drinker … Because of my mother's heavy drinking she didn't remember signing the consent to my adoption, although it was decided by the court that it was in the best interests of my siblings to have their care order extended until they were aged 16 years. We do not want to be standing in this Chamber before the people of New South Wales at some time in the future acknowledging that we got it wrong again. We do not want to be discussing the monetary reparation required to compensate victims and apologising to families for not protecting and improving the outcomes of their vulnerable children. For that reason and others articulated by my Labor colleagues, and particularly for the reasons articulated by the shadow Minister for Family and Community Services, Ms Tania Mihailuk, I oppose this bill. The shadow Minister issued a press release today urging that the Government be held to account before rushing through this legislation. The press release states:
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> Only an arrogant and ruthless Government would ram such legislation through despite the outcry.
>
> We are dealing with incredibly vulnerable, complex families and having an arbitrary figure of two years is not achievable and sets these families up to fail.
>
> …
>
> Cutting off children from their parents and family permanently is a serious decision that will have life-long impacts. Nobody wants to see children languishing in care but nor do we want a whole new stolen generation.

We have seen those circumstances and scenarios through many generations, and here we are, repeating the same mistake. I hope the Government will listen to and support the Opposition in referring this bill to a relevant committee for inquiry.

The Hon. MATTHEW MASON-COX (17:00): If only we could have a multi-partisan approach to one of the most grievous issues of public policy that this Parliament has faced. It is important to reflect upon our journey relating to this complex area, which affects people in vulnerable positions in our communities. If we go back to the Wood royal commission, we can understand some history and tragedy of this long and chequered journey. I particularly reflect on this Government's significant progress as part of its difficult challenge bequeathed by previous governments. Sadly, no government has been able to wrestle with this problem in a way that has brought miracle solutions to what are complex problems on a multi-tiered basis.

One only needs to reflect upon the various reviews and committee reports over the past 20 years to understand the depth of difficulty facing governments in dealing with such societal problems. My strong view that this Government needs to take a much more comprehensive approach in dealing with these issues is on the record. But let us start with the recent report of General Purpose Standing Committee No. 2, or GPSC2, chaired by the Hon. Greg Donnelly into the child protection system and then consider the recently released Tune report and its approach to understand the overall picture. It is worth noting that the Children and Young Persons (Care and Protection) Amendment Bill 2018 deals with a very small part of that picture at the end of a detailed and complex process.

The GPSC2 report into the child protection system was damning of where the system had reached at that time more than two years ago. It was clear to the committee that the system was in crisis. The system was simply not dealing with the problems faced in the community, nor dealing with the intervention by Government and, indeed, the process of out-of-home care. Let us look at the details. The reality is that children in neglect or in need of child protection for whatever reason come into contact with the system generally through the risk of serious harm notification, through the helpline. We have a crisis situation, which has been the subject of much debate in this House, but there would not be one member of either Chamber with a view that we cannot do more in this regard.

The statistics bear it out. The most recent report of the Auditor-General in December 2017 made it clear that only around 30 per cent of the children reported to the risk of serious harm helpline have a face-to-face

interview through the child protection system. Just on 70 per cent of children fall through the cracks. That is a damning statistic and one that has been at the forefront of this issue for the past decade or so. It has not changed. There has been improvement—let us be fair about that. The Government has dedicated further resources and caseworkers to try to bridge that gap and it has improved from the high twenties to the low thirties. Let us continue to drive that figure up as the gatekeeping issue for this system. The reality emerged after the GPSC2 report and, subsequently, as the Tune report was finally released to this House. The clear picture about how to deal with that issue is to send the money to the front end, in the homes of those affected children and families who are under a whole range of stresses. In that regard, this Government has done some innovative programs.

An extra $90 million has been dedicated to early intervention. We have reached into the homes of the affected families to provide them personalised care and strong support to help them work through issues that might be related to drug addiction, poverty or basic needs not being met. Indeed, the programs have proved to be effective in the short time that this Government has employed them. But the real issue at the heart of this is that we are simply not dedicating enough resources to those sorts of early intervention programs. There is a myriad of possibilities on that front and it is clear from the findings of the General Purpose Standing Committee No. 2 and the Tune report that this is where we need to do better. We need to stop children coming into the child protection system, the court system and the out-of-home care system by dealing with the problem upfront. This Government has tried valiantly to do that but, of course, more can be done.

I will turn to the Tune report and some of its recommendations shortly, but it is important to note that the Government understands the scope of the problem, although the resourcing, in my view, is still insufficient. When one looks at the unmet need in this area, it is a horrifying situation. The reality is—and I have been public about my comments—that we need a stadium-esque approach to dealing with the shortfall of funding. I mean $1 billion to $1.5 billion dedicated upfront into early intervention programs to deal with the massive unmet need to stop children coming into the system and then becoming victims of what is a crisis-driven, broken system despite our best efforts. It is a crisis that we face in child protection because it is a crisis that we face in the families that are afflicted by that range of social problems that brings children into contact with our child protection system in the first instance. It is my strong view that we need to deal upfront with the system through a massive investment in client-focused, customer-focused—call it what you will—child-directed support in those families, which deals with their social problems as well as the manifestation of neglect in those circumstances.

In that regard, General Purpose Standing Committee No. 2 was very specific about some of those issues. Some of the circumstances we were confronted with during that inquiry were soul-wrenching. These issues are not new. The Tune report, when it was commissioned in 2015, looked at all these issues. It was sad that we did not have the full report released to this House until recently, but it is worthwhile going back to the report, because it sends some of the messages that have been reflected in some of the contributions here today. I do not doubt the sincerity of those contributions but it is important to put them into context. David Tune made it very clear in his report that, overall, the New South Wales system is "ineffective and unsustainable". He said:

> Despite numerous reports and significantly increased Government expenditure, over a long period of time, the number of children and young people in OOHC has doubled over the past ten years, and continues to increase. Moreover, the system is failing to improve long term outcomes for children and to arrest the devastating cycles of intergenerational abuse and neglect. Outcomes are particularly poor for Aboriginal children, young people and families.
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> The drivers of demand for OOHC are complex—including socioeconomic disadvantage, drug and alcohol abuse, domestic violence, and mental health issues—and cut across the portfolio responsibilities of many agencies. However, current expenditure is focused on programs that are provided within agency silos and are difficult for clients to navigate. Furthermore, interventions are not adequately evidence based or tailored to meet the multiple and diverse needs of vulnerable children and families.

David Tune called for a systemic change. He called for a client-centred system. He called for the system to focus on families with complex needs, with further resources being dedicated upfront into early intervention, and the Government has acted on a range of these recommendations. David Tune called for expenditure to be much better aligned with the evidence. He called for personalised, targeted support, an investment and commissioning approach, and the establishment of a New South Wales Family Investment Commission. Coincidentally, the same conclusions were reached, largely, by a committee of this House—General Purpose Standing Committee No. 2. David Tune's report was secret for some time but this Government has acted on it in a range of areas. We have not seen the establishment of the New South Wales Family Investment Commission, and we have not seen a dedication of resources. That needs to occur in early intervention to stop children coming into the out-of-home care system. That is what drives the Government to introduce this legislation today.

Once a child comes into the out-of-home care system, it is pretty clear that there are some challenges. On any night in New South Wales 20,000-odd children are living in the out-of-home care system. It is clear that resources have been increased to ensure that restoration is more readily available for these children but it is a mammoth issue. But to suggest that this Government would, for a moment, want to replicate something that happened in the past and create another stolen generation is taking the argument a little bit too far.

The hyperbole and comments in that regard do not put the arguments in perspective, and do not reflect the Government's comprehensive approach to this. One must reflect upon this bill from the perspective of the whole system. This bill reflects the end of the system and is about how we deal with children who are victims of the system—who are, essentially, in out-of-home care, and may remain in that system for many years. A balance must be struck at some point in time. Rather than having a child continue in out-of-home care, because for one reason or another that is the way the system is driving the current process, we have to think about when is the correct time to make a decision that it is perhaps better for that child to be in a more permanent home—a "forever home" as it is called by many in the industry. The reality is that the statistics show—the research shows categorically—that it is much better for a child to have a permanent home and to have care, love and support in that home rather than being in the out-of-home care system.

This bill is striving to reach that balance. As people have mentioned, the bill prescribes a period of 24 months in which to make those decisions, but let us not forget that that is in the context of all that has gone before. Indeed, in relation to the most vulnerable group in out-of-home care, Aboriginal kids, we have a kinship policy. All members are aware of that. The objective is to try to restore children to their families or wider kinship groups to ensure that they are embraced and loved in their communities. That is what we all want. We are not talking about taking kids away arbitrarily in the way that some have put to us here today; we are talking about a situation of last resort, when we have to make a final decision in relation to what is in the best interests of the child, after going through all these hoops and trying to work through these incredibly difficult issues with kin, within the agency—Family and Community Services—and within our court and guardianship system.

I am talking about the end game—about trying to make a decision in the best interests of a child in the final part of this very long and complex system. There comes a time that someone has to say, "Hey, this child is better in a permanent home than existing as some commodity—some chattel—being moved between homes over the course of years." When do we decide that kids should have the opportunity to get a permanent home with the love, care and support of people who want to invest in that child? A number of members have talked about that here today.

I have the greatest respect for people who foster children. What they do is beautiful. To take a child who needs care, love and support and to bring it into a home—to invest in them the warmth and security of that home—is to be commended. That is what I want. Where we can, I am sure that every person in this House wants to give every child that option when they do not have any other option. That is what this bill is about. It is not about a stolen generation; that is the last thing this Government wants to do. It is really not appropriate to smear us with that argument.

I understand that emotions run high with respect to these issues but we need to be fair dinkum and we always need to put our arguments in perspective by understanding that we all want the best for these most vulnerable children and we all want the system to get better. This is a hard row to hoe. This is not going to happen in the next six months, or perhaps even the next five or six years. We keep at this issue. The Parliament must keep trying to work in a cooperative, bipartisan way and stopping looking for faults in a system that is completely littered with faults. The Parliament must look at how it can continue to improve a system that is in crisis—a system that continues to need wholesale reform and an investment approach to the children and families which, sadly, find themselves at a centre.

I wish to commend the Minister, the Hon. Pru Goward, and the department for taking this difficult step in the face of a lot of resistance. I have seen the letters that have been sent to the Premier and to members of Parliament and submissions from the community legal centres, the Bar Association and other interested groups. I can understand some of the concerns they raise. Clearly this needs to be addressed with a perspective of the whole system, and we need to give these changes an opportunity to take root. However, as members of Parliament we are beholden to watch closely how the system progresses and to continue to ensure we address problems if they arise. I hope this process continues irrespective of which party wins government in March next year.

I hope that one day this journey will come to an end, and we will be able to sit together and know we have achieved a hopeful outcome for families and an opportunity for them to thrive. We need a system that complements and rebuilds many of the societal problems that have confronted us and caused this issue to become so difficult and complex to deal with over time. That might happen in some nirvana or utopia but I cannot see it happening soon. In the interim we have to try harder to ensure that we do whatever we can to improve the system, however poorly it might be driving outcomes at this time. The bill goes some way to improve a system that is still in need of serious reform.

Ms DAWN WALKER (17:20): I speak in debate on the National Disability Insurance Scheme (Worker Checks) Bill 2018, which is cognate with the Children and Young Persons (Care and Protection) Amendment Bill 2018 to which Mr David Shoebridge has spoken on behalf of The Greens. The Greens welcome and support the National Disability Insurance Scheme (Worker Checks) Bill 2018, which introduces screening checks for workers

engaged in the provision of support or services to people with disability under the National Disability Insurance Scheme [NDIS]. The bill introduces an $80 fee to obtain a worker check that is valid for five years, with no cost to volunteer NDIS workers who apply. In addition, the worker check includes a national criminal history check that will be disclosed to the NDIS screening agency for the purpose of assessing and determining whether any risk of harm is posed by the applicant engaged in NDIS work to persons with a disability.

Finally, the outcome of the screening decision will be uploaded to a national database to ensure consistency between States or Territories in accepting applicants who have been excluded from the scheme elsewhere due to ineligibility. It is important to note that workers will have notice of exclusion decisions and the decisions will not impact on their general right to work or suitability for roles in the NDIS that do not require a clearance. This bill contains mechanisms that will be important in ensuring the protection of vulnerable people within the scheme from abuse, violence and neglect.

A thorough vetting process is important in many areas where care is being provided to vulnerable people. From consultation with stakeholders, we know there is support for schemes and mechanisms that will ensure the safety of everyone within the NDIS. However, some concerns have been raised about the scheme such as the cost of a worker check. The check places an additional expense burden on disability sector workers, and scope should be allowed for this cost to be borne by employers or otherwise reimbursed where possible. Caution must be exercised in our approach to assessments to ensure that people are not "tarred for life" for an offence that has no bearing on their role. The power of these checks to open sealed records is unclear but in such cases assessment needs to be holistic and actions need to be understood within their context.

There is also concern about the time delays that an application and its processing and assessment may induce. As NDIS decisions are already burdened by a myriad of constraints, to undergo a comprehensive impartial assessment of each individual may further strain the industry and limit access for people with disability to receive support. Finally, stakeholders expect the National Disability Insurance Agency to retain a sense of transparency about the implications and outcomes of this pilot. This bill provides important protections and safeguards in the disability sector. The right for those receiving NDIS services to feel safe and confident in their choices cannot be overstated. The Greens support this bill in its aims to create a safe environment for clients and workers in the disability sector.

The Hon. LYNDA VOLTZ (17:24): I speak in debate on the Children and Young Persons (Care and Protection) Amendment Bill 2018. Members of the Opposition have raised concerns about this bill—concerns that are reflected in the community—regarding the limited period of 24 months in which an order of the Children's Court may allocate all aspects of a permanency plan involving adoption. This is a significant change. Adoption is a final step and obviously families who have children in care have concerns about this section.

It was for this reason that the Labor Party requested, through the Selection of Bills Committee, that this bill be referred to a committee to enable those concerns to be expressed before it was introduced into the House. Unfortunately, late in the parliamentary sittings many large omnibus bills have been rushed into the House. This bill should have been dealt with earlier in the year when the Selection of Bills Committee would have had an opportunity to refer it for a short hearing to deal with the concerns of organisations such as Grandmothers Against Adoption.

There is an onus on the Government in managing the business of this House to ensure that bills introduced in the run-up to Christmas—particularly before an election—are not controversial and causing concern. That is why people are requesting that this bill be held over, and that is why the Labor Party has moved an amendment to this bill to refer it to a committee. The argument put to the Selection of Bills Committee was that we could not delay the bill because without the 24-month period on adoptions children would be in an unsafe environment. That argument is neither logical nor acceptable. I do not believe the Government takes children into care to leave them in an unsafe environment, whether they are subject to the consideration of an adoption or not.

I would assume that the Government's first priority is, and always will be, the care of children and ensuring their safety. It is important to hold this bill over to look at the concerns of communities, particularly the Aboriginal communities—and to be frank, a disproportionately large number of Aboriginal children have been taken into care. The reasons for that are complex and not always as clear as some people would like to think. For those reasons, additional care should be taken to ensure that whatever decisions are made do not disenfranchise children from their families. The extremely high rate of Aboriginal children in care leads to significant concerns. I am sure the Minister for Early Childhood Education, Minister for Aboriginal Affairs, and Assistant Minister for Education, the Hon. Sarah Mitchell, would have been happy to refer this bill to the Selection of Bills Committee earlier in the session. I will not put words in the Minister's mouth, but the fact that we are in the last two weeks of a parliamentary sitting in the lead-up to an election is not a good enough reason to ignore the concerns that have been raised.

Unfortunately for this Chamber this State has history—history that has left a collective, cultural memory of what happened to Aboriginal families. Yesterday we commemorated the centenary of the Armistice and World War I, which is burned into the collective memory of the people of this State. The history of the treatment of Aboriginal communities and families is burned into the cultural memory of the Aboriginal people of this State. It is for this reason that additional care must be taken to allow for all concerns to be heard when introducing legislation. Introducing bills into Parliament during the last two weeks of the parliamentary sitting is not appropriate. It is not an appropriate manner in which to deal with communities, and it is not fair to them. They have a right to give consideration to the bill and express their concerns. That is why the Selection of Bills Committee was instituted in the first place.

For the reasons I have stated, the Labor Party will move to have this legislation referred to a committee. I urge members to take that into consideration. No child will be at risk because this bill is not passed now. The Parliament will resume in the New Year, regardless of which political party forms government. The legislation can be reintroduced so that families, particularly Aboriginal families, to whom the minimum of 24 months applies—unless there is a judicial order to extend it in very special circumstances, which is very confusing for people who have no innate knowledge of the legal system, and certainly confusing also for those who have no legal representation—and there is no reason for the legislation to go forward at this time. I urge members to give consideration to the Opposition's amendment, which will allow particularly Aboriginal communities to be heard regarding the part of the bill that sets a maximum standard for adoptions of 24 months in which the decision is to be made.

Reverend the Hon. FRED NILE (17:31): My associate, the Hon. Paul Green, has made a lengthy speech on the Children and Young Persons (Care and Protection) Amendment Bill 2018, but my brief contribution to the debate will be to tell a somewhat sad story. Some people who get to know me say, "Because you're a Minister, you must have grown up in a very religious family, perhaps a Baptist family, and you're probably the son of a Minister." I tell them, "If only you knew." I do not often mention this in Parliament but my father, who had the same name as mine—Frederick John Nile—never told his children of his beginnings. Eventually my sisters and my brother found out that he had been brought up in the paupers children's orphanage because both of his parents had died when he was a young boy. He and his brother were put into the paupers children's orphanage, which was a very unhappy experience. My father survived that and, when he reached the age of 17, he joined the British Army.

My father went to France in World War I and was machine-gunned by the Germans. He was sent back to England, patched up at a hospital, and then sent back to France. The Germans had a second chance to eliminate him but failed. I am very pleased that they failed—otherwise, I would not be here. One person's experience has provided me with background, and that person was very close to me because he was my father. I also found out that similar hardships were experienced by my mother. Her parents had not died, but her mother had fallen in love with the next-door neighbour and eloped to Sydney with him. At the time she lived in Wellington, New Zealand, and she deserted her five children, leaving them behind there. They were taken into care by the New Zealand Government, separated and put into foster homes in New Zealand. They moved from foster home to foster home. Sadly, my mother was often sexually abused by the male foster carer.

My family history that affected my mother and my father is a very sad story. When my mother and her four siblings reached the age of 16, their mother—my grandmother—called for them to be sent to Sydney. She decided, despite so many years having passed, to resume taking care of her children. The children arrived in Sydney and they were like refugees: They were on a boat on their own with their bags and name tags on their jackets showing who they were. Eventually they were restored to their natural mother. She had purchased a boarding house just off Parramatta Road and her plan was to have her five children work for her in it as cleaners and servants. They had a terrible time in that environment, but they all survived, thank God. I am a result of my parents' resilience.

I had two sisters and a brother. When I was a boy of probably about six years of age and my mother was having a baby, I was surprised when she told me that she could not look after me so she would send me to stay with my grandmother—who, to me, was like a witch. My mother said, "It will be good for you to be with her and get to know her." At Parramatta, my grandmother had a very large house. I spent some weeks in her care and got to know my grandmother. I gained a different perspective of her and found that she was not as evil as I had thought she was. The lesson I learned from my parents is that the ideal is for children to be with their natural loving parents. Governments should do all they can to ensure that a child is with their natural parents. However, if that is not possible, the other options are adoption or living with loving foster parents. This bill is intended to achieve the objective of creating the best possible circumstances for children living in foster care.

I have had many discussions with the Minister for Family and Community Services, Minister for Social Housing, and Minister for the Prevention of Domestic Violence and Sexual Assault, the Hon. Pru Goward, about

this legislation. The Minister has a very caring and loving heart. She would do nothing to hurt children and it would be the furthest thing from her mind that legislation she introduces would be other than in the best interests of children. This legislation has its origins in the Minister's loving and caring heart, and her attempts to find solutions to very complex problems. I believe that she has come as close as can humanly be achieved in our society by government legislation. She has put her whole heart into this legislation and she will do all she can to ensure it is successful. The children of New South Wales will benefit from it. I am pleased to support the bill.

The Hon. JOHN GRAHAM (17:37): At the outset of my participation in debate on the Children and Young Persons (Care and Protection) Amendment Bill 2018 I state my feeling that I have less to contribute than do some of colleagues on this issue. I have listened carefully to their contributions to the debate and found them very instructive, but I wish to add my voice to concerns that have been expressed about this legislation because I think the depth of the feeling in the community deserves that, because of the nature of the concerns that have been expressed and because of the nature of the organisations that have expressed those concerns. For all three of those reasons, I wish to add to the contributions to this debate made by my colleagues.

I listened carefully to the contribution to debate made by the Hon. Matthew Mason-Cox, and I thank him for his contribution. It was a very instructive contribution to the discussion on this legislation in that it gave context to some of the debate. Even having heard that, though, I find it difficult to understand why, given the serious concerns that are on the table, the Government is unable to consider referring this for further examination. The open letter to the Premier states, when referring to wrongs of the past:

> The NSW Government is on track to repeat these mistakes, with potentially devastating consequences for children and their communities. The Care and Protection Amendment Bill 2018 is currently being rushed through the NSW Parliament without genuine input and engagement with Aboriginal communities and other organisations …
>
> We urge the NSW Government to put these reforms on hold and engage in genuine dialogue with all stakeholders, including Aboriginal communities and community organisations supporting children in families in this area.

That is the request of this Parliament. I am not making any claims about the bill, but I raise the concerns that are being directly conveyed to us by these organisations. Parliament has an obligation to take them seriously. I feel that doubly strongly after looking at the list of organisations that are making that request to the Parliament. I will not read the whole list onto the record, but it includes Community Legal Centres NSW, the Aboriginal Child, Family and Community Care State Secretariat [Absec], the Jumbunna Institute for Indigenous Education and Research at the University of Sydney, Domestic Violence NSW, Homelessness NSW, Women's Health NSW, Australian Lawyers For Human Rights, the Australian Services Union, the Women's Domestic Violence Court Advocacy Services, National Aboriginal and Torres Strait Islander Legal Services, the Public Interest Advocacy Centre and the Aboriginal Legal Service (NSW/ACT).

Many other organisations have signed onto this, and have done so in very short order, but the ones I mentioned are some of the significant organisations that we would normally look to for advice and guidance about the views of the community in general and the views of specific parts of the community. Very rapidly, these organisations have expressed a very strong view on this bill. I feel uncomfortable crashing the bill through in the final weeks of this Parliament. There is a context to the call for consideration of this bill. I accept that no government intends to cause the sorts of harm that these organisations are worried about. That is not the intention. But given what has happened in the past and all the assurances of past governments, there is a concern. That is the context. When people hear assurances today they are still concerned because of the assurances made in the past that were not delivered upon. Governments that may not have wanted to cause harm did. That is the context and that is why we have to be so careful when we consider a bill such as this one.

I support the call for a referral to the Standing Committee on Social Issues. I do not understand why we cannot do that and I do not understand what we will lose, given the significant issues raised about this bill. The purpose of the Selection of Bills Committee is to deal with matters such as this. The discussion we have had in this Chamber has outlined that, when there are contentious bills and significant concerns, that mechanism should kick into gear. We are at the end of the sitting period; this bill meets all of those concerns and hits all of those triggers. I do not understand what we will lose by putting in place the protections we have talked about and making the referral. I strongly support the foreshadowed amendment, which will do exactly that.

I finish by singling out one of the concerns that have been raised with this bill. The concern I feel most strongly about is the concern around the introduction of the arbitrary time limit for families to work towards restoration. My colleague the Hon. Lynda Voltz raised the concern, and I agree with her. Particularly concerning is the fact that it would restrict a court from considering whether a child could be restored to their family within a period of less than two years. It limits the court's discretion in that instance. We know how complex these issues are and how difficult they can be. It is not always going to be possible in these circumstances. Restoration is not always going to happen within that period.

The thing that upsets me most about the provision, is that it creates the idea that the possibility of redemption is cut off after 24 months. We know that in the complex lives of some of the citizens of New South Wales redemption is possible, but it is not necessarily going to happen in that time frame. I would feel a lot more comfortable if there were some discretion or ability of the court to make that complex judgement, rather than an arbitrary limit set by this Parliament in haste. That is the issue that I feel most strongly about when I look at the set of concerns that have been raised with this bill. With those words, I join my colleagues in raising the concerns about the bill. I am not making outrageous claims about the bill but I do strongly convey the concerns that have been raised by other organisations, which we expect to be heard in this debate. We strongly urge members to support the foreshadowed amendment to take account of those views.

The Hon. SCOTT FARLOW (17:46): On behalf of the Hon. Sarah Mitchell: In reply: I thank for their contributions to the debate on Children and Young Persons (Care and Protection) Amendment Bill 2018 and the National Disability Insurance Scheme (Worker Checks) Bill 2018 the following members: the Hon. Adam Searle, the Hon. Paul Green, the Hon. Peter Primrose, Mr David Shoebridge, the Hon. Mick Veitch, the Hon. Lynda Voltz, the Hon. Courtney Houssos, the Hon. Matthew Mason-Cox, Ms Dawn Walker, the Hon. Penny Sharpe, the Hon. Shaoquett Moselmane, Reverend the Hon. Fred Nile and the Hon. John Graham. I acknowledge the experience that the members brought to the debate. Several foster parents contributed to the debate and I note the experience of Reverend the Hon. Fred Nile, discovering that his father grew up in an orphanage.

First, I will outline what the Children and Young Persons (Care and Protection) Amendment Bill 2018 does. The bill streamlines the court processes for guardianship and open adoption to ensure a permanent home for every child within two years. It gives parents and extended family members an opportunity to resolve child protection risks and avoid the removal of children from their families. We want all children to know that they have a loving and safe home for life. When it is no longer safe for a child to stay at home, we want them to have a permanent home as quickly as possible through guardianship or open adoption. The reforms before us today will help speed up that process. For the first time ever, we are legislating for families to be offered alternatives such as family group conferencing, giving parents and extended family the opportunity to address child protection risks so that their children can stay safely at home.

We are also looking to make guardianship easier for families with parents who know that they can no longer care for their children and want to ensure their children have safety and security with a loving member of their family. In this debate members opposite have said that no child will be put at risk if this legislation does not pass today. They have said that if were to amend the bill the Parliament will come back again next year and we can look at it again then.

What is at risk is this groundbreaking reform in child protection because members opposite will not introduce legislation like this. They have said there is no reason for this legislation to be dealt with now. They should tell that to the children in care who have gone like pinballs through countless families in the foster care system. The other day I heard the story of a young Aboriginal gentleman who was told just before his Higher School Certificate that he had nowhere to go. Through his 16 years in care he had been in more than 18 different homes. Unfortunately some people in our system have gone through 70 placements. This is unacceptable and it is what this legislation that the Hon. Pru Goward has introduced seeks to rectify. The key aims of the Children and Young Persons (Care and Protection) Amendment Bill are to prevent children and young people coming into out-of-home care, to reduce the time children spend in care, to provide them with a safe and loving home for life and to improve their long-term outcomes in their life. I reflect on a few things that organisations have said in support of the bill. Barnardo's Australia stated:

> Children cannot wait for adult time frames for decisions to be made about their future. We welcome these reforms that will introduce child-centred timeframes for children.

Adopt Change said:

> There are far too many children living in the out of home care system who don't know where they will sleep tonight. These children experience years of instability, bounding from home to home, spending time in institutional care, not having a secure family home they can call their own. Some children experience up to 70 placements before they turn eighteen which frankly is just not good enough.

OzChild's Chief Executive Officer, Lisa Griffiths, said:

> We applaud the NSW Government's significant investment of programs that are proven to work on strengthening families and help prevent children and young people entering the Out-Of-Home Care system.

Life Without Barriers stated:

> It is really important to see the emphasis in this bill on involving families through alternative dispute resolution as well as removing court processes that impede reaching orders to help a child have a long term forever home.

> What we want is to ensure vulnerable children can be settled into a long term, loving, nurturing home. These things have been critical to our work in Life Without Barriers and what we continue to strive for.

Members in this debate have commented on the inappropriate or arbitrary time frame of two years. Among the misrepresentations in the media on the intentions of these care and protection amendments, is the claim that children and young people be adopted after two years in the child protection system. That is wrong. That is not what these amendments propose. Some say two years is not enough time for families to overcome problems that saw their child in statutory child protection. Some say that two years is too long in a child's short childhood. Experts have long said vulnerable children need permanency in childhood. If we look at the two-year time frames across Australia we find that Victoria and Queensland have child protection legislation that both provide for two-year orders for restoration—Queensland introduced it under a Labor government this year.

The concerns by those opposite ignore the amount of work that has been dedicated to early intervention and restoration to realise the preferred option that a child live safely at home with his or her family. Keeping families safe at home is a key goal of these programs. New South Wales Government reforms and programs aimed at family preservation and restoration are showing success. In 2016-17, 975 families entered into intensive family programs and 823 children returned to their families. That is an 84 per cent success rate. The proposed legislative reforms support the Government's commitment to early intervention and prevention by strengthening the obligation on government departments, agencies and funded non-government organisations to provide prioritised access to services to a child or young person who is at risk of significant harm, and the family.

Greater use of alternative dispute resolution methods will contribute to a reduction in casework, court work and reporting. The changes made under the Permanency Support Program aim to give every child and young person the chance to have a loving, permanent home for life, whether that be with the child's parents, extended family or kin, or through guardianship or open adoption. I note that Mr David Shoebridge mentioned the commentary of Judge Johnstone, President of the Children's Court. I turn to some comments attributed to him as follows:

> Under the current legislation it is at the time the matter is before the court when it must make the decision about whether there is any realistic possibility of restoration.
>
> i.e. **there must be a realistic possibility of restoration at that time, not merely a future possibility.** The possibility must not be fanciful, sentimental or idealistic, or based upon 'unlikely hopes for the future'. It cannot be a mere hope. With the current reform this possibility will be far clearer.
>
> The NSW Government is recommending that, for section 83, 'realistic possibility of restoration' means a realistic possibility of the child or young person being restored to his or her parents within a reasonable period, not exceeding two years. **This new statutory test overcomes a requirement for the Children's Court to assess whether there is a realistic possibility of restoration at the date of hearing.**

It has been said that this is not supported. The Supreme Court decision in the matter of Campbell in 2001 held that a determination of realistic possibility of restoration is to be made at the date of the hearing. This decision is binding on the Children's Court and is currently applied. This means the court currently has no discretion to assess realistic possibility of restoration at a future date. This bill remedies that situation. The amendment is not designed to prevent restoration. It overcomes the requirement for the Children's Court to assess the possibility of restoration at the date of hearing. This assists avoiding children being placed under a long-term final care order of the Minister until 18 years of age.

The Government is committed to working with families to keep their children safely at home. Restoration is the preferred option in the child protection system. These amendments are not designed to make it harder for families to work towards restoration; they are simply embedding current practice into the legislative framework. The two-year time frame has been chosen to ensure timely permanency outcomes. It is in line with the Permanency Support Program principles. Professor Harriet Ward, a well-respected academic, has often spoken about the importance of timely decision-making in consideration of children's developmental needs.

The Hon. Paul Green commented on investments that Family and Community Services [FACS] will make in supports and services to facilitate family preservation or restoration. FACS is working with clients, service providers, other government departments and related organisations to redesign the early intervention service system. The Government has committed $134 million to the targeted early intervention program reform for 2017-18. Further information has been provided directly to the Hon. Paul Green to allay some of his concerns. I turn quickly to the consultation on legislative reforms that has been undertaken. The bill was formed and strengthened based on the critical insights and feedback provided in response to the New South Wales Government's decision paper "Shaping A Better Child Protection System", released in October last year.

Stakeholder engagement with the discussion paper was strong, with more than 100 written submissions received from a diverse range of government agencies and public offices, non-government agencies, peak and other sector industry groups, academics and members of the public. Submissions came from individuals and

organisations such as the Children's Court of New South Wales, the National Council of Social Services [NCOSS], the Association of Children's Welfare Agencies, the Office of the Children's Guardian and government agencies. The Department of Family and Community Services also held seven stakeholder workshops across New South Wales during November 2017. The consultation workshops brought together organisations from across the sector targeting key government agencies, regulatory and accountability bodies, legal and civil rights groups, adoption peak bodies and nominated member organisations.

During the consultation process, targeted consultation workshops were held with groups of key stakeholders. One-on-one consultation was undertaken with Aboriginal stakeholders. This included the Aboriginal Child, Family and Community Care State Secretariat [AbSec], and Grandmothers Against Removal. It was important to have a specific day for Aboriginal stakeholders and partners so focus could be dedicated on how the proposed reforms would impact Aboriginal families and communities. The workshops provide participants with the opportunity to delve into detail and brainstorm ideas, issues and solutions around the key areas of reform. The consultations also provide opportunity for question and answer sessions with FACS executive staff.

Many members have asked why there was no exposure bill. Exposure drafts are generally used to ensure clarity and readability of complex legislation. These clarify amendments to embed current reforms and practice in the legislation. In this case it was desirable for consultation to take place on the general principles of child protection reform and not on draft legislation. That is why the Government, in October 2017, launched the "Shaping A Better Child Protection System" consultation process and the report was tabled in October 2018 with the Government's response.

With respect to the comments raised by the Hon. Mick Veitch, the rights of parents under section 90 is necessary to ensure primacy is given to a child or young person's need for permanency, stability and security at the leave stage of a section 90 application. It is focused on what is in a child's best interest and placement stability, which is key to achieving outcomes. The amendments do not remove the opportunity for parents to make applications to vary or rescind care orders under section 90.

With respect to adoption severing ties, open adoption retains a child's important relationships with his or her biological family. This is to be facilitated through an adoption plan that sets out arrangements for the child to have ongoing contact and communication with his or her biological family and sets out arrangements for a child to retain his or her connection to culture, religion and language for culturally and linguistically diverse or Aboriginal children. The Supreme Court cannot make an adoption order unless it has before it an adoption plan with which it is satisfied. An adoption plan can be registered with the court and will then have the binding effect of a court order and can be enforced.

One of the most significant arguments put forward by Opposition members is that this is another stolen generation. This is not another stolen generation. This legislation is about ensuring that, wherever possible, all children and young people, irrespective of their background, are supported to live with their families. Why should Aboriginal children not be given that same opportunity? Where this is not possible, both the care Act and adoption Act contain provisions emphasising Aboriginal and Torres Strait Islander participation in decision-making and principles to guide the placement of Aboriginal and Torres Strait Islander children and young people. I note the comments of the Hon. Matthew Mason-Cox in that regard as well. OzChild's National Executive Director of Aboriginal Partnerships Associate Professor Dea Delaney-Thiele welcomed these reforms. She stated:

> This is a positive move to help ensure Aboriginal children and young people are supported in culturally safe environments. It will give the extended family the opportunity to be involved in decisions about the care of their children and reduce the number of Aboriginal children and young people being removed into Out-of-Home Care.

The Hon. Don Harwin: Point of order: The Hon. Scott Farlow is trying to hasten his reply speech, given that we are soon to have a valedictory speech, but he is being repeatedly interrupted by a certain member. I ask you to call him to order.

The PRESIDENT: The Hon. Scott Farlow is responding to matters that were raised by members earlier in debate. The member who is attempting to interject had an opportunity to contribute to debate on the second reading. I ask members to allow the Parliamentary Secretary to conclude his reply without interruption.

The Hon. SCOTT FARLOW: When supporting Aboriginal children to live with a family is not considered possible and they are unable to live with their relatives or kin, a placement with a non-related person in the Aboriginal community or a suitable person may be considered. This will be done according to the child's best interests. We will continue to work closely with the Aboriginal community to make these decisions. It is important to note that the practice of openness in adoption is very different to past practices around adoption. Open adoption recognises that children often benefit when both their families—birth and adoptive—remain in contact with each other after an adoption order is made. This in itself is an important safeguard for Aboriginal children and communities.

Aboriginal and Torres Strait Islander child placement principles are used when adoption is being considered for an Aboriginal or Torres Strait Islander child. Section 10A of the existing legislation demonstrates this is the least preferred outcome and should occur when it is in the best interests of the child. Priority is given to finding a prospective adoptive family that belongs to the community of the child's Aboriginal parent and, if this is not possible, carers from another Aboriginal community. Only when neither option is possible will the child be placed with a non-Aboriginal family that is able to support that child to learn about and to foster links with his or her Aboriginal heritage. Approval of carers as prospective adoptive parents can only occur following an evidence- based assessment to determine whether they hold the attitudes and have the cultural understanding and capacity to support an Aboriginal child to remain connected to his or her family, community and culture.

Consultation with the Aboriginal family, community and/or Aboriginal caseworkers, managers and district-based Aboriginal consultation advisory panels regarding the cultural needs of a child occurs at decision-making points in the adoption process for an Aboriginal child. Where adoption is in the best interests of a child, the existing Adoption Act 2000 makes specific provisions that address the needs of Aboriginal and Torres Strait Islander children, families and communities and sets out additional legislative requirements specific to the adoption of Aboriginal and Torres Strait Islander children and young people. The Supreme Court cannot make an adoption order unless it is satisfied that the Aboriginal and Torres Strait Islander child placement principles have been properly applied and the best interests of the child will be promoted by the adoption. Since 2015-16 to 2017-18 we have been able to reduce the number of Aboriginal children and young people entering out-of-home care by 42.4 per cent. This Government is focused on getting as many children as possible out of the out-of-home care system.

The Hon. Adam Searle said he was concerned about amendments under section 90. Child protection practitioners know through both experience and academic research that beyond an environment that is safe and nurturing, children need security of placement. They must feel that they belong. There are times when a section 90 application—the vehicle through which the Children's Court considers application for leave to vary or rescind case orders—has caused placement instability, uncertainty and distress for children. This amendment will prioritise through a two-tier list of primary and additional circumstances the factors that the Children's Court must consider before granting a person leave to vary or rescind existing care orders. Primacy will be given to the views of the child or young person, the stability of the present care arrangements and the least intrusive intervention into the life of the child or young person if those arrangements are stable and secure. Both these bills will provide greater safeguards for vulnerable people in our community, children and young people at risk, and people with a disability. They are appropriate amendments that will improve the lives of vulnerable people in New South Wales and they deserve the support of this House. I commend the bills to the House.

The PRESIDENT: The question is that the amendment of the Hon. Adam Searle be agreed to.

The House divided.

Ayes 14
Noes 19
Majority.....5

AYES

Faehrmann, Ms C	Field, Mr J	Graham, Mr J
Moselmane, Mr S (teller)	Pearson, Mr M	Primrose, Mr P
Searle, Mr A	Secord, Mr W	Sharpe, Ms P
Shoebridge, Mr D	Veitch, Mr M	Voltz, Ms L (teller)
Walker, Ms D	Wong, Mr E	

NOES

Amato, Mr L	Borsak, Mr R	Clarke, Mr D
Colless, Mr R	Cusack, Ms C	Fang, Mr W (teller)
Farlow, Mr S	Green, Mr P	Harwin, Mr D
Khan, Mr T	MacDonald, Mr S	Maclaren-Jones, Mrs (teller)
Mallard, Mr S	Martin, Mr T	Mason-Cox, Mr M
Mitchell, Mrs	Nile, Revd Mr	Taylor, Mrs
Ward, Mrs N		

PAIRS

Donnelly, Mr G	Blair, Mr
Houssos, Mrs C	Franklin, Mr B
Mookhey, Mr D	Phelps, Dr P

Amendment negatived.

The PRESIDENT: The question is that the Children and Young Persons (Care and Protection) Amendment Bill 2018 be now read a second time. Is leave granted to ring the bells for one minute?

Leave granted.

The House divided.

Ayes 19
Noes 14
Majority.....5

AYES

Amato, Mr L	Borsak, Mr R	Clarke, Mr D
Colless, Mr R	Cusack, Ms C	Fang, Mr W (teller)
Farlow, Mr S	Green, Mr P	Harwin, Mr D
Khan, Mr T	MacDonald, Mr S	Maclaren-Jones, Mrs (teller)
Mallard, Mr S	Martin, Mr T	Mason-Cox, Mr M
Mitchell, Mrs	Nile, Revd Mr	Taylor, Mrs
Ward, Mrs N		

NOES

Faehrmann, Ms C	Field, Mr J	Graham, Mr J
Moselmane, Mr S (teller)	Pearson, Mr M	Primrose, Mr P
Searle, Mr A	Secord, Mr W	Sharpe, Ms P
Shoebridge, Mr D	Veitch, Mr M	Voltz, Ms L (teller)
Walker, Ms D	Wong, Mr E	

PAIRS

Blair, Mr	Donnelly, Mr G
Franklin, Mr B	Houssos, Mrs C
Phelps, Dr P	Mookhey, Mr D

Motion agreed to.

The PRESIDENT: The question is that the National Disability Insurance Scheme (Worker Checks) Bill 2018 be now read a second time.

Motion agreed to.

The Hon. DON HARWIN: I move:

That consideration of these bills in Committee of the Whole stand an order of the day for a later hour.

Motion agreed to.

The PRESIDENT: According to the resolution of the House of 24 October 2018, proceedings are now interrupted to enable the Hon. Rick Colless to give his valedictory speech.

Members

VALEDICTORY SPEECH

The PRESIDENT: Before calling the Hon. Rick Colless, I welcome into my gallery members of his family, all in the House this evening for his valedictory speech. They include his father, Mr Ken Colless, his wife, Geraldine, and other family members.

The Hon. RICK COLLESS (18:19): In what seems to be a very short time ago, I stood in this Chamber and sought the call to deliver my inaugural speech to this House. It was, in fact, 11 October 2000—unbelievably, 18 years and one month ago. Even though it does not seem all that long ago, there has been so much water under the bridge since then. Like all new members into this place, I was filled with enthusiasm and excitement about the task ahead and ready and willing to do my bit to improve the lot of the people I was elected to represent in this place—the people of rural and regional New South Wales.

I had seen firsthand the frustration the wealth creating industries of this State had foisted upon them by the Carr Labor government, in particular, the regressive Native Vegetation Act, which was finally and thankfully repealed in 2016. The systemic destruction of the New South Wales forestry industry has left so many timber communities, in particular the smaller communities, without their wealth creating industry, a renewable timber industry. In my maiden speech to this place, I spoke about the concept of anthropocentrism, where humankind is in charge and when it begins to go wrong through over-allocation of resources and energy, society then moves to control all our ills through regulation and compliance. Such is the way of the leftist Labor and The Greens.

Society must move away from this fanaticism with regulation and compliance, especially in the area of looking after our natural resources. Simply locking up a State forest under the guise of, for example, protecting our koalas and at the expense of the social and economic fabric of the surrounding communities does not make any sense from an environmental perspective, from an economic perspective or from a social perspective. It would make more sense if we were to put our collective skills together and describe the conditions that the koala, as well as other environmental resources, needs to thrive in, and then set about designing a management regime that will deliver that over the next hundreds of years, rather than just the next electoral cycle.

This type of land management is what is involved in the concept of nil tenure, or tenure-free management, where we can truly look after the environment, look after the social fabric of those local communities and look after the economic survival of the State as a whole. It will guarantee an infinite supply of food, fibre and building materials to our communities and, as such, will underpin those communities forever. I have a great fear that should the government change in March next year we will again be thrust back into a period of regressive, regulatory compliance-based bureaucracy, which will be bad for business, bad for the environment and bad for those wonderful communities throughout regional New South Wales.

By the time 23 March 2019 rolls around, I will have been here for 18 years and seven months—10 years and seven months in Opposition and eight years in Government. Throughout those nearly 11 years in Opposition, I had the opportunity to work with some fantastic candidates in the run up to the 2003, 2007 and 2011 elections, and then, of course, in Government in the run up to the 2015 election. That work continues as we approach the 2019 election.

I worked as duty member of the Legislative Council [MLC] in the former electorate of Murray Darling as we approached the 2003 and 2007 elections, resulting in the successful election of that wonderful bloke and great local member, John Williams, former Ford dealer from Broken Hill, in 2007. John was a dream candidate to work with. He was across the issues quickly, had a great manner with people, was an enthusiastic doorknocker and as we travelled between villages in the west, he kept me entertained with his endless supply of humorous stories and jokes. It has been an absolute honour to work with the people of the far west of New South Wales. They are, arguably, the most hospitable, friendly and toughest people one could ever hope to interact with.

To the many people of the west I have come to know, I thank you for your forthrightness, for your frankness in bringing issues to my attention, and for your friendship as we worked through those issues. One of the most important issues confronting an important small community in western New South Wales was the water supply weir for Wilcannia. The announcement this week by Ministers Blair and Littleproud that funding for the new Wilcannia weir has been approved is such good news for people of the west. I congratulate those two Ministers on delivering it. It has long been wanted and it has been well received. Some of these sorts of projects are not always delivered as promptly as communities would like, but projects such as this are being delivered by the Nationals and Liberals in Government.

Much of the old electorate of Murray Darling now lies within the Barwon electorate. I acknowledge Ian Slack-Smith, the former member for Barwon who is here tonight. It is good to see you, Slackey. I know that when Andrew Schier is elected next March, he will carry on the fantastic work that John Williams and

Kevin Humphries have done since 2007. Following John's comfortable win in Murray Darling in 2007, I was asked to be the duty MLC for the Bathurst electorate as we approached the 2011 election. I soon met a young school teacher who was the mayor of Bathurst by the name of Paul Toole. Paul soon agreed to run as a candidate for preselection at the 2011 election.

Paul won that preselection and he remains the most energetic candidate I have ever worked with. We would go out doorknocking and Paul would literally run between houses which meant he was knocking on twice as many doors as I was, which was probably good because he was the candidate. The writing was on the wall. Many people responded to me during the doorknocking with comments such as "Of course, I'm going to vote for him—now go and convince someone who hasn't decided yet." On election day I recall speaking to some of the Labor people working on the booth, and one of them asked me if I thought Paul would win. I replied that I thought he would, so the next question was by what margin. I replied that I thought it would be close, as Labor had a 15 per cent margin to start with and we had to overcome that before we started. As the history books now tells us, Paul Toole won Bathurst with a 36.7 per cent swing that remains the largest to date to win a seat in any election.

Prior to the 2015 election The Nationals had won most of the seats we contested at the 2011 election as well as winning four upper House seats with Duncan Gay and me as recontesting candidates, and we were joined by Niall Blair and Sarah Mitchell as the Coalition won an unprecedented 11 upper House seats of the 21 contested. In the 2011 election, John Barilaro defeated incumbent Steve Whan in Monaro and Steve came into the upper House following his defeat. It soon became apparent that Steve was going to recontest Monaro in 2015, and I was asked to help with the campaigning in Monaro.

Some of the polling indicated Steve Whan would win, and I believe he was quietly confident that he would win from what we were hearing on the ground. Our recently preselected upper House team included Bronnie Taylor from Nimmitabel. As Bronnie had never doorknocked before, we commenced door knocking in Cooma. I was given the task of teaching Bronnie how to doorknock in an election campaign. As luck would have it, the first house we called was anything but a supporter of John or the Nats. I am sure Bronnie heard some new words that day, as well as a new way to express some of those new words.

We quickly retreated and this gentleman—in fact he was not really that gentle—followed us out of his yard and walked down the inside of his fence continuing his tirade of expletives. As we retired from his earshot, Bronnie asked me, "Crikey, Rick, is doorknocking always like this?" Needless to say, the Monaro doorknocking campaign was successful and John Barilaro ended up with a small swing towards him in what was a difficult situation in Monaro, and quite a difficult election throughout New South Wales. I have been a firm believer in the benefit of doorknocking over the years. There is no doubt that candidates who have comprehensively doorknocked their electorates are more likely to succeed than those who have not doorknocked with the same enthusiasm.

I have spent most of my time in this Parliament working on natural resource management issues, reflecting my career prior to politics. The first bill I worked on, in the year 2000, was the Water Management Bill. I assisted the late Hon. Doug Moppett in the carriage of that bill on behalf of the Opposition. Doug Moppett was renowned for his oratory skills, and as Doug and I sat in the Chamber before the debate, I was armed with a copy of the bill, yellow post-it notes aplenty, supporting documents and armfuls of material in preparation for the battle ahead. Doug was sitting in his usual position—where the Hon. Mick Veitch is sitting right now—calmly waiting for his opportunity to speak, and he did not have so much as a single sheet of paper with him.

He rose to speak at 2.49 p.m. on Wednesday 22 November and delivered the most comprehensive and eloquent speech I have ever heard in this place, covering off almost every aspect of the 260-page bill after making a series of very pertinent comments about the state of water management in New South Wales. Doug concluded his speech at 3.59 p.m. He had spoken for one hour and 10 minutes without a single note. I have heard many people make longer speeches in this place, but none has matched the eloquence and oratory skill of Doug Moppett. The Water Management Bill second reading debate concluded on Thursday afternoon, and the committee stage continued over four days—Thursday evening until 10 o'clock, all day Friday until 5 o'clock, next Tuesday until 10 o'clock, and concluded at 7 o'clock on Wednesday 29 November. That remains the longest committee stage for a bill during my time in this place. I suspect it is one of the longest ever.

Perhaps the most frustrating issues I have worked on in my time here have been related to forest management and the complete lack of understanding by Labor and the Greens of the history and management of western forests in particular. The conversion of highly productive man-made western cypress forests and Riverina red gum forests into national parks does not provide the best outcome for biodiversity, principally because of the fire risk, and definitely does not provide the best economic outcome for the State or the best social outcome for the communities adjacent to these forests.

A paper by James K. Agee published by the Society for Conservation Biology in its publication "Conservation in Practice" and titled "The Fallacy of Passive Management" states:

> The hard lesson that we should take away from the last decade of fire management in drier forests is that a choice to do nothing is a choice of action, not always with a desirable outcome.
>
> Forest ecosystems are dynamic—they change when humans disturb them, and they change when humans eliminate disturbance. For much of the 20th century, exploitation was the guiding philosophy behind forest management. Now, as we head into the 21st century and move towards forest preservation and restoration in many places, there is a temptation to 'let nature take its course' and to allow forests to recover and develop naturally. Yet, such a passive approach to management is not a sustainable forest strategy in ecosystems that have a substantial history of natural disturbance, including forests on almost every continent.

This statement has profound implications for the management of New South Wales national parks. I asked one senior manager within the National Parks and Wildlife Service, following a very hot and major wildfire, about the plans the service had for restoring the land. He advised me personally, "I guess we will just let nature take its course." The time has come for a new way forward, a new land management process—a time for new thinking in the management of public land. I believe this will be one of the major challenges facing future governments, irrespective of who is sitting on the Government benches. As I alluded to a few moments ago, the time has come to adopt tenure-free public land management in New South Wales. It has been adopted in many other parts of the world.

I must sincerely thank all those I have worked within the forestry space. I thank the wonderful people of the Pilliga Forests in and around Coonabarabran, Baradine and Gwabegar; the highly skilled harvest contractors; the timber mill operators; and the dedicated State Forests staff who so love their forests of the Pilliga that when they were converted, one forester asked me, with tears in his eyes and a quiver in his voice, "Rick, what are they doing to my forest?" Those workers had ownership of the forest; they loved it and they were destroyed by the decisions made about the Pilliga. So I thank the people of the Pilliga, because we fought that battle long and hard.

I thank the wonderful people of the Riverina red gum forests in and around Deniliquin, Mathoura, Barham and Balranald, and, again, the harvesters, timber mill operators, the forestry staff, the private foresters and the people in the value-adding industries—the many people who were insulted by a senior Minister of the previous Government when he told them that he did not care about their jobs, and that the conversion of their forests into a national park was about securing The Greens preferences for the 2011 election. I thank the people of the Riverina for their help as we battled that issue.

I would also like to thank the people I have worked with over the past four or five years who comprise the Forest Industries Taskforce. Their commitment to forestry has underpinned the industry in New South Wales, and without their dedicated work the industry would be in a far more tenuous position. It has been tough for them at times—it has been tough for all of us—but the recent wins we have secured with the Forestry Roadmap and the Integrated Forest Operations Approval, and the Federal Regional Forestry Agreement gives the industry more security than it has had for a number of years. I thank all who have contributed to, and participated in, that task force. I really do wish them well in their endeavours as they embark on dealing with the new Government in 2019 and beyond.

As members know, I am a proud graduate of Hawkesbury Agricultural College, now University of Western Sydney [UWS], and I have a longstanding interest in agricultural education. Some years ago, in his former backbench days, the Hon. Niall Blair—also a Hawkesbury old boy—and I recognised that the agriculture faculty at Hawkesbury was in decline, to the extent there were no agriculture students. I think that was in 2012. So a review of agricultural education in New South Wales was initiated, convened by a well-known professor of agricultural science, Jim Pratley.

The recommendations following the Pratley review saw an immediate improvement in agricultural education, commencing with an improved level of activity in junior school ranks and flowing through to higher degrees at university level. Several years ago I had a series of meaningful discussions with the Vice-Chancellor of UWS about the prospect of moving Hurlstone Agricultural High School from its present location at Glenfield, to the UWS Hawkesbury campus. After much negotiation, the decision was made to upgrade and change the existing school facility at Glenfield to a non-agricultural high school, to sell some of the land surrounding the Glenfield site and use those funds to build a new state-of-the art science, technology, engineering and mathematics [STEM] high school on the Hawkesbury campus.

The new school will retain the name Hurlstone Agricultural High School and will create an innovative agricultural education precinct with students attending Hurlstone at the beginning of year 7. Should they complete some of their high school studies ahead of time they may be able to commence their university studies immediately. This will provide a seamless transition from school to university at the same campus. There is also now a TAFE facility on the Hawkesbury campus, so students will still be able to acquire the practical certificate-level training should they so desire.

I am optimistic about the possibility of transferring the Hurlstone Agricultural High School Ayrshire stud herd of dairy cattle to the TAFE facility with a view of reinstating dairying training on the campus. The transfer

of this herd is, however, more than just providing training in milking cows. The Hurlstone Agricultural High School Ayrshire stud has a stud book dating back nearly 150 years and it really should be continued as an historical part of agricultural development in New South Wales. I am very keen to see that pursued as we go forward.

I have also been honoured to serve as the parliamentary representative on the board of the CB Alexander Foundation at Tocal Agricultural College. To work with a legend in the field of agricultural education, Dr Cameron Archer, over many years—but especially over the past four years—has been an honour. Although he has now retired from his position of principal Dr Archer remains very actively involved as a foundation board member. I have really enjoyed working with the people at Tocal. I have enjoyed the comradery and friendship that seems to exist amongst all who have experienced some form of tertiary agricultural education, so I send a very sincere thanks to Cameron and his successor as principal, Darren Bayley—another Hawkesbury old boy, by the way—and all the board members, staff and students who I have worked with during that time. I must mention Paul Green. Paul Green is also an old boy of Hawkesbury—although he did nursing, not agriculture.

All Legislative Council members spend a considerable amount of their time on committee work, and it is much of this work that creates a collaborative work ethic between members of different parties. A special thanks is well deserved by all the dedicated committee staff for the wonderful work they do, sometimes with very short turnaround times to meet deadlines for committee reports and very often full of highly technical information. To all those people and the staff who I have worked with over the years in committees, thank you very much for all your work. You have never let us down—you just keep on delivering. A sincere thank you to you all.

Several early committees I served on seem to be engraved into my brain. The first was an inquiry into policing resources in Cabramatta as a result of a bourgeoning drug problem in that suburb. With fellow new boy Greg Pearce, we inquired into some very serious issues, the likes of which I had never been exposed to before and it was a real eye-opener to me as to the sorts of things going on in the big cities. The second committee I was on was the oversight committee for the Police Integrity Commission and ICAC. On that committee there were seven lawyers and one agriculturalist.

My Liberal colleague on that committee was Malcolm "Killer" Kerr, a very capable ally on that committee. I saw Killer yesterday and I told him I was going to mention him in my speech. He was worried about what I might say. We were in a meeting where considerable debate over a point of law between the seven lawyers was proceeding. As we walked out, Malcolm commented to me, "Gee, that was interesting wasn't it?" I looked at him and I replied with the only comment I could think of at the time which was, "Was it?" I had no idea what they were talking about. I soon found myself in far more familiar territory, focused on work in the natural resources, agricultural industries and rural issues which I enjoyed far more than arguing about a point of law that I knew nothing about.

The closest relationships formed in this place are those within one's own party, and in that regard I have worked with some incredible Nationals people in this place. Duncan Gay, who I acknowledge is here tonight, was a great leader. Dunc, although you accused me in your valedictory speech of having some strange personal habits, I acknowledge that you did not expand on them, so I will not expand on your strange personal habits that were sometimes on show as we travelled the back blocks across New South Wales. Thank you, Dunc, for your friendship and leadership. I have missed you in this place since you left some 17 months ago but now look forward to joining you in retirement.

I spoke earlier about Doug Moppett's extraordinary oratory skills. Doug was one of those people who commanded total respect from all members who served with him. A remarkably decent bloke from near Quambone, west of Coonamble, he was so respected by members that on the day of his funeral in Coonamble—a sitting day—the House adjourned and members chartered, at their own expense, two aircraft to travel to Doug's funeral. It was a very moving ceremony with members forming a guard of honour as the cortege left the church.

I have to mention former Deputy President Jenny Gardiner and now Deputy President Trevor Khan. These two people share the honours when it comes to performing the role of Deputy President. I believe the Parliament has been blessed to have had not one but two such capable people in their understanding of parliamentary processes and in controlling the House in Committee over two consecutive Parliaments. Congratulations to you both on the work that you have done. To our Leader and Deputy Leader of the Government, Niall Blair, congratulations on your contribution since commencing your current role. You are doing a great job and I know, given your tender age, you have many years yet to contribute. I look forward to watching your career with interest as that develops over the next few years. I guess that comment also applies to the Hon. Sarah Mitchell and the work she has been doing around New South Wales in the sphere of aged care, early learning and with the Aboriginal communities across New South Wales. As I travel around the bush, people often comment to me what a great job she is doing in that role. Congratulations, Sarah.

To my old Monaro door-knocking pal Bronnie Taylor, the work you are doing in your role as the southern Parliamentary Secretary is recognised by all and I get similar comments about the work you are doing down there as well. You have proven yourself to be a strong, capable and independent regional member who commands great respect as you move around the bush. Ben Franklin, I remember commenting to you following the 2015 election that it might a good idea if you moved to Ballina to take the fight up to The Greens. The rest is history. Ben, you have done an incredible job in that regard. You have really represented the people of Ballina and northern New South Wales in your Parliamentary Secretary role. Congratulations on the work you have done in that place. As you have been preselected to contest the seat of Ballina next March—congratulations on that—I know you will be leaving this Chamber to take your place in another place after you return the seat of Ballina to The Nationals fold.

To all my lower House Nationals colleagues, thank you for your support over the years. As I look back to when I first came in here, there is only Thomas George and Andrew Fraser in our party room now who were there when I arrived. Congratulations to both Thomas and Andrew on the wonderful representation you have delivered to your electorates. I know you will be missed. Congratulations also to Kevin Humphries, retiring from Barwon. We did a lot of work together in the run-up to your election in 2007, and a lot more as we worked with the north-west communities to put some common sense into the coming biodiversity conservation legislation.

A special thanks to the various leaders I have served under: George Souris, Andrew Stoner, Troy Grant and John Barilaro. Thank you for your guidance and your outstanding leadership. To John especially, I know you cannot be here today, you have shown great leadership for the people of the bush. The $1.3 billion Regional Growth Fund and the $4.2 billion Snowy 2.0 fund that you secured for regional New South Wales is beginning to make a huge difference as those funds are rolled out. These initiatives are a result of the blunt negotiations you have led behind the closed doors of Cabinet. While I have not been involved in that process, it is very clear from the results that is what has happened.

I also offer a special thanks to Troy Grant who has just made his valedictory speech for the wonderful leadership he provided. I wish Troy and Toni well for their future as Troy also retires from Parliament. A special thanks also to Premier Gladys Berejiklian. You have been a good friend of the bush, and I recall many years ago campaigning in Dubbo—well before Troy Grant was elected—and you were there for a couple of days doorknocking alongside The Nationals team. There is a little story that came from that episode. Gladys knocked on a door and a lady came out. Gladys introduced herself and the lady said, "Oh, my name is Gladys too. It is such a lovely name, isn't it?" She has been a good friend of the bush and good luck for the forthcoming election.

To you, Mr President, thank you for your leadership of this place. You have made your mark during your presidency and I congratulate you on that. The Leader of the Government, Don Harwin, is only one of three remaining members of this House who were here when I arrived. The other two are of course, Reverend the Hon. Fred Nile and the Hon Peter Primrose. Don, you mentored me in my first position in this place as Deputy Opposition Whip when you held the position of Opposition Whip. I thank you for your guidance in those early days. In your role as President and now as Leader of the Government, you have shown a safe pair of hands in the way you have performed in both roles. Thank you also for your leadership and guidance.

To my Liberal colleagues, thank you all for your friendship and the work we have done together to keep the forces of evil at bay. I wish you all well in the forthcoming preselections—there has been a bit of activity there already—and on 23 March next year. To all the remaining members, it has been an honour to work with you all. Even though on many occasions we were are at opposite ends of the policy debate, we should be able—and I think we do most of the time—express our ideas with dignity and respect. I wish you all well for next year's election, and hope you run second.

I have been fortunate to have some wonderful, loyal and capable staff over the past 18 years. Jan Tydd joined my office following my election, and she was followed by Aidan Cromarty, Natalie Heazlewood, Jessica Price-Purnell, James Jooste, Tom Harris and finally, for the last couple of years, Clementine Julian. All stayed with me for years, with the exception of James, who only lasted three weeks before he was permanently seconded to the Deputy Premier's office, and Tom Harris who was on a temporary appointment with me. I thank you all for your dedicated and loyal support and the work you did in my office when I was around the traps, as they say in the bush. I give a special thanks to Clementine for the work you have done in the lead-up to today and for your work and encouragement over the past couple of years. Clem also has provided support to the Parliamentary Friends of Landcare [PFL]. I know the Chair of PFL, Kevin Anderson, and the retiring Chair of Landcare NSW, Rob Dulhunty, really appreciates the work you have done in that space. I say thank you for that and more.

To David Blunt and all the staff of the Parliament, wherever you work, thank you for friendship and assistance in what is sometimes a very challenging workplace working with very challenging people. Thank you

for all your work. Irrespective of the part of Parliament you work in, that comment is made equally to all of you. I really appreciate the friendship and the work you have done for all of us.

I must make a special mention of the very special people that make up the Hansard group. You people are really something special. I have mentioned this previously in this place, but I will say it again. In my early committee work, we were having dinner with some community members, and I introduced the Hansard reporters to our guests. One of the guests inquired as to what do Hansard do. Quick as a flash, one of the reporters replied, "We turn very ordinary speeches into works of art!" That is so true! When we all read through our speeches the next day, particularly after one of our very late night sittings, most of us cannot believe we spoke so well. Thank you, Hansard. You are true professionals and experts in your field. Thank you very much for all the work you have done.

I must also mention the Inverell community, who gave me my first start in politics when I was elected to the Inverell Shire Council in 1991 and as mayor in 1999—a position I had to relinquish 12 months later when I came into this place. Inverell is wonderful community and I thank the people of Inverell who supported me during the 20-odd years I lived and worked with you. My wife, Geraldine, and I moved to Orange from the South Coast only last year, essentially as I had the job of Parliamentary Secretary for Western New South Wales and duty MLC for the Orange electorate, so it made perfect sense—workwise at least!—to live and work in Orange.

Geraldine, the past few years with you have been absolutely wonderful and I sincerely thank you for your love and support as together we started a new life and made some difficult decisions, such as moving away from the coast and starting a new life in Orange. To the people of Orange, Parkes, Forbes and Cabonne local government areas that make up the electorate of Orange, thank you all for the support you have given me as we have worked towards trying to keep the electorate in the loop for funding. Mayors Ken Keith from Parkes and Reg Kidd from Orange are here tonight, as is Councillor Jamie Jones from Cabonne. I thank you for making the effort. I have enjoyed the work we have done together. I look forward to that continuing at least until 23 March next year. I will say that with a lot of hard work and a small amount of luck, we should see the Government re-elected next year with a new member for Orange as part of the Government.

Mr President, there are some very special people in your gallery today. My sister, Jenny, and her husband, Laird, are here today. Unfortunately my brother, Bill, and his wife, Marie, are unable to be here. My father, Ken, is here. We lost my mother, Von, just over 12 months ago, and I know she would have loved to have been here today. Dad, thank you for being here today. You have been the inspiration in my life, awakening my awareness for so much during and since my early childhood, especially my love of science and agriculture. I recall you explaining things to Jenny, Bill and I while we were very young. We were stimulated by what you taught us as kids. You taught us that success only comes through hard work. You taught us so much that has stood by us throughout our lives to date.

Dad, you are my mentor. You are my best friend. You are my mate to share a Dewars whisky with while discussing affairs of state! Thank you, Dad. Thank you for being my Dad, and thank you for being a role model for your grandchildren and your numerous great-grandchildren as well. To Jenny and Laird, and Bill and Marie, I could not have ordered better siblings. Jenny, Bill and I used to fight like cats and dogs when we were kids, of course. And as the middle child, I usually came third! As we grew up, we grew closer and closer, and no one person or one thing has ever been able to drive a wedge between us. Thank you, Jenny and Bill, for being my sister and my brother. To Geraldine and your sisters, Pam and Linda, and their husbands, Dom and Roger: while Linda and Roger were not able to be here today, sincere thanks to Pam and Dom for being here.

Mr President, there are three other people in this world who mean more to me than anything else. My son, Michael, and daughters, Belinda and Danielle. Unfortunately, Michael and his family, who live and have a business in Mackay, North Queensland, were unable to make it down here tonight, but Belinda and Danielle are here, and thank you both very much for being here: I really appreciate it. A father could not have wished for better kids. These three became six with the addition of their spouses, Belinda Muller, Peter Chapman, who is better known as Marvin, and Will Mason. Those six people now have grown into 13 with the arrival of my seven beautiful grandchildren—Hayley, Sam and Lachie Colless, who live in Mackay in Queensland; Ivy and Finn Chapman, who live on the Central Coast; and of course Sophie and Charlotte Mason, who live in Newcastle. They are seven of the world's most beautiful grandchildren a grandfather could ever wish for, and I am so looking forward to spending more time with you guys all over the next couple of years.

These three families are all now running their own small businesses and making a really important contribution to Australia—all are employing people and paying their share of taxes. I am so proud of you all, and I know that as the next generation, these seven young people, as they grow, will follow in your footsteps and be successful in their own lives as we go forward in the future. Your success is also a result of the guidance and love of my former wife and your mother, Toni, and I thank her as well for the contribution she has made to our family.

Mr President, the opportunity to contribute to the legislative process has been a wonderful experience and I have enjoyed every minute of it, although at the time some of those tough periods that we all go through can be trying, to say the least. But I am also thankful that I am able to choose the time of my departure—something that so many members do not get the chance to do, either through losing a preselection, or the election itself, or for myriad other reasons. A constituent told me recently that I am going to miss politics when I retire. I do not think I will miss the raw politics, but I will miss is the people I work with, including everybody in this place. I thank you all for your friendship and camaraderie, and wish you all well for the coming election and the future. Thank you, and farewell.

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

Bills

PUBLIC WORKS AND PROCUREMENT AMENDMENT (ENFORCEMENT) BILL 2018

Returned

The PRESIDENT: I report receipt of a message from the Legislative Assembly returning the abovementioned bill without amendment.

GOVERNMENT SECTOR FINANCE LEGISLATION (REPEAL AND AMENDMENT) BILL 2018

Messages

The PRESIDENT: I report receipt of the following message from the Legislative Assembly:

MR PRESIDENT

The Legislative Assembly having considered the message dated 7 June 2018 in which the Legislative Council requested the concurrence of the Legislative Assembly with amendments to the Government Sector Finance Legislation (Repeal and Amendment) Bill 2018, informs the Legislative Council that the Legislative Assembly disagrees with the proposed amendments because:

(1) It is persuaded by the views of Professor Anne Twomey, Professor of Constitutional Law, on the financial prerogative of the Legislative Assembly, which is based upon (a) history, tradition and inheritance; (b) representative government; (c) responsible government; and (d) accountability. As advised by Professor Twomey, the Legislative Assembly has constitutional primacy in relation to financial matters and has scrutinised the public accounts of the State through its Public Accounts Committee since 1902. It is important that the Legislative Assembly retain control of the Committee, given its significant and long-standing role in relation to the scrutiny of public finance and the part it plays in the Assembly's constitutional functions with respect to public finance.

(2) The proposed amendments could not achieve the intended objective of an effective Joint Committee. The existing Public Accounts Committee's statutory functions are retained under the proposed amendments. These functions refer only to the Legislative Assembly and would not provide for the necessary powers, jurisdiction and reporting structure of a Joint Committee. For example, the proposed Joint Committee would report to, and receive referrals from, only the Legislative Assembly (whereas Joint Committees must be able to receive referrals from either or both Houses, and report to both Houses).

(3) The amendments are outside the scope of the Bill.

SHELLEY HANCOCK
Speaker

Legislative Assembly
14 November 2018

The Hon. DON HARWIN: I move:

That consideration of the message be set down as an order of the day for a later hour.

Motion agreed to.

CHILDREN AND YOUNG PERSONS (CARE AND PROTECTION) AMENDMENT BILL 2018

NATIONAL DISABILITY INSURANCE SCHEME (WORKER CHECKS) BILL 2018

In Committee

The CHAIR (The Hon. Trevor Khan): There being no objection, the Committee will deal with the Children and Young Persons (Care and Protection) Amendment Bill 2018 as a whole. There are three sets of amendments: The Greens amendments on sheet C2018-165, The Greens amendments on sheet C2018-151A and the Opposition amendments on sheet C2018-169.

Mr DAVID SHOEBRIDGE (20:04): By leave: I move The Greens amendments Nos 1, 3, 7 and 21 on sheet C2018-165 in globo:

No. 1 **Guardianship orders by consent—consequential**

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

No. 3 **Guardianship orders by consent**

Page 5, Schedule 1 [13] and [14], lines 1–28. Omit all words on those lines.

No. 7 **Guardianship orders by consent—consequential**

Page 6, Schedule 1 [19], lines 35–37. Omit all words on those lines.

No. 21 **Guardianship orders by consent—consequential**

Page 12, Schedule 1 [53], lines 16–19. Omit all words on those lines.

Taken together, these amendments make a fundamental change to one of the most troubling aspects of the bill. The most consequential amendment being moved is amendment No. 3, which deletes lines 1 to 28 of page 5 of the bill, which allow guardianship orders to be granted by consent without a contested hearing and without testing the merits of the guardianship application in the way that has traditionally been required. It is important to remove the right for an untested consent hearing because when a parent—or another carer who has responsibility for the child—is purporting to consent to permanently hand over the guardianship of their child, the pressure placed on the parent, through a collection of circumstances and guilt, can be so extreme that it would be difficult to genuinely see the validity of the granting of consent in many of these cases.

Allowing consent orders to be made without genuinely testing the case, without establishing not only the mere fact of consent but also the merits of the case and the rationale and reasons behind the application, and without a fully contested hearing is a very troubling prospect. It is even more troubling in circumstances when the granting of guardianship can lead to the adoption of the child regardless of the consent of the parents. This is the start of a slippery slope. We are joined in these concerns by many of the legal and advocacy organisations that have confronted this bill and acknowledged the difficulties in it.

By moving these amendments we are not opposing the concept of guardianship. We acknowledge that in many cases, particularly in kinship circumstances, guardianship can be a powerful and protective tool that can be used to provide stability, particularly if a child is placed with an aunty, uncle or grandparent. We recognise that guardianship orders have a real and genuine role in the system. But we cannot support the proposed changes that would allow them to be granted by consent without requiring the full testing of the merits of the application, knowing full well that, having granted guardianship, adoption can be granted without parental consent. They have not come through the consultation process. Indeed, when stakeholders were asked about this, it broadly was not supported. With so many of these changes the views of the stakeholders have been ignored by this Government. There is no compelling case for this change. It is part of a slippery slope towards the more ready and easy removal of children in this State, and for those reasons I commend the amendments.

The CHAIR (The Hon. Trevor Khan): My intention is to call upon the mover of the motion, then the Parliamentary Secretary and then the Hon. Adam Searle. That will be the order we adopt.

The Hon. SCOTT FARLOW (20:09): The Government does not support The Greens amendment No. 1 on sheet C2018-165. The bill clarifies that the prospective guardian as defined in the Act includes a prospective guardian who is party to alternative dispute resolution and consent orders under section 38. The Government does not support The Greens amendment No. 3. The bill strikes the right balance so that families are empowered with decision-making about who is best to parent their children if they recognise that they are unable to. Legal advice must be provided and the need to find no realistic possibility of restoration is not required.

Guardianship offers greater opportunity for placement stability. The amendment focuses on progressing permanency in a non-adversarial way. The amendments do not limit judicial scrutiny. The Children's Court can appoint a legal representative for the child or young person. The amendments will not change or undermine the thoroughness of assessment processes around guardianship. The legislative protections relating to probity checks and supporting documentation have been maintained. The Children's Court must be satisfied that the parties understand the legal effect of the proposed order and consent has been freely given. The court must also be satisfied that the proposed order will not contravene the principles of the Act. For Indigenous children this will include satisfaction that the Aboriginal and Torres Strait Islander placement principles have been complied with.

The Government does not support The Greens amendment No. 7. The bill strikes the right balance so that families are empowered with decision-making about who is best to parent their children if they recognise that they are unable to. Legal advice must be provided and the need to find no realistic possibility of restoration is not required. Guardianship offers greater opportunity for placement stability. The amendment focuses on progressing permanency in a non-adversarial way. The amendments do not limit judicial scrutiny. The Children's Court can

also appoint a legal representative for the child or young person. The amendments will not change or undermine the thoroughness of assessment processes around guardianship.

The legislative protections relating to probity checks and supporting documentation have been maintained. The Children's Court must be satisfied that the parties understand the legal effect of the proposed order and consent has been freely given. The court must also be satisfied that the proposed order will not contravene the principles of the Act. For Indigenous children this would include satisfaction that the Aboriginal and Torres Strait Islander placement principles have been complied with. The Government does not support The Greens amendment No. 21.

Under the current legislation it is the time that the matter is before the court when it must make a decision about whether there is any realistic possibility of restoration—that is, that there must be a realistic possibility of restoration at the time, not merely a future possibility. The possibility must not be fanciful, sentimental or idealistic, or based upon unlikely hopes for the future. It cannot be a mere hope. With the current reform this possibility will be far clearer. The New South Wales Government is recommending for section 83 a realistic possibility of the child or young person being restored to his or her parents within a reasonable period not exceeding two years. This new statutory test overcomes a requirement for the Children's Court to assess whether there is a realistic possibility of restoration at the date of the hearing. The Government does not support the amendments.

The Hon. ADAM SEARLE (20:12): The Labor Opposition supports The Greens amendments Nos 1, 3, 7 and 21 moved in globo, because they reflect the substance, indeed the form, of our amendments Nos 1, 4, 8 and 21, for the reasons outlined by Mr David Shoebridge. The Government's response, no doubt well-intentioned, is certainly not convincing. We think it is troubling to have such a backup. I hope we are all striving to put the best interests of children first. When making such far-reaching decisions as these, it must be done thoroughly and transparently. It should be done in the full light of the law, in my opinion. It is really important to ensure that we do not do harm when enacting new laws. This addresses that part of the bill that allows the Children's Court to make guardianship orders by consent without the need for a care application or a finding that a child needs care and protection. That must be the route of any placing of the child into guardianship away from his or her natural family.

This is the child care and protection system. Why would one want to enact provisions that envisage a child being made subject to such an order without there being a prior finding that the child does need to be subject to a care application or that a child does need care and protection? Is that not the foundation of this whole system? If there is such a finding, if the evidence leads a person or a judge to that conclusion, then one can move to the next stage about what the appropriate orders should be. But we should take that first step and say, "Well, no, taking a child away from his or her family is a very drastic step. It should only be done in certain rare circumstances." The threshold must be a finding that a child needs care and protection. I find it astonishing that this proposal is put forward by the Coalition parties because, as I said during the second reading debate, the Liberal Party and I think The Nationals have often lectured other political parties on how we must put families first, how family is the basic building block of society, how the family is sanctified.

Mr David Shoebridge: How dare the State intervene.

The Hon. ADAM SEARLE: How dare the State intervene—I acknowledge that interjection. We accept there are times when the State can and should intervene for the protection of children but, if there is not a finding that a child actually needs care and protection, what are we doing? We are creating a risk that the system will overreach and cause injustice, which is the very thing we are trying to prevent. The Opposition will support The Greens amendments.

Mr DAVID SHOEBRIDGE (20:16): I acknowledge the contribution of the Leader of the Opposition. The fundamental defect in the Government's proposition is that not only is there no finding required before the guardianship order is given effect but the child has no legal agency in the proceedings. If we are talking about the best interests of the child, a guardianship order permanently severs that part of the legal relationship between the child and his or her parents. Whilst the opinions of the child are taken into account in a discretionary manner by the Children's Court—the fact that the child has no legal agency in the proceedings, the fact that there is no fundamental finding to underpin the necessity of a guardianship order and the fact that parents often, in most extreme and anxious situations, will be pressured to consent to the guardianship application—if one takes the package together, one realises why not just my party, The Greens, or the Opposition but so many advocacy groups and a large part of the Aboriginal community are deeply troubled by these changes and do not want to see them rushed through with such poor scrutiny at the end of the year, as is being proposed.

I commend the amendments to the Committee. I listened carefully to the Parliamentary Secretary's proposition but at no point did the Parliamentary Secretary allay the concerns that have been raised with my office

that there is no fundamental finding, that the consent can be very troubling—the circumstances, the emotional situation the parents are in when consent is being proposed—and that there is an absence of legal agency from the child, whose best interests surely should be central, and that the best interests cannot be readily identified unless the fundamental underpinning finding of the need for care is established, which will not happen if these changes are made. I commend the amendments to the Committee.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendments Nos 1, 3, 7 and 21 on sheet C2018-165. The question is that the amendments be agreed to.

The Committee divided.

Ayes 12
Noes 16
Majority.....4

AYES

Faehrmann, Ms C (teller)	Field, Mr J	Graham, Mr J
Moselmane, Mr S	Pearson, Mr M	Primrose, Mr P
Searle, Mr A	Sharpe, Ms P	Shoebridge, Mr D (teller)
Veitch, Mr M	Voltz, Ms L	Walker, Ms D

NOES

Amato, Mr L	Blair, Mr	Clarke, Mr D
Fang, Mr W (teller)	Farlow, Mr S	Franklin, Mr B
Green, Mr P	MacDonald, Mr S	Maclaren-Jones, Mrs (teller)
Mallard, Mr S	Martin, Mr T	Mason-Cox, Mr M
Mitchell, Mrs	Nile, Revd Mr	Phelps, Dr P
Taylor, Mrs		

PAIRS

Donnelly, Mr G	Ajaka, Mr
Houssos, Mrs C	Colless, Mr R
Mookhey, Mr D	Cusack, Ms C
Secord, Mr W	Harwin, Mr D
Wong, Mr E	Ward, Mrs N

Amendments negatived.

The CHAIR (The Hon. Trevor Khan): We have lost Opposition amendments Nos 1, 4, 8 and 21, which were identical to The Greens amendments. We will now deal with Opposition amendment No. 2 on sheet C2018-169.

The Hon. ADAM SEARLE (20:28): I move Opposition amendment No. 2 on sheet C2018-169:

No. 2 **Request for assistance by primary care-giver**

Page 3, Schedule 1. Insert after line 34:

[6] Section 21 Request for assistance by parent or primary care-giver or by funded non-government agency

Insert "or primary care-giver" after "parent" in section 21 (1).

This amendment deals with a request for assistance by the primary caregiver which inserts "or primary caregiver" after "parent" in section 21 (1) to broaden the definition. This is contained in schedule 1 of the legislation which includes an obligation to cooperate. This amendment ensures that the request is not limited to a parent but includes the broader addition of primary caregiver. It is a small amendment, but we think it is an important one in the context of this legislation.

The Hon. SCOTT FARLOW (20:28): The Government does not support this amendment. It is unnecessary. Anyone can contact Family and Community Services to report a child being at risk of harm and request assistance. FACS considers each report and request and responds appropriately.

Mr DAVID SHOEBRIDGE (20:29): Of all the bloody-minded opposition that would have to be the most extraordinary example from the Government. The Opposition's amendment, which will expressly allow the rights that are available in response to a request for assistance by a parent to be given also to a primary caregiver, will make it clear. In the out-of-home care system there are many instances when the primary caregiver is somebody other than a parent. To deny that right is utterly bloody-minded. The Government is saying, "Do not worry; FACS has an obligation and will respond to everybody in a timely fashion." That lie is exposed on FACS' own dashboard.

Even when reports of risk of serious harm have been validated and identified by FACS, two-thirds of them do not get a caseworker to attend to see what is going on. It is wrong for the Government simply to say, "Do not worry about it; FACS will be nice to you and will respond to all your concerns" largely because there has been a woeful lack of resources in that area. That kind of flippant dismissal of a considered but modest amendment—and I do not blame the Hon. Scott Farlow as he received his instructions from the Minister—is a poor indication of the amount of goodwill that this Minister has in dealing with what should be a non-partisan issue—our most vulnerable children in need of care and protection.

The CHAIR (The Hon. Trevor Khan): The Hon. Adam Searle has moved Opposition amendment No. 2 on sheet C2018-169. The question is that the amendment be agreed to.

Amendment negatived.

Mr DAVID SHOEBRIDGE (20:31): By leave: I move The Greens amendments Nos 2 and 5 on sheet C2018-165 in globo:

No. 2 **Alternative dispute resolution**

Page 4, Schedule 1 [12]. Insert after line 45:

(1E) The Secretary must ensure that, if the family of the child or young person accepts an offer under subsection (1A), the family is provided with assistance to access independent legal advice and representation in any alternative dispute resolution processes.

No. 5 **Alternative dispute resolution**

Page 6, Schedule 1. Insert after line 31:

[18] Section 63A

Insert after section 63:

63A Evidence of alternative dispute resolution

(1) This section applies to a care application in relation to a child or young person the family of whom is required to be offered alternative dispute resolution processes under section 37.

(2) When making a care application, the Secretary must furnish details to the Children's Court of the following:

(a) the alternative dispute resolution processes that were offered to the family of the child or young person before making the application or, if not offered, the reasons why they were not offered,

(b) if alternative dispute resolution processes were so offered and the offer was accepted by the family, any assistance that was provided to the family to access independent legal advice and representation in those processes.

(3) The Children's Court must not:

(a) dismiss a care application in relation to a child or young person, or

(b) discharge a child or young person who is in the care responsibility of the Secretary from that care responsibility, by reason only that the Children's Court is of the opinion that alternative dispute resolution processes were not offered, or assistance to access independent legal advice and representation in those processes was not provided, to the family of the child or young person.

(4) If the Children's Court is of the opinion that alternative dispute resolution processes were not offered to the family of the child or young person or, if an offer was accepted by the family, assistance to access independent legal advice and representation in those processes was not provided to the family, the Court may, before determining whether the child or young person is in need of care and protection:

(a) adjourn the proceedings to enable alternative dispute resolution processes to be offered and, if accepted by the family, assistance to access independent legal advice and representation in those processes to be provided, to the family in accordance with section 37, and to enable those processes to be conducted, and

(b) direct the Secretary to re-submit the care application and furnish revised details in accordance with subsection (1).

(5) Subsection (3) does not prevent the Children's Court from making an interim order in relation to the child or young person after the initial care application is made and before the re-submitted application is finally determined.

One of the aspects of this bill that has broad support is the increased reliance on alternative dispute resolution [ADR] before care proceedings begin and orders are made. Those amendments are found in item [10] and onwards in schedule 1 to the bill. However, they fail to give any content to what the alternative dispute resolution model will involve. It is not clear from the Minister's second reading speech or from any of the communications presented by the department what the content of those alternative dispute resolution measures will look like. There can be good ADR and there can be terrible ADR.

There can be alternative dispute resolution where a disempowered individual cannot articulate his or her views and opinions in the face of a powerful government agency. That is the dynamic that exists at a starting point when there is ADR between FACS and a parent, or FACS and a primary caregiver—an empowered State agency with hundreds of millions, or billions of dollars behind it on one side and a parent often with nothing on the other side. The sector says, "Yes, we support alternative dispute resolution but it must come with adequate resourcing and it must come with some basic legal protections." The Greens amendment No. 2 provides:

> The Secretary must ensure that, if the family of the child or young person accepts an offer under subsection (1A)— which is an offer for alternative dispute resolution— the family is provided with assistance to access independent legal advice and representation in any alternative dispute resolution processes. That is essential. Members should remember that one of the issues that might be live in an ADR is whether or not the parent might consent to guardianship orders, which they can now do without a court finding. Of course there needs to be legal representation at that point, and if an ADR offer is made and accepted, the law should expressly provide that legal advice must be given. The Greens believe that amendment No. 5 travels with amendment No. 2 because it provides that when a care application has been lodged in relation to a child or a young person and an offer of alternative dispute resolution has been made under section 37, the department—often referred to in the Act as the "secretary"—must advise the court of the following:
>
> (a) the alternative dispute resolution processes that were offered to the family of the child or young person before making the application or, if not offered, the reasons why they were not offered,
>
> (b) if alternative dispute resolution processes were so offered and the offer was accepted by the family, any assistance that was provided to the family to access independent legal advice and representation in those processes.

It then proposes that the court must be cognisant of that in its determinations. I will not read the balance of the amendment, but it proposes a series of protections and positions with which the Children's Court must be satisfied in respect of the alternative dispute resolution. If the Children's Court does not supervise what happens in the alternative dispute resolution and is not given a statutory power to supervise it, no-one will.

We may well have cases—in fact, I think it will be inevitable—involving an empowered, well-resourced government agency and parents distraught about circumstances in their lives but fundamentally distraught about having their children removed and some form of ADR determined and controlled by the department potentially being abused to extinguish that child's connection with his or her family. I commend the amendments to the Committee for those reasons.

The Hon. SCOTT FARLOW (20:36): The Government does not support The Greens amendments Nos 2 and 5. Alternative dispute resolution prior to court proceedings is generally a non-legal process. It is a process that allows families to discuss and to resolve issues in an informal environment and to formulate solutions that are in the best interests of the children. Family group conferencing—the preferred form of ADR being used by the Department of Family and Community Services—is family-led with an independent facilitator. The family develops its own plan and information revealed at the conference is protected under the Children and Young Persons (Care and Protection) Act 1998 and is not to be used against the family in any future proceedings. The family can seek legal advice and representations from Legal Aid, community legal centres or other legal practitioners.

The Government also does not support The Greens amendment No. 5. The bill proposes to make it mandatory for FACS to offer ADR to a family before filing an application in the Children's Court. The secretary is already required to provide the Children's Court with evidence of prior alternative action when making a care application under section 63. This will include whether an alternative dispute resolution was offered and accepted. ADR can already be ordered by the court, including a dispute resolution conference. Parties can be legally represented at these dispute resolution conferences under section 65 (3). Families can request legal advice from Legal Aid, community legal centres or LawAccess NSW, and parents can apply for legal representation through Legal Aid.

The care Act allows the court to appoint a legal representative for a child or young person under section 99. If parties to the proceedings who are not legally represented are not capable of representing themselves, the court may require those parties to be represented. If they are incapable of giving instructions, a guardian ad litem can be appointed under section 98 (2) and (3). The court cannot make a guardianship order by consent unless it is satisfied the parties have received independent legal advice. For these reasons, the Government does not support these amendments.

The Hon. ADAM SEARLE (20:38): The Opposition supports The Greens amendments Nos 2 and 5, which are the same as Opposition amendments Nos 3 and 6. This relates to what I said in my second reading contribution about alternative dispute resolution. There is no point in having this new process if the families concerned are not able to engage with it meaningfully. So we think it is fair and reasonable that if a family accepts the offer of alternative dispute resolution the department, through the secretary, must provide them with assistance to access independent legal advice and representation. Without that, because we are dealing with often dysfunctional families and very vulnerable persons in highly distressed situations, it will thwart the entire purpose of having an ADR process if those families are not able to engage meaningfully with it.

The second amendment, amendment No. 5, is also necessary to ensure that the secretary provides to the Children's Court all the evidence of any ADR process prior to submitting a care application. Of course, it is also important that the court does not dismiss an application simply because a family was not offered, or inadequate assistance was provided in relation to, an ADR process. But of course it is also important that the court be empowered to take other measures, such as to adjourn the proceedings. These amendments get the balance right. Even if we were to accept the thrust of the Government's bill, which we struggle with, these amendments are necessary to give this new regime any chance of success. If we are truly here to try to put the interests of vulnerable families and children first, this is a necessity to be part of the scheme.

Mr DAVID SHOEBRIDGE (20:40): I see this as an opportunity for the Government to read onto the record matters that will allay the concerns of the sector, members of which I know are concerned enough to be following this debate to hear whether the Government is going to allay their concerns. Their concerns are that they do not know the content of the alternative dispute resolution. They do not know who is going to be providing it. They do not know what, if any, minimum protections are going to be in place. All we heard from the Parliamentary Secretary was that it will be informal, non-legal and casual. None of that will allay sector members' concerns. In fact, all it is doing is putting a red rag on top of all their concerns—a shining light that says, "What does this mean?"—if there is a mum who is distraught about her children being taken or a dad distraught about the children being removed.

Remember this often happens when police attend people's houses at night. In Aboriginal communities they often talk about the "Friday night special", where Family and Community Services officers turn up with police to remove the children and parents spend a distraught weekend during which they cannot access services, and the next thing they know they are back in court on Monday. They might be in an ADR on Monday. People want to know what the content of the ADR will be, what the minimum protections are and who is going to be looking out for the interests of the family, who will be vulnerable and disempowered in that situation. All we get from the Government is: It will be casual; it will be non-legal—no comfort at all.

The Hon. Adam Searle: It will be ineffective.

Mr DAVID SHOEBRIDGE: It may be effective if the intent is to deliver on the views of the department and minimise the views of the parents—no comfort at all.

The Hon. SCOTT FARLOW (20:42): To address some of the issues that Mr David Shoebridge has raised, with reference to the sector in particular, the model of family group conferencing that would be employed in New South Wales is based on the model that has been used in New Zealand and was developed in consultation with Maori groups in New Zealand.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendments Nos 2 and 5 on sheet C2018-165. The question is that the amendments be agreed to.

The Committee divided.

Ayes 12
Noes 16
Majority.....4

AYES

Faehrmann, Ms C	Field, Mr J (teller)	Graham, Mr J
Moselmane, Mr S	Pearson, Mr M	Primrose, Mr P
Searle, Mr A	Sharpe, Ms P	Shoebridge, Mr D
Veitch, Mr M	Voltz, Ms L	Walker, Ms D (teller)

NOES

Ajaka, Mr	Amato, Mr L	Blair, Mr
Clarke, Mr D	Fang, Mr W (teller)	Farlow, Mr S
Franklin, Mr B	Green, Mr P	MacDonald, Mr S
Maclaren-Jones, Mrs (teller)	Mallard, Mr S	Martin, Mr T
Mason-Cox, Mr M	Nile, Revd Mr	Phelps, Dr P
Ward, Mrs N		

PAIRS

Donnelly, Mr G	Colless, Mr R
Houssos, Mrs C	Cusack, Ms C
Mookhey, Mr D	Harwin, Mr D
Secord, Mr W	Mitchell, Mrs
Wong, Mr E	Taylor, Mrs

Amendments negatived.

The Hon. ADAM SEARLE (20:52): I move Opposition amendment No. 7 on sheet C2018-169:

No. 7 **Alternative dispute resolution**

Page 6, Schedule 1. Insert after line 31:

[18] Section 63A

Insert after section 63:

63A Evidence of alternative dispute resolution

(1) This section applies to a care application in relation to a child or young person the family of whom is required to be offered alternative dispute resolution processes under section 37.

(2) When making a care application, the Secretary must furnish details to the Children's Court of the alternative dispute resolution processes that were offered to the family of the child or young person before making the application or, if not offered, the reasons why they were not offered.

(3) The Children's Court must not:

(a) dismiss a care application in relation to a child or young person,

or

(b) discharge a child or young person who is in the care responsibility of the Secretary from that care responsibility, by reason only that the Children's Court is of the opinion that alternative dispute resolution processes were not offered to the family of the child or young person.

(4) If the Children's Court is of the opinion that alternative dispute resolution processes were not offered to the family of the child or young person, the Court may, before determining whether the child or young person is in need of care and protection:

(a) adjourn the proceedings to enable alternative dispute resolution processes to be offered to the family in accordance with section 37 and, if accepted by the family, to be conducted, and

(b) direct the Secretary to re-submit the care application and furnish revised details in accordance with subsection (1).

(5) Subsection (3) does not prevent the Children's Court from making an interim order in relation to the child or young person after the initial care application is made and before the re-submitted application is finally determined.

This amendment is remarkably like The Greens amendment No. 5 and Opposition amendment No. 6, save that it no longer mandates the requirement for independent legal advice and representation. Nevertheless, it does seek to require that the secretary must furnish to the court any and all details of the alternative dispute resolution processes offered to the family of a child or young person before making the application, or if not, the reasons they were not offered.

The court will be similarly restrained from simply dismissing a care application or discharging a child or young person who is in the care and responsibility of the secretary by reason only that alternative dispute resolution [ADR] was not offered. However, the amendment also empowers the court to take further actions as may be reasonable in the circumstances, including adjourning the proceedings to enable ADR and to direct the secretary to resubmit the care application and furnish revised details. If we are not going to make sure there is independent legal advice and representation, we can at least, I hope, put in place these safeguards.

The Hon. SCOTT FARLOW (20:53): The Government does not support this amendment. I refer to the reasons I gave on The Greens amendment No. 5 and I also add that if the Children's Court considers that alternative dispute resolution would be appropriate, it already has the power to refer or order parties to a dispute resolution conference, which is a form of alternative dispute resolution under sections 65 and 65A.

Mr DAVID SHOEBRIDGE (20:53): The Government has inserted a requirement for alternative dispute resolution, but has not inserted any clear statutory role for the court to oversee that ADR. That is a pretty clear failing in the bill. I would have thought that maybe the Government would have seen the careful wording that has been put forward in the Opposition and Greens amendments here, which put in place a clear statutory process for the court to consider whether or not ADR has been offered and to ensure that the requirements the Government has put in place are actually being met.

Instead, we just get the standard response that the Government does not support these amendments. What is the process that is envisaged for the court to oversee whether or not an alternative dispute resolution has been gone through, and to interrogate whether or not the ADR was appropriately conducted? Will it just be a statutory obligation with nobody checking to see if it has been actually implemented? That is the way the legislation has been drafted.

Earlier, when the Government was opposing The Greens amendments about legal advice and ensuring the capacity for legal representation, the Government's answer was, "We don't want to have a legal dispute in ADR; we want it to be a non-legal dispute." These Opposition amendments take away the legal aspect but put in place court oversight. What is wrong with court oversight? If the Government does not want the court to check, who will check? These are questions that the sector is asking but they have not been answered by the Government in this debate.

The CHAIR (The Hon. Trevor Khan): The Hon. Adam Searle has moved Opposition amendment No. 7 on sheet C2018-169. The question is that the amendment be agreed to.

Amendment negatived.

Mr DAVID SHOEBRIDGE (20:56): I move The Greens amendment No. 4 on sheet C2018-165:

No. 4 **Evidence of further prior alternative action**

Page 6, Schedule 1. Insert after line 31:

[18] Section 63 Evidence of prior alternative action

Omit section 63 (3). Insert instead:

(3) If the Children's Court is of the opinion that appropriate support and assistance were not provided, the Children's Court must, before determining whether the child or young person is in need of care and protection:

(a) adjourn the proceedings to enable appropriate support and assistance to be provided for the safety, welfare and well-being of the child or young person, and

(b) direct the Secretary to re-submit the care application with details of any additional efforts made to provide appropriate support and assistance, and the results of those efforts.

(4) Subsection (3) does not prevent the Children's Court from making an interim order in relation to the child or young person after the initial care application is made and before the re-submitted application is finally determined.

This amendment would omit the current section 63 (3) and replace it with a very clear statutory power that provides that if the Children's Court is of the opinion that appropriate support and assistance were not provided in a prior alternative dispute resolution, the Children's Court must—not "may" but "must"—before determining whether the child or young person is in need of care and protection, adjourn the proceedings to enable appropriate support and assistance to be provided for the safety, welfare and wellbeing of the child or young person, and direct the secretary to resubmit the care application with details of any additional efforts made to provide appropriate support and assistance, and the results of those efforts.

Subsection (3) is expressly drafted so as not to prevent the Children's Court from making an interim order in relation to the child or young person after the initial care application is made and before resubmitting the application. So it does not remove that power in the court. The Greens believe that this express statutory power in the court—again, the oversight power of the court—is essential if we are going to gain any comfort from the other elements of ADR being proposed by the Government. We commend the amendment to the House.

The Hon. SCOTT FARLOW (20:57): The Government does not support this amendment. FACS has not proposed changes to section 63 in the bill. The secretary is already required to provide the Children's Court with evidence of prior alternative action when making a care application under section 63. The Children's Court has broad discretion to adjourn proceedings in circumstances where it is in the child's best interest. The court is also able to order a parent to attend services by order of a Parent Capacity Order. The bill also proposes that FACS may request priority access from government and non-government services to a child or young person. Under section 74 the Children's Court can already direct a person or organisation to provide support for a child or young person. The Government does not support this amendment.

The Hon. ADAM SEARLE (20:58): The Opposition supports this amendment. We do so for the reasons set out by Mr David Shoebridge. There is far too much discretion in the Government's bill for FACS. It is appropriate that if the Children's Court determines that appropriate support and assistance were not provided, the secretary must resubmit the care application and provide details of any additional efforts made to provide appropriate support and assistance, as well as the result of that process. It is important the word "must" appears, for the reasons outlined by Mr David Shoebridge. Otherwise, this part of the legislation becomes a toothless tiger as it allows the semblance of fair process without requiring it be done. The Opposition will be supporting this amendment.

Mr DAVID SHOEBRIDGE (20:59): All of the amendments in this bill deal with the removal process and facilitating the permanent removal of children from their families. The Government has said in its rhetoric that it is still committed to maintaining families and providing the support needed to keep families together. If that is true, why is there no statutory obligation to do so? Section 63 of the Act, as currently drafted, states:

(1) When making a care application, the Secretary must furnish details to the Children's Court of:

(a) the support and assistance provided for the safety, welfare and well-being of the child or young person, and

(b) the alternatives to a care order that were considered before the application was made and …

(2) The Children's Court must not:

(a) dismiss a care application in relation to a child or young person, or

(b) discharge a child or young person who is in the care responsibility of the Secretary from that care responsibility,

by reason only that the Children's Court is of the opinion that an appropriate alternative action that could have been taken in relation to the child or young person was not considered or taken.

In other words, it lets Family and Community Services off the hook. It does not stop proceedings if they have not done what they should. This amendment will give the court the power to say, "Having read the application, having looked through the material and having heard from mum and dad, or the other carers, we do not believe that appropriate support and assistance has been provided." That could be as simple as providing housing or a fridge. It could be as simple as providing sufficient money to pay the electricity account or providing for anger

management counselling that dad has been demanding but cannot access. Mum has been saying, "He needs anger management counselling. He has a very short fuse. He has been in jail. He has been traumatised and wants trauma counselling. Why won't you provide that?"

It is well known that time and again these kinds of conversations are happening in the Children's Court. Families are often begging for assistance that they need to keep their families together, and it is not being provided. I credit the community centres and others for bringing these matters to our attention from the lived experience of the sector. We want to empower the court to be able to say, "Please provide that." The basics should be done before we go down the path of removal. Assistance should be provided to these families. Surely it should be the state of the law to allow the court to see a failing and to make an order to correct it. The aim should be to keep families together, not to separate children permanently from their families and kin. For those reasons, The Greens commend this amendment.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No. 4 on sheet C2018-165. The question is that the amendment be agreed to.

Amendment negatived.

Mr DAVID SHOEBRIDGE (21:03): By leave: I move The Greens amendments Nos 8, 12 and 22 on sheet C2018-165 in globo:

No. 8 **Realistic possibility of restoration—consequential**

Page 6, Schedule 1 [20], line 42. Omit "restoration,".

No. 12 **Realistic possibility of restoration**

Page 7, Schedule 1 [23]–[27], lines 21–34. Omit all words on those lines.

No. 22 **Realistic possibility of restoration—consequential**

Page 12, Schedule 1 [53], lines 29–34. Omit all words on those lines. If there is one aspect of this bill that has unified the sector in opposition to the Government's agenda it is the idea that a two-year hard-and-fast time limit can be put in place within which time restoration can be made to the parents or carers. The Greens amendments Nos 8 and 22 are consequential to amendment No. 12, which is the substantive amendment. Amendment No. 12 proposes to remove items [23] to [27] in schedule 1 to the bill, which for the first time ever in the New South Wales Children and Young Persons (Care and Protection) Act insert the concept that if the court is to restore children to their parents then it must be satisfied that that restoration can happen within a reasonable period. If it were left at that—"a reasonable period"—then we would not have the same opposition to this bill. In a kind of Orwellian fashion, the bill posits the concept of a reasonable period and then, through inappropriate legislative drafting which proposes to insert a new section 88 (8) (a), it provides that a reasonable period for the purpose of this section must not exceed 24 months.

I will not repeat the series of submissions from the sector opposing this legislation, which I acknowledged in my contribution to the second reading debate. It is clear that this time limit is arbitrary and it unnecessarily restricts the court's discretion. Section 83 of the Act says that the court needs to consider whether restoration is realistic. That inevitably will require consideration of the appropriate time frame for children to be restored. We know that setting this arbitrary time frame will add a significant, disproportionate impact on the time limit, especially for Aboriginal children who are vastly over-represented in the system. This time limit should be removed from the bill and having been removed, the court system can retain the discretion to deal with the enormous complexity of real life. We hope that a child who enters the system will be restored or placed in some other permanent and loving environment as soon as possible, within days. There may be some terrible episode that can be dealt with in days and the hope is that a child can be returned within days. But, tragically, often that is not the case.

Chronic homelessness, addiction problems, mental illness, imprisonment are some of the gamut of tragedies that can befall families, especially families with few economic resources. The issues can be complex and sometimes multiples of issues present together. To suggest that families will be able to get their act together and satisfy the court that everything will be fine within 24 months and children can come home is setting up these families to fail. It is setting up a system for the routine permanent removal of children. That is why hundreds of people rallied outside Parliament today and hundreds will continue to rally in opposition to this bill. That is why if this amendment is not successful and we are not able to radically change this bill in Committee there is a growing commitment among the non-Government members that the first order of business next year—if there is a fresh parliament—will be to ensure that these laws do not come into effect and we do not return to the dark days of the routine permanent removal of children from their families.

The Hon. SCOTT FARLOW (21:08): The Government does not support these amendments. The provision of this bill was requested by the President of the Children's Court. Under the current legislation it is at the time when the matter is before the court that the court must make the decision about whether there is any realistic possibility of restoration. That is a realistic possibility of restoration at that time and not merely a future

possibility. The possibility must not be fanciful, sentimental or idealistic or based upon unlikely hopes for the future. It cannot be a mere hope. With the current reform this possibility will be far clearer.

The Government is recommending that the section 83 realistic possibility restoration means a realistic possibility of the child or young person being restored to his or her parents within a reasonable period, not exceeding two years. This new statutory test overcomes the requirement for the Children's Court to assess whether there is a realistic possibility of restoration at the date of the hearing. Where the permanency plan is restoration, a shorter-term court order will be sought to provide Family and Community Services and the restoration service provider with sufficient time to gradually restore a child or young person to the care of their parents. This provides greater accountability for FACS and service providers, which leads to better outcomes for children and young people. The Children's Court can make an order longer than 24 months in special circumstances. The duration of the court order will always be determined by what is in the child's best interest.

With respect to amendment 12, the proposed amendment to section 83 provides greater flexibility for the court and families to determine whether a child can be safely restored within a period of two years. Under the current legislation, it is at the time the matter is before the court when it must make the decision about whether there is any realistic possibility of restoration. Realistic possibility of restoration means a realistic possibility of the child or young person being restored to his or her parents within a reasonable period, not exceeding two years. The new statutory test overcomes the requirement for the Children's Court to assess whether there is a realistic possibility of restoration at the date of the hearing. As such, the Government does not support these amendments.

The Hon. ADAM SEARLE (21:10): The Opposition supports these amendments, which are the same as Opposition amendments Nos 9, 13 and 22. These issues were addressed extensively in the second reading debate. This is one of the features of the legislation about which there is so much apprehension in the wider community because it is the one that may do great damage. Rather than allow the court to continue to craft orders appropriate for the individual child and that child's particular family circumstance, it has the statutory test that the Parliamentary Secretary referred to, of whether there is a realistic possibility of restoration within a reasonable period as defined to not exceed two years. That places a great straightjacket on the discretion of the court and individual officers. It also creates a one-size-fits-all approach rather than deal with or be conscious of and responding to the infinite complexity of the different family circumstances involving vulnerable children. We do not support this aspect of the Government's legislation in its current form and ask the Government to join with The Greens and the Opposition in making these sensible and balanced improvements to the legislation.

Mr DAVID SHOEBRIDGE (21:12): When I was first advised that this was the view of the President I was surprised. This is not an area of law I have had much involvement with. I do not pretend to be familiar with the case law, but the position adopted by the President did not appear to flow naturally from a reading of the Act. We sought advice from experienced practitioners in the area about the current state of play and that advice was unambiguous. It states, "It is incorrect to suggest the proposed amendments to section 83 give parents more opportunity for restoration; that currently the court is not constrained by a time frame in determining what a realistic possibility of restoration means in the circumstances of any particular child. The proposed amendments would change this by requiring the secretary and the court to decide whether there is a realistic possibility of restoration within a reasonable period, being a maximum of 24 months. No such limit currently exists within the Act."

The advice goes further, "Another explanation given in the email by the department"—which is the one that was signed off by the President—"is that the bill improve the situation for parents because the court will not have to make a finding of no possibility at the time of the hearing. This is incorrect as the court will still be required to make any decision about whether there is a realistic possibility of restoration at the time of the hearing based on the evidence presented. The explanation here appears to incorrectly assume that making a decision about restoration at the time of the hearing means that the court has to either restore the child immediately, or make a finding of no realistic possibility of restoration. This is not correct. The court can currently make a finding of realistic possibility of restoration where the intention is that restoration will occur at some point in the future."

I have to say that that is the natural reading of the law as it currently stands. The advice goes on to state, "The bill does not change when the court makes its decision, but it introduces a new time limit, which the court must apply in considering restoration and which does not currently exist." And then, dealing with the case law, the advice we received is this, "Case law interpreting the words 'realistic possibility of restoration' in section 83 of the Act requires that any possibility must be realistic and not fanciful, sentimental or idealistic based upon unlikely hopes for the future."

There the reference is to the leading case of *In the matter of Campbell* [2011] NSWSC 761, which in fact was applied by the President in *Harper Children* [2016] NSWCC No. 3 at paragraph 25, among other cases. The advice goes on to state, "The bill does not amend this phrase in the Act so does not change how these words will be interpreted. In other words, a court that is considering restoration under the new section 83 would still have to

consider whether the possibility of restoration is realistic and not fanciful or based on unlikely hopes of the future. The only difference is that the court would undertake this exercise in the context of the new time limit, i.e. would need to consider whether restoration is realistic and not fanciful within two years."

The advice given to the Government is wrong—plain wrong—and it is remarkable that it has not been tested. We do not have the correct advice and the Government has not gone to experienced practitioners who have worked in the system for years. I read onto the record why we are of the view that the Government's advice is wrong and why we are of the view that the false claim by the Government—that this is somehow opening matters up—is plainly untrue.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment Nos 8, 12 and 22 on sheet C2018-165. The question is that the amendments be agreed to.

The Committee divided.

Ayes 12
Noes 16
Majority.....4

AYES

Faehrmann, Ms C	Field, Mr J (teller)	Graham, Mr J
Moselmane, Mr S	Pearson, Mr M	Primrose, Mr P
Searle, Mr A	Sharpe, Ms P	Shoebridge, Mr D
Veitch, Mr M	Voltz, Ms L	Walker, Ms D (teller)

NOES

Ajaka, Mr	Amato, Mr L	Blair, Mr
Cusack, Ms C	Fang, Mr W (teller)	Farlow, Mr S
Franklin, Mr B	Green, Mr P	MacDonald, Mr S
Maclaren-Jones, Mrs (teller)	Mallard, Mr S	Martin, Mr T
Mason-Cox, Mr M	Mitchell, Mrs	Nile, Revd Mr
Phelps, Dr P		

PAIRS

Donnelly, Mr G	Clarke, Mr D
Houssos, Mrs C	Colless, Mr R
Mookhey, Mr D	Harwin, Mr D
Secord, Mr W	Taylor, Mrs
Wong, Mr E	Ward, Mrs N

Amendments negatived.

The Hon. ADAM SEARLE (21:25): I move Opposition amendment No. 14 on sheet C2018-169:

No. 14 **Realistic possibility of restoration**

Page 7, Schedule 1 [27], line 34. Insert ", unless the Children's Court is satisfied that a longer period is reasonable due to the particular circumstances of the child or young person and his or her family" after "24 months".

The amendment seeks to provide a safety valve to the 24-month period which the Government is insisting upon. The one-size-fits-all approach is only going to end in tears. There needs to be some degree of flexibility to extend the possibility of restoration by the Children's Court due to particular circumstances. I urge the Government—even at this late stage—to be a little bit flexible, show a little bit of goodwill in the process and try to meet us part way.

The Hon. SCOTT FARLOW (21:26): The Government does not support the amendment. The bill already extends the time in which the court can assess the realistic possibility of restoration from a point of time to two years. It is not in a child's best interest to have that time frame delayed any further.

Mr DAVID SHOEBRIDGE (21:26): The Greens support the Opposition amendment, which is a very modest proposal. It would simply allow some discretion for the court in the extremely complex situations it often finds itself in. That the Government is so against the court having discretion and thinks that with some legislative drafting it can magically come up with a solution that meets the complex needs of children and families flies in the face of human experience and historical experience in this area. It goes to show just how dogged and ideological the Minister has become in her moves to amend this bill.

The CHAIR (The Hon. Trevor Khan): The Hon. Adam Searle has moved Opposition amendment No. 14 on sheet C2018-169. The question is that the amendment be agreed to.

Amendment negatived.

The Hon. ADAM SEARLE (21:27): I move Opposition amendment No. 15 on sheet C2018-169:

No. 15 **Realistic possibility of restoration**

Page 7, Schedule 1 [27]. Insert after line 34:

(8B) Subsection (8A) does not apply if the child or young person is an Aboriginal or Torres Strait Islander child or young person.

The amendment seeks to exclude from this regime children or young persons with an Aboriginal or Torres Strait Islander background. It is very important that the amendment be enacted. It is clear that Indigenous and Torres Strait Islander persons are grossly over-represented in the child care and protection system. There is widespread fear and alarm in those communities in response to these reforms. In our second reading debate contributions we read extracts from representations made by peak groups and other service providers in this space, including those working in the Aboriginal and Torres Strait Islander advocacy sector.

It is quite clear that part of the community is very alarmed by the changes. We know that that part of our community is already over-represented in the system, and one does not have to be a genius to recognise that the impact of the reforms in this legislation are very likely to be disproportionately visited upon them. The realistic possibility of a restoration time limit in the bill should not be applied to that part of the community, if only to show some humanity in this situation. I urge all honourable members to support Opposition amendment No. 15.

The Hon. SCOTT FARLOW (21:29): The Government does not support this amendment. This amendment removes any time frame to work towards restoration of Aboriginal children to their family. This would disadvantage Aboriginal children, as it will place them at risk of drifting in care. Families may not receive the intensive support required to enable their child to return home in as short a time frame as possible.

Mr DAVID SHOEBRIDGE (21:30): It is just wrong for the Parliamentary Secretary to stand up, no doubt on instruction, and say that this removes any time frame for this part of the Act. What this retains is the concept of a "reasonable time". The Opposition amendment simply says that the proposed new subsection (8A) defines a reasonable time for the purpose of this section as being a period that must not exceed 24 months. It says subsection (8A) does not apply to Torres Strait Islander and Aboriginal children and young people. The concept of a reasonable time proposed by the Government in other amendments to section 83, including in subsections (2), (3), (5) and (5A), would be retained. The court could determine what a reasonable time is for Torres Strait Islander and Aboriginal children and young people.

The court could determine it—not Minister Goward, not the Parliamentary Secretary, not a bunch of legislators sitting at an enormous remove from the complexity of life for Aboriginal families. The court can decide what a reasonable time is. We have been told time and again that Aboriginal communities not only face deep structural disadvantage in our society in terms of poverty, homelessness and health concerns, but also live with generational and intergenerational trauma. Part of the trauma families raising their kids now experience is the family memories of grandparents being removed in the stolen generations. The trauma of their grandparents included having their parents and grandparents herded off traditional lands like animals, put into missions, having brutal violence inflicted on them in frontier wars, having land stolen—and that trauma is real.

The CHAIR (The Hon. Trevor Khan): Order! Mr David Shoebridge, I am not disagreeing with what you are saying, but—

Mr DAVID SHOEBRIDGE: I will bring my remarks back to the amendment. Acknowledging the intergenerational trauma in and complexity of Aboriginal life today in this State means you cannot apply hard and fast rules to Aboriginal families that you might apply to non-Aboriginal families. The concept that treating everyone the same is treating people equally is a mantra we often hear from the Coalition: "We make the same rules for women and the same rules for men and therefore everything should be fine." We know it does not work in the workplace because women are systemically paid less wages. The same rules for child protection are applied to Aboriginal families as to non-Aboriginal families as though applying the same rules will produce a just

outcome, but the same rules produce an unjust outcome for Aboriginal families. Already 40 per cent of children in out-of-home care are Aboriginal children.

Applying the same rules to Aboriginal families that we apply to non-Aboriginal families will definitely fail Aboriginal families who are facing those systemic disadvantages. This Opposition amendment is identical to a Greens amendment that has been circulated, which essentially says, "Do not apply the same rules." The complexity of Aboriginal life is likely to be significantly greater than that of non-Aboriginal life, and Aboriginal families sometimes need more time to get their act together in order to have their children returned. In all of the changes the Minister has put forward there is not one additional protection for Aboriginal families, yet we know they are grossly over-represented in out-of-home care. There is not one additional measure protecting them. This is one small measure of protection. That is why The Greens support the Opposition amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. Adam Searle has moved Opposition amendment No. 15 on sheet C2018-169. The question is that the amendment be agreed to.

The Committee divided.

Ayes 13
Noes 17
Majority.....4

AYES

Donnelly, Mr G	Faehrmann, Ms C (teller)	Field, Mr J
Graham, Mr J	Moselmane, Mr S	Pearson, Mr M
Primrose, Mr P	Searle, Mr A	Sharpe, Ms P
Shoebridge, Mr D (teller)	Veitch, Mr M	Voltz, Ms L
Walker, Ms D		

NOES

Ajaka, Mr	Amato, Mr L	Clarke, Mr D
Cusack, Ms C	Fang, Mr W (teller)	Farlow, Mr S
Green, Mr P	MacDonald, Mr S	Maclaren-Jones, Mrs (teller)
Mallard, Mr S	Martin, Mr T	Mason-Cox, Mr M
Mitchell, Mrs	Nile, Revd Mr	Phelps, Dr P
Taylor, Mrs	Ward, Mrs N	

PAIRS

Houssos, Mrs C	Blair, Mr
Mookhey, Mr D	Colless, Mr R
Secord, Mr W	Franklin, Mr B
Wong, Mr E	Harwin, Mr D

Amendment negatived.

Mr DAVID SHOEBRIDGE (21:42): By leave: I move The Greens amendments Nos 9 to 11 on sheet C2018-165 in globo:

No. 9 **Section 82 reports**

Page 6, Schedule 1. Insert after line 45:

[21] Section 82 Report on suitability of arrangements concerning parental responsibility

Omit "other than a guardianship order" from section 82 (1).

No. 10 **Section 82 reports**

Page 6, Schedule 1. Insert after line 45:

[21] Section 82 (2) (a)

Omit "12 months". Insert instead "24 months".

No. 11 **Section 82 reports**

Page 7, Schedule 1. Insert after line 18:

[22] Section 82 (4A)

Insert after section 82 (4):

(4A) The Children's Court may order more than one report under this section and, accordingly, this section applies to each report so ordered.

The amendments provide additional flexibility and additional powers for the court in dealing with reports on suitability of arrangements concerning parental responsibility. They also make some consequential amendments that we believe will provide further protections, given the changes the Government is making, concerning guardianship orders and the effect of guardianship orders on later adoptions. I will not go into more detail on the amendments given the time, but we believe that this package of amendments, taken together, will make a significant improvement to section 82. We commend the amendments to the Committee.

The Hon. SCOTT FARLOW (21:43): The Government does not support The Greens amendments Nos 9 to 11 on sheet C2018-165. It would be an unnecessary intrusion on the private lives of children and the guardian especially after a comprehensive assessment of the suitability of a guardian has been approved by a court. The existing time frame of 12 months is adequate and allows for any issues relating to the child's placement to be identified and acted upon quickly. It also gives the court greater opportunity to oversight the progression of the case plan goal for the child. A party can also bring a section 90 application at any time. The Children's Court can already order more than one report under section 82. For those reasons the Government does not support the amendments.

The Hon. ADAM SEARLE (21:44): The Opposition supports the amendments for the reasons outlined by Mr David Shoebridge.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendments Nos 9 to 11 on sheet C2018-165. The question is that the amendments be agreed to.

Amendments negatived.

The Hon. ADAM SEARLE (21:44): I move Opposition amendment No. 17 on sheet C2018-169:

No. 17 **Order for services to facilitate restoration**

Page 7, Schedule 1. Insert after line 34:

[28] Section 84A

Insert after section 84:

84A Order for services to facilitate restoration

(1) The Children's Court may make an order directing the Secretary to provide or arrange for the provision of services to a child or young person or his or her family to facilitate restoration.

(2) The Children's Court may make the order:

(a) on application made by any party to proceedings before the Children's Court with respect to a child or young person, or

(b) with leave of the Children's Court—on application made by any person who was a party to care proceedings with respect to a child or young person, or

(c) with leave of the Children's Court—on application made by any person who considers himself or herself to have a sufficient interest in the welfare of the child or young person.

(3) The Children's Court may grant leave under subsection (2) if it appears that there has been a significant change in any relevant circumstances since a final order was made in the proceedings.

This amendment seeks to insert a new section 84A after section 84, which provides:

(1) The Children's Court may make an order directing the Secretary to provide or arrange for the provision of services to a child or young person or his or her family in order to facilitate restoration.

Subsection (2) sets out the circumstances as follows:

(2) The Children's Court may make the order:

(a) on application made by any party to proceedings before the Children's Court with respect to a child or young person, or

(b) with the leave of the Children's Court—on application made by any person who was a party to care proceedings with respect to a child or young person; or

(c) with the leave of the Children's Court—on application made by any person who considers himself or herself to have a sufficient interest in the welfare of the child or young person.

(3) The Children's Court may grant leave under subsection (2) if it appears that there has been a significant change in any relevant circumstances since a final order was made in the proceedings.

Given the policy direction set by the Government and the many perils to vulnerable children and their families in the community posed by the bill, we think this is another safeguard that should be built into this new system to give it a better chance of succeeding, securing the aims for which the Government has brought it forward and avoiding the apprehended harm that many in the community feel the bill in its current form would have. I urge members to support Opposition amendment No. 17.

The Hon. SCOTT FARLOW (21:46): The Government does not support this amendment. The bill proposes that Family and Community Services may request prioritised access from government and non-government services to a child or young person. Under section 74 the Children's Court can already direct a person or organisation to provide support for a child or young person.

Mr DAVID SHOEBRIDGE (21:46): For the reasons outlined by the Leader of the Opposition, The Greens support Opposition amendment No. 17.

The CHAIR (The Hon. Trevor Khan): The Hon. Adam Searle has moved Opposition amendment No. 17 on sheet C2018-169. The question is that the amendment be agreed to.

Amendment negatived.

The Hon. ADAM SEARLE (21:47): I move Opposition amendment No. 16 on sheet C2018-169:

No. 16 **Considerations before making removal order**

Page 7, Schedule 1. Insert after line 34:

[28] Section 83A

Insert after section 83:

83A Considerations before making order to remove child or young person

Despite section 83, the Children's Court must not make a final care order to which that section applies unless it has considered:

(a) the known risks of harm to the child or young person on being removed from the care of his or her parents or primary care-givers, and

(b) the risks of leaving the child or young person in his or her current circumstances.

The amendment sets out a range of considerations that the Children's Court must take into account before making a final care order. It cannot make a final care order unless the court has considered the known risks of harm to the child or young person on being removed from the care of his or her parents or primary caregivers and the risks of leaving the child or young person in the current circumstances. It directs the attention of the court to, as it were, examine both options before being able to make final orders. It is again in the nature of a precautionary provision to try to ameliorate what we regard as the harm and risks posed by the bill in its current form. I urge members to support this amendment.

The Hon. SCOTT FARLOW (21:48): The Government does not support Opposition amendment No. 16. The amendment is not necessary as there is established law that requires the Children's Court to make an assessment of whether a child is at an unacceptable risk of harm in relation to placement decisions—for example, *M v M* [1988] HC 68 in the reports. The Government will not be supporting this amendment.

Mr DAVID SHOEBRIDGE (21:48): Opposition amendment No. 16 would fix a real and continuing issue at the heart of the child removal system in New South Wales. The way the law is currently drafted is that before making an order to remove a child or young person, the court's primary concern is the risk to the child in remaining in the current circumstances. It is risk focused. Under the current law, the court is required to look carefully and in detail at all the potential failings and risks in a family—and every family has them. Of course there are some cases in which the risks are obvious and real: There may have been sexual abuse or the risk of sexual abuse, gross neglect or violence. In those cases, the risks are overwhelming and it is, without question, in the child's best interests to remove them. The fundamental flaw in the current law is that, in considering the risks

to the child in remaining with their family, there is no express direction to the court to consider the known harm in removing a child—or, as this amendment states:

> (a) the known risks of harm to the child or young person on being removed from the care of his or her parents or primary care-givers …

The law in effect assumes that removing a child from the family will be a neutral act and will not of itself cause inevitable and real harm. Nothing could be more false than setting up a dichotomy between the risks of a child remaining with their family and the underlying assumption in the law that the removal of a child will protect them or at least put them in a neutral situation where no further harm will happen.

The Department of Family and Community Services has produced a detailed study of child removals over a 10-year period or more. Two years ago the department provided evidence to the parliamentary inquiry into child protection. We know that the fact of removal itself inevitably creates enormous harm to children. One figure submitted to the inquiry was that once a child has been removed and put into out-of-home care, the risk of that child's future children being removed and put into out-of-home care increases tenfold: not double, not triple, not fivefold, but a tenfold increase in the risk of that child's future children being put into out-of-home care. We also know that being removed has a dramatic negative impact on a child's engagement with education and all of a child's future indicators on being removed.

At the moment, however, the law assumes the act of removal is neutral. It is not. The President of the Children's Court gave evidence to that inquiry and I distinctly remember putting this issue to him. He said, "That's okay. We are trained specialists and we know about all this stuff." I asked, "Can you identify a single case in which that has been articulated—where you have laid out the evidence and made it clear that you are aware of the damage of removal and of the fact that the child's children will be 10 times more likely to be taken? Can you point to a single case where you have said that?" The answer was no, because it is not how the system operates.

The system tears families apart. It looks at the risk of and threats to a child remaining in a family and assumes that removal will be a neutral act. It is not; it is a deeply damaging act. The law should direct the court to that fact and require the court to look at the known risks of harm to the child caused by removal. That is what this amendment does. The Greens drafted amendments on this issue but we are not moving them. This is an essential and fundamental change and if it does not happen now, it had better happen soon next year. Without this change, children are being removed on the false assumption that they will be looked after and have at least a neutral experience in care. All of us know that that is false.

The CHAIR (The Hon. Trevor Khan): The Hon. Adam Searle has moved Opposition amendment No. 16 on sheet C2018-169. The question is that the amendment be agreed to.

The Committee divided.

Ayes 13
Noes 17
Majority.....4

AYES

Donnelly, Mr G (teller)	Faehrmann, Ms C	Field, Mr J
Graham, Mr J	Moselmane, Mr S (teller)	Pearson, Mr M
Primrose, Mr P	Searle, Mr A	Sharpe, Ms P
Shoebridge, Mr D	Veitch, Mr M	Voltz, Ms L
Walker, Ms D		

NOES

Ajaka, Mr	Amato, Mr L	Clarke, Mr D
Cusack, Ms C	Fang, Mr W (teller)	Farlow, Mr S
Franklin, Mr B	Green, Mr P	Maclaren-Jones, Mrs (teller)
Mallard, Mr S	Martin, Mr T	Mason-Cox, Mr M
Mitchell, Mrs	Nile, Revd Mr	Phelps, Dr P
Taylor, Mrs	Ward, Mrs N	

PAIRS

Houssos, Mrs C	Blair, Mr
Mookhey, Mr D	Colless, Mr R
Secord, Mr W	Harwin, Mr D
Wong, Mr E	MacDonald, Mr S

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): It being 10.00 p.m., proceedings are now interrupted to permit the Minister to move the adjournment motion if required.

The Committee continued to sit.

Mr DAVID SHOEBRIDGE (22:01): By leave: I move The Greens amendments Nos 15 to 18 on sheet C2018-165 in globo:

No. 15 **Rescission and variation of care orders**

Page 8, Schedule 1 [29]–[32], lines 1–44. Omit all words on those lines.

No. 16 **Rescission and variation of care orders**

Page 8, Schedule 1 [29], lines 3–26. Omit all words on those lines. Insert instead:

(2A) Before granting leave to make an application to vary or rescind the care order, the Children's Court must consider the following matters:

(a) the views of the child or young person and the weight to be given to those views, having regard to the maturity of the child or young person and his or her capacity to express his or her views,

(b) the length of time for which the child or young person has been in the care of the present carer,

(c) if the Children's Court considers that the present care arrangements are stable and secure, the course that would result in the least intrusive intervention into the life of the child or young person and whether that course would be in the best interests of the child or young person,

(d) the age of the child or young person,

(e) the nature of the application,

(f) the plans for the child or young person,

(g) whether the applicant has an arguable case,

(h) matters concerning the care and protection of the child or young person that are identified in:

(i) a report under section 82, or

(ii) a report that has been prepared in relation to a review directed by the Children's Guardian under section 85A or in accordance with section 150.

No. 17 **Rescission and variation of care orders**

Page 8, Schedule 1 [29], line 11. Omit "and the stability of present care arrangements".

No. 18 **Rescission and variation of care orders**

Page 8, Schedule 1 [32], line 44. Omit "and the stability of present care arrangements".

The Greens are moving these amendments because it is already next to impossible for parents to seek a variation order using section 90. In fact, "next to impossible" is probably an extreme characterisation. However, it is extremely hard to get the leave of the court under section 90 to seek a variation of a care and protection order. Families and legal practitioners in the area have often articulated to my office, and I am sure to other members' offices, that the threshold in section 90 is far too high. Getting the leave of the court to revisit a care and protection order is insurmountable for many families.

When the Government consulted, as it did in October of last year, on the suggestion that it become harder under section 90, not one stakeholder said to make it harder. Every stakeholder and every one of the submissions says, "Do not do this. Do not make it harder." What is the point of consultation if you ignore all of the submissions received in consultation? That is what happened. There was a bunch of submissions. The Government asked, "Should we toughen up the test in section 90?" And, to a person, the sector said, "Don't do it. Don't." And what does the Government do? It puts through a whole series of amendments that make it significantly harder.

The Greens amendment No. 15 would strip out all of the amendments proposed in clauses 29 to 32 of the bill. The Greens amendment No. 16 would strip out the changes inserted in clause 90, and The Greens amendments Nos 17 and 18 would strip out the most offensive parts in the proposed amendment—the one that is going to create the greatest hurdle to a family seeking a variation order—which is the additional requirement being proposed in the proposed section 90 (2B) (b), which has as one of the primary considerations as to whether or not leave would be granted not just the length of time for which the child or young person has been in the care of the present carer, but also the stability of present care arrangements. That reference to the stability of present care arrangements, just that inclusion itself, will defeat many meritorious applications being brought by families who are seeking to have their children back.

I will articulate the circumstances in which it would occur. Assume a permanent removal order has been made because the court is of the view that stability could not be achieved within two years and the child is then put with a foster family or a guardian and has been in that arrangement—a substandard arrangement because they are not with their family, but maybe an adequate arrangement—in a new school and a new house with no connection and not living with their siblings and parents, but there is a stability that is in place; a low-level equilibrium, you could say, but it is stable.

But meanwhile the family members have got their act together. They are now well and truly capable of having the child returned. Everybody says so. But the court will not grant leave if these amendments are granted to revisit the care order because what the court will say is, "It may not be a particularly good arrangement but it is stable. It meets the bare minimum." And because the department can establish that there are stable present care arrangements, a person does not even get leave to actually make the application. The Community Legal Centres in their submission said:

> We strongly oppose any change to section 90 of the care Act. It is currently very difficult to bring an application to vary or rescind care orders under section 90 and the Children's Court is already empowered by section 90 (2A) (e) to dismiss unmeritorious applications at the earliest stage. Given that the existing section 90 represents a very high bar, there was strong opposition to any changes in the consultation process conducted last year. The additional limitations in the bill are not only unnecessary but also severely restrict the court's discretionary decision making.

I commend those observations and the amendments to the Committee.

The Hon. SCOTT FARLOW (22:08): The Government does not support these amendments. The bill is consistent with article 12 of the United Nations Convention on the Rights of the Child, which requires the views of the child to be sought, heard and given weight in accordance with their age and maturity. This amendment is necessary to ensure primacy is given to a child or young person's needs for permanency, stability and security at the leave stage of a section 90 application. The stability of present care arrangements should not be removed from section 90. We know how important placement stability can be in facilitating a child's healthy development. This has been shown in both international and Australian studies.

The bill focuses on the child's best interest. The stability and security of a child's placement is paramount to their wellbeing. This is consistent with section 8 (a1) of the care Act, which recognises that the primary means of providing for the safety, welfare and wellbeing of children is by providing them with a long-term, safe, nurturing, stable and secure placement. The stability of the placement is just as important as its length and should be considered by the court. A child could be in a placement for a long time but the placement is not stable due to changes in the circumstances of the placement, for example, the death or illness of one carer. For those reasons, the Government does not support The Greens amendments.

The Hon. ADAM SEARLE (22:09): The Opposition is unconvinced by the Government's contribution and will support The Greens amendments.

The CHAIR (The Hon. Trevor Khan): I will put the first two amendments seriatim and then deal with amendment Nos 17 and 18. Mr David Shoebridge has moved The Greens amendment No. 15 on sheet C2018-165. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No. 16 on sheet C2018-165. The question is that the amendment be agreed to.

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendments Nos 17 and 18 on sheet C2018-165. The question is that the amendments be agreed to.

The Committee divided.

Ayes 13

Noes 17
Majority.....4

AYES

Donnelly, Mr G	Faehrmann, Ms C (teller)	Field, Mr J
Graham, Mr J	Moselmane, Mr S	Pearson, Mr M
Primrose, Mr P	Searle, Mr A	Sharpe, Ms P
Shoebridge, Mr D	Veitch, Mr M	Voltz, Ms L
Walker, Ms D (teller)		

NOES

Ajaka, Mr	Amato, Mr L	Clarke, Mr D
Cusack, Ms C	Fang, Mr W	Farlow, Mr S
Green, Mr P	MacDonald, Mr S	Maclaren-Jones, Mrs (teller)
Mallard, Mr S	Martin, Mr T	Mason-Cox, Mr M
Mitchell, Mrs	Nile, Revd Mr	Phelps, Dr P
Taylor, Mrs (teller)	Ward, Mrs N	

PAIRS

Houssos, Mrs C	Blair, Mr
Mookhey, Mr D	Colless, Mr R
Secord, Mr W	Franklin, Mr B
Wong, Mr E	Harwin, Mr D

Amendments negatived.

The Hon. ADAM SEARLE (22:19): By leave: I move Opposition amendments Nos 19 and 20 on sheet C2018-169 in globo:

No. 19 **Rescission and variation of care orders**

Page 9, Schedule 1 [33], lines 1–4. Omit all words on those lines.

No. 20 **Rescission and variation of care orders**

Page 9, Schedule 1 [34]. Insert after line 14:

(3) An interim care order may also be varied under section 90.

While I have moved these amendments in globo, and I will speak to them simultaneously, they will need to be put seriatim. Both of these amendments relate to page 9 of the bill and to item [33] which seeks to create a new section 90 (9). Section 90 deals with care orders broadly and subsection (3) outlines the parties that can make application for such order. The last criterion is that any person who considers themselves to have sufficient standing can make an application. So there is quite a wide spectrum of persons who can make application pursuant to section 90.

In the Government bill, item [33] seeks to create a situation where an application to vary an interim care order does not come within the purview of section 90 because that is dealt with in item [34], the proposed new section 90AA, which is more limited than is current section 90 in that the Government proposal in 90AA means that only a party to care proceedings before the Children's Court can make an application to vary an interim care order. So it is a much narrower set of persons who can make that application compared with the current situation.

Amendment No. 19 proposed by the Opposition seeks to strike out item [33] from the bill. If that is not successful amendment No. 20 seeks to add some words that provide expressly that "an interim care order may also be varied under section 90". The amendments try to achieve the same thing, but by different means. Their objective is the same—to ensure that there remains a wider spectrum of persons who can make applications to vary an interim care order.

The Hon. SCOTT FARLOW (22:21): The Government does not support these amendments. The bill makes it easier for parents and others to make an oral application to vary an interim order. At present they may be

required to file a section 90 application and seek leave. The bill will make it easier for parents and others to make an oral application to vary an interim order with respect to amendment No. 20 also.

Mr DAVID SHOEBRIDGE (22:22): The Parliamentary Secretary is reading from the notes provided to him but he has failed to address the primary concern that has been expressed by all stakeholders and by the Opposition in moving these amendments. Currently, under section 90 a variation order can be sought not just by the parents but also—it says this expressly—by any person who considers himself or herself to have a sufficient interest in the welfare of the child or young person. This includes interim orders.

Let me make it clear what this is about. An interim order is the order that is made, often, on the first return date when a child has been removed. The department has taken the child and then, a day or two later, appears in court. The child is often placed in a foster care home, sometimes placed in residential care, or, shamefully, sometimes placed in a motel or a serviced apartment with a random person looking after them. That interim arrangement can continue, in this case, for up to two years under the Government's proposals. Often the interim arrangement will continue for less time—six to 12 months—where the child is living with strangers, living in residential care or, sometimes, living in a motel or other accommodation.

The child may have been removed before any adequate consideration was given to other family members, who may well and truly be in a position to care for that child. In Aboriginal communities it is often the aunts, uncles and grandparents. Indeed, people who are familiar with the kinship care structure in Aboriginal communities in particular well know that Aboriginal kids often call their aunts "mum"—they have multiple mums. Also in Aboriginal families often grandparents are considered to be primary carers. If Family and Community Services has sought to have a child removed from his or her parents, then the parents are parties to those proceedings, but the aunts or grandparents are not. The child who has been removed is often put with strangers and because mum and dad may not be in a state to contest the interim orders, the aunties and grandparents step in and say, "Why did you not consider us?" However, they are not parties to the proceedings.

Indeed, under the changes proposed by this Government they would not even be able to commence a variation order under section 90 of the Act, nor would they be able to apply under new section 90AA because they are not a party to the proceedings. So the aunties, uncles and grandparents will be completely frozen out. Why would we allow that to happen? Who came up with this? We know from talking to organisations like Grandmothers Against Removal that those aunties, uncles and grandparents are begging to both be heard in the proceedings and to be allowed to look after their kids. This Government wants to shut the door even further. For the life of me I cannot work out who is advising the Minister and suggesting these amendments to freeze out aunties, uncles and grandparents like this. The Greens support the Opposition's amendments.

The CHAIR (The Hon. Trevor Khan): The Hon. Adam Searle has moved Opposition amendments Nos 19 and 20 on sheet C2018-169. A request has been made that the amendments be put seriatim. The question is that amendment No. 19 be agreed to.

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): The question is that Opposition amendment No. 20 be agreed to.

The Committee divided.

Ayes 13
Noes 17
Majority.....4

AYES

Donnelly, Mr G (teller)	Faehrmann, Ms C	Field, Mr J
Graham, Mr J	Moselmane, Mr S (teller)	Pearson, Mr M
Primrose, Mr P	Searle, Mr A	Sharpe, Ms P
Shoebridge, Mr D	Veitch, Mr M	Voltz, Ms L
Walker, Ms D		

NOES

Ajaka, Mr	Blair, Mr	Clarke, Mr D
Fang, Mr W	Farlow, Mr S	Franklin, Mr B
Green, Mr P	Harwin, Mr D	MacDonald, Mr S

NOES

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

PAIRS

Houssos, Mrs C	Amato, Mr L
Mookhey, Mr D	Colless, Mr R
Secord, Mr W	Cusack, Ms C
Wong, Mr E	Mitchell, Mrs

Amendment negatived.

Mr DAVID SHOEBRIDGE (22:36): I move The Greens amendment No. 24 on sheet C2018-165:

No. 24 **Dispensing with consent to adoption**

Page 14, Schedule 2, lines 2–23. Omit all words on those lines.

The Greens amendment No. 24 would delete the changes to key provisions of the Adoption Act being proposed by this Government. As mentioned repeatedly during contributions to the second reading debate, the changes are highly controversial and are opposed almost unanimously by Aboriginal organisations, Aboriginal individuals and elders of the community who have approached not just my office but also, I am sure, members of Parliament across the board. They are of one voice and they say, "Do not make it easier to adopt out our kids and do not remove the need for parental consent before adoption can occur." The changes will work with changes to guardianship to really smooth the path for the rapid adoption of Aboriginal children and non-Aboriginal children.

I will read onto the record the brief observations of Community Legal Centres [CLCs] about how those two provisions interact and why The Greens are seeking to remove those changes to the Adoption Act. The CLC says, "We are concerned about the proposal to allow the court to make a guardianship order with the parents' consent, even where there is no finding that the child is at risk of significant harm or should be subject to a care and protection order." I do not want to revisit that argument, but that is the starting point.

The CLC then says, "We note that once a guardianship order is made neither the department nor the court currently have oversight over the placement to ensure the safety and welfare of vulnerable children. We also note that these changes, taken together with the provision allowing the Supreme Court to dispense with parental consent when a guardian seeks adoption of the child, create a fast-track pathway to adoption without adequate safeguards for children, parents and families. These changes are particularly concerning for Aboriginal and Torres Strait Islander children for whom adoption is not a culturally appropriate option. This is reflected in the Aboriginal and Torres Strait Islander Child and Young Person Placement Principles currently enshrined in section 13 of the Act."

We know from advice from the secretary just a fortnight ago that between 810 and 815 Aboriginal children are already on guardianship orders and can be fast-tracked to adoption without their parents' consent. Why are we allowing that to happen? I accept that the majority of those children who are Aboriginal children under guardianship orders are likely to be with kin and it is not likely that a majority of those children will be fast-tracked towards adoption. But let us say it is 10 per cent, 20 per cent or 30 per cent of the children who are currently under guardianship orders. That is still a vast number of Aboriginal children who should not be fast-tracked to adoption.

We know that with the guardianship changes, where we are removing much of the court's oversight and allowing guardianship by consent, the number of Aboriginal children who will be available for adoption will increase each year. That is why we are opposing these changes. We have said sorry about this stuff before; we do not want to be saying sorry again. For those reasons I commend the amendments to the Committee.

The Hon. SCOTT FARLOW (22:40): The Government does not support this amendment. The proposed amendment to the Adoption Act does not create new grounds for dispensing with the requirement for the consent of a person to a child's adoption. Currently the Supreme Court may dispense with the requirement for the consent of a child's adoption if an application has been made for the adoption of the child by their authorised carer, if the following factors apply: first, the child has established a stable relationship with those carers; secondly, the adoption of the child by those carers will promote the child's welfare; and, thirdly, if the child is Aboriginal, alternatives for adoption have been considered in accordance with section 36. The amendment extends the

application in its current provision to guardians under the care Act. Guardians are not authorised carers. This amendment therefore simply addresses a perceived gap where the Supreme Court is considering dispensing with a parent's consent on an adoption application by a child's guardian.

The Hon. ADAM SEARLE (22:41): The Opposition will support The Greens amendment.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No. 24 on sheet C2018-165. The question is that the amendment be agreed to.

The Committee divided.

Ayes 13
Noes 17
Majority.....4

AYES

Donnelly, Mr G	Faehrmann, Ms C	Field, Mr J (teller)
Graham, Mr J	Moselmane, Mr S	Pearson, Mr M
Primrose, Mr P	Searle, Mr A	Sharpe, Ms P
Shoebridge, Mr D (teller)	Veitch, Mr M	Voltz, Ms L
Walker, Ms D		

NOES

Ajaka, Mr	Amato, Mr L	Clarke, Mr D
Cusack, Ms C	Fang, Mr W (teller)	Farlow, Mr S
Franklin, Mr B	Green, Mr P	Harwin, Mr D
MacDonald, Mr S	Maclaren-Jones, Mrs (teller)	Mallard, Mr S
Martin, Mr T	Mason-Cox, Mr M	Nile, Revd Mr
Phelps, Dr P	Taylor, Mrs	

PAIRS

Houssos, Mrs C	Blair, Mr
Mookhey, Mr D	Colless, Mr R
Secord, Mr W	Mitchell, Mrs
Wong, Mr E	Ward, Mrs N

Amendment negatived.

The Hon. ADAM SEARLE (22:49): I move Opposition amendment No. 28 on sheet C2018-169:

No. 28 **Dispensing with consent to adoption**

Page 14, Schedule 2. Insert after line 5:

[3] **Section 67 (1) (d) (ii)**

Omit "and".

[4] **Section 67 (1) (d) (iii)**

Omit the subparagraph.

[5] **Section 67 (1A)**

Insert after section 67 (1):

(1A) Subsection (1) (c) and (d) do not apply if the child is an Aboriginal child or Torres Strait Islander child.

The amendment deals with dispensing with consent to adoption. Opposition amendment No. 28 will omit references to Aboriginal and Torres Strait Islander children which are found in section 67 (1) (d) (iii), insert new items [3], [4] and [5], make changes to section 67 (1) (d) (ii) and section 67 (1) (d) (iii), and insert a new section 67 (1A), which states that this provision does not apply if the child is an Aboriginal child or Torres Strait Islander

child. The disproportionate representation in the care and protection system of Aboriginal and Torres Strait Islander children has been remarked upon both in the Committee stage and in the second reading debate. This is another protective measure to improve the regime in the bill. I urge members to support the amendment.

The Hon. SCOTT FARLOW (22:51): The Government does not support this amendment which would remove the ability for the court to override the wishes of the parent or person who has parental responsibility. This would occur even in circumstances where there is serious cause for concern for the welfare of the child. This amendment ignores the need for decisions to be child focused and based on the best interests of the child. The amendment also proposes removing the ability for the court to dispense with consent to adoption of Aboriginal and Torres Strait Islander children by their authorised carers. The current provision comes with a safeguard that in the case of Aboriginal children alternatives to placement for adoption have been considered as per section 36. The Government is not proposing any changes to the safeguards for Aboriginal children and young people in the care Act or the Adoption Act.

Mr DAVID SHOEBRIDGE (22:51): The Greens support the Opposition's amendment. In fact, The Greens have amendments that parallel them. We support them for the reasons articulated by the Leader of the Opposition.

The CHAIR (The Hon. Trevor Khan): The Hon. Adam Searle has moved Opposition amendment No. 28 appearing on sheet C2018-169. The question is that the amendment be agreed to.

Amendment negatived.

Mr DAVID SHOEBRIDGE (22:52): By leave: I move The Greens amendments Nos 25 and 27 on sheet C2018-165 in globo:

No. 25 **Placement principles for Aboriginal children**

Page 14, Schedule 2. Insert after line 1:

[1] Section 35 Aboriginal child placement principles

Omit section 35 (4) and (5).

No. 27 **Placement principles for Aboriginal children—consequential**

Page 14, Schedule 2. Insert after line 1:

[1] Section 47 How is an adoption plan made?

Omit "sections 35 (5) and" from the note to section 47 (1).

Insert instead "section".

Taken together these amendments will amend section 35 of the Aboriginal child placement principles in the Adoption Act. Omitting section 35 (4) of the Adoption Act will ensure that the same cultural considerations apply to Aboriginal children with one Aboriginal parent and one non-Aboriginal parent as currently apply to Aboriginal children with two Aboriginal parents. The Greens believe that it is essential that Aboriginal children with one Aboriginal parent are afforded the same protections relating to their cultural identity as are Aboriginal children who have two Aboriginal parents.

When one talks to the Aboriginal community, the elders, the aunties, the uncles and young people one discovers that Aboriginal people who have one Aboriginal parent and who identify as Aboriginal should be treated as Aboriginal and their cultural identity should be protected every bit as strongly as Aboriginal people who have two Aboriginal parents. We cannot work out why the Adoption Act does not already provide that. We believe it is essential to take this opportunity to improve the Adoption Act and for those reasons I have moved The Greens amendments Nos 25 and 27.

The Hon. SCOTT FARLOW (22:54): The Government does not support The Greens amendment No. 25. The child's best interest is paramount and decisions need to be made, taking into account the child's views, welfare, safety and permanency. The Government does not support The Greens amendment No. 27, the consequential amendment.

The Hon. ADAM SEARLE (22:54): The Opposition will be supporting The Greens amendments Nos 25 and 27.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendments Nos 25 and 27 on sheet C2018-165. The question is that the amendments be agreed to.

Amendments negatived.

The Hon. ADAM SEARLE (22:55): By leave: I move Opposition amendments Nos 26 and 29 on sheet C2018-169 in globo:

No. 26 **Prerequisites to making adoption orders**

Page 14, Schedule 2. Insert after line 1:

[1] Section 46 What is an adoption plan?

Insert after section 46 (2B):

(2C) An adoption plan for an Aboriginal child or Torres Strait Islander child must make provision for the ways in which the child's cultural heritage will be fostered and appropriate contact will be maintained with the child's extended family.

No. 29 **Prerequisites to making adoption orders**

Page 14, Schedule 2. Insert after line 10:

[4] Section 90 Court to be satisfied as to certain matters

Insert after section 90 (1) (f):

(f1) if the child is an Aboriginal or Torres Strait Islander child—that an adoption plan has been made in relation to the adoption that provides for the ways in which the child's cultural heritage will be fostered and appropriate contact maintained with the child's extended family, and

These amendments deal with prerequisites to make new adoption orders. Opposition amendment No. 26 ensures that an adoption plan for an Aboriginal child or a Torres Strait Islander child must make provision for ways in which the child's cultural heritage will be fostered and appropriate contact will be maintained with that child's extended family. Opposition amendment No. 29 requires, under section 90, the court to be satisfied as to certain matters. One of those matters is that if the child is an Aboriginal or Torres Strait Islander child an adoption plan has been made in relation to the adoption that provides for the ways in which the child's cultural heritage will be fostered and appropriate contact maintained with the child's extended family.

The two provisions work together. It should not need elaboration; maintaining appropriate cultural heritage and contact with extended family in this context should not be a remarkable proposition. It should be one that all members in this Chamber would support. Surely even this Government would not resist these sensible amendments, which make a small improvement and put in place a small safeguard to protect the heritage and cultural identity of Aboriginal and Torres Strait Islander children, who may become part of the care and protection system of this State. I urge members to support these amendments.

The Hon. SCOTT FARLOW (22:57): The Government does not support these amendments. Family and Community Services already includes the child's cultural plan within the adoption plan. Section 90 of the Adoption Act already requires that the child's culture be taken into account in the making of the adoption plan. In addition, clause 75 of the Adoption Regulation specifies what must be included in an adoption plan, which includes details of the ways in which the child is to be assisted to develop a healthy and positive cultural identity and of ways in which links with the child's cultural heritage are to be fostered.

The Government does not believe that Opposition amendment No. 29 is necessary. The safeguards around the adoption of Aboriginal and Torres Strait Islander children and young people remain unchanged. The Adoption Act makes specific provisions that address the needs of Aboriginal children, families and communities and sets out additional legislative requirements specific to the preparation of an adoption application for an Aboriginal child or young person. If the child is placed with a person who is not within an Aboriginal family or community, the adoption plan must provide for the child to have the opportunity to develop an identity with the Aboriginal community to which he or she belongs.

Mr DAVID SHOEBRIDGE (22:58): The Greens support Opposition amendments Nos 26 and 29. This Government is about fast-tracking adoption. If it is going to go through the process of fast-tracking adoption, knowing the history of the stolen generation, surely at a minimum there should be an express, clear, specific provision that relates to Aboriginal children and their identity. Simply sweeping up the first nation people of this State, putting them in the same bucket and treating them the same as every other culture has failed in the past. Clearly there should be an express protection of Aboriginal culture and the Aboriginal children's identity in these adoption changes. The Opposition amendment simply says:

> An adoption plan for an Aboriginal child or Torres Strait Islander child must make provision for the ways in which the child's cultural heritage will be fostered and appropriate contact will be maintained with the child's extended family.

If the Government is not willing to go there, it shows how hollow its commitment is to ensuring that Aboriginal families are protected in these changes. There is an important additional element in the Opposition's amendment that does not exist in the other general cultural protections in adoption plans, and that is the last part of the proposed amendment that the court has to ensure that not only will the child's cultural heritage be fostered but also that appropriate contact will be maintained with the child's extended family. The concept of kinship, the extended family relations in Aboriginal communities, is core to Aboriginal people's identity. Surely that should be reflected in the law. If anyone is going to adopt Aboriginal children they should make sure there is express provision that says the court must be satisfied that contact will be maintained with the child's extended family. This Government could at least go that far to give some comfort to Aboriginal people. But it just says no. This Government does not get it.

The CHAIR (The Hon. Trevor Khan): The Hon. Adam Searle has moved Opposition amendments Nos 26 and 29 on sheet C2018-169. The question is that the amendments be agreed to.

The Committee divided.

Ayes 13
Noes 17
Majority.....4

AYES

Donnelly, Mr G (teller)	Faehrmann, Ms C	Field, Mr J
Graham, Mr J	Moselmane, Mr S (teller)	Pearson, Mr M
Primrose, Mr P	Searle, Mr A	Sharpe, Ms P
Shoebridge, Mr D	Veitch, Mr M	Voltz, Ms L
Walker, Ms D		

NOES

Ajaka, Mr	Amato, Mr L	Blair, Mr
Clarke, Mr D	Cusack, Ms C	Fang, Mr W (teller)
Farlow, Mr S	Franklin, Mr B	Green, Mr P
Harwin, Mr D	Maclaren-Jones, Mrs (teller)	Mallard, Mr S
Mason-Cox, Mr M	Nile, Revd Mr	Phelps, Dr P
Taylor, Mrs	Ward, Mrs N	

PAIRS

Houssos, Mrs C	Colless, Mr R
Mookhey, Mr D	MacDonald, Mr S
Secord, Mr W	Martin, Mr T
Wong, Mr E	Mitchell, Mrs

Amendments negatived.

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

Motion agreed to.

The CHAIR (The Hon. Trevor Khan): There being no objection, the Committee will deal with the National Disability Insurance Scheme (Worker Checks) Bill 2018 as a whole. The question is that the bill as read be agreed to.

Motion agreed to.

The Hon. SCOTT FARLOW: I move:

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

Motion agreed to.

Adoption of Report

The Hon. SCOTT FARLOW: On behalf of the Hon. Sarah Mitchell: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. SCOTT FARLOW: On behalf of the Hon. Sarah Mitchell: I move:

That these bills be now read a third time.

The Hon. ADAM SEARLE (23:10): As I indicated in my contribution to the second reading debate, the Opposition has fundamental problems with the Children and Young Persons (Care and Protection) Amendment Bill 2018 and its content. During the Committee stage, we worked diligently and in good faith to try to civilise the worst elements of the bill. We did not succeed in persuading the House to adopt any of our amendments and therefore we have no choice but to vote against the third reading. I acknowledge the leadership shown on this issue by the shadow Minister, Tania Mihailuk, who is present in the Chamber, and the hard work she has done with the sector and the wider community in taking the lead. I join with her in committing my party to repealing this legislation next year, should we form government.

Mr DAVID SHOEBRIDGE (23:11): In the Committee stage The Greens attempted to remedy the Children and Young Persons (Care and Protection) Amendment Bill 2018. We attempted to knock out the provisions relating to adoption and fast-tracked permanent removal, particularly of Aboriginal children, and we failed. We failed because the Government, together with the Christian Democratic Party, seems to be committed to a fast-track adoption model, including for Aboriginal children. We cannot allow that to stay on the statute books. I have committed The Greens and The Greens collectively are committed to joining with whichever party forms government to repeal these laws in the future.

I acknowledge the hard work of the shadow Minister on this issue and I note that she has been in the Chamber throughout the debate. There are times when we need to put aside partisan differences—whether The Greens, Labor or whatever—to join together and scrub off the statute books offensive laws like that which has just passed through this Parliament. We give a commitment to work together in a non-partisan fashion for the future of Aboriginal families and Aboriginal children in particular. These laws should not stay on the statute books.

The PRESIDENT: The question is that the Children and Young Persons (Care and Protection) Amendment Bill 2018 be now read a third time. Is leave granted to ring the bells for one minute?

Leave granted.

The House divided.

Ayes 17
Noes 13
Majority.....4

AYES

Amato, Mr L	Blair, Mr	Clarke, Mr D
Cusack, Ms C	Fang, Mr W (teller)	Farlow, Mr S
Franklin, Mr B	Green, Mr P	Harwin, Mr D
Khan, Mr T	Maclaren-Jones, Mrs (teller)	Mallard, Mr S
Mason-Cox, Mr M	Nile, Revd Mr	Phelps, Dr P
Taylor, Mrs	Ward, Mrs N	

NOES

Donnelly, Mr G (teller)	Faehrmann, Ms C	Field, Mr J
Graham, Mr J	Moselmane, Mr S (teller)	Pearson, Mr M
Primrose, Mr P	Searle, Mr A	Sharpe, Ms P
Shoebridge, Mr D	Veitch, Mr M	Voltz, Ms L
Walker, Ms D		

PAIRS

Colless, Mr R	Houssos, Mrs C
MacDonald, Mr S	Mookhey, Mr D
Martin, Mr T	Secord, Mr W
Mitchell, Mrs	Wong, Mr E

Motion agreed to.

The PRESIDENT: The question is that the National Disability Insurance Scheme (Worker Checks) Bill 2018 be now read a third time.

Motion agreed to.

GOVERNMENT SECTOR FINANCE LEGISLATION (REPEAL AND AMENDMENT) BILL 2018

In Committee

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (23:19): I move:

That the Committee not insist on the amendments disagreed to by the Legislative Assembly.

Having received a message from the Legislative Assembly in response to this House's message of 7 June 2018 in which we requested the concurrence of the Legislative Assembly with amendments to the Government Sector Finance Legislation (Repeal and Amendment) Bill 2018, the Legislative Assembly has considered the amendments and does not agree to them for the reasons that it has provided. It is clear from the text of the message that, for example, it has considered the views of Professor Anne Twomey in relation to the history, tradition and inheritance of its House and the doctrine of responsible government and accountability. It has taken that into consideration and it has looked at the statutory functions of the existing committee and formed certain conclusions about the amendments provided by this Chamber.

It is the position of Government members in this Chamber that the reasons that have been provided by the Legislative Assembly are reasonable and that we should now proceed to pass the Government Sector Finance Legislation (Repeal and Amendment) Bill 2018. In the circumstances that we face today, it is not usual to re-canvass all of the provisions of the bill but rather to focus on the amendments. This morning, in colourful language from Mr David Shoebridge, we heard various descriptions of equivalent situations in America where provisions get tacked onto bills that are going through Parliament. That is what he and other members of the crossbench and the Opposition proposed in July. They put forward amendments to the bill to change the nature and functioning of the Public Accounts Committee.

The bill is about flexibility, allowing the financial management framework to stay up to date to ensure enhanced accountability and transparency for improved government performance, risk management and saving efficiencies, and better service delivery in the way that arrangements are made relating to government sector finance. It is a good bill and should be passed. It should not be held up by an insistence on the amendments that were made in June. There are other sound reasons to pass the bill. To be clear, there was no appropriate consultation on the proposed changes before they were put in the bill. We have had a process that has continued for years—including the Legislative Council's inquiry into the role of its committee system—and at no stage was it suggested that it was appropriate to make the Public Accounts Committee a joint committee. It was not a recommendation of that committee.

There was certainly a strong argument that it is not appropriate to amend the bill to establish the Public Accounts Committee as a joint committee administered by the Legislative Council but reporting to the Legislative Assembly only on some matters. The amendments are not consistent with the New South Wales parliamentary convention that the Legislative Assembly has control over money bills. We have a clear position. We as a house have the budget estimates and the Legislative Assembly as a house has the Public Accounts Committee. That is the way that it has functioned for a long time in this House. That is the right way to do it, and it works well.

It is also the position of Government members that the amendments will not provide for an effective, functioning joint committee to replace the current functional Public Accounts Committee. There are many reasons for that, but I will refer only to a couple. The proposed committee outlined in the amendments—which I believe are to be moved again shortly—would not be able to receive referrals from both Houses, would not be able to report to both Houses, and would be able to examine only financial statements, reports and Auditor-General's

reports transmitted to or laid before the Legislative Assembly. The list goes on and it demonstrates that it was not a well-considered proposal. It has myriad problems and we should not be insisting on these amendments because they are not in a form that will deliver a functioning and effective committee like the current Public Accounts Committee, which by all accounts for a long time has done a good job. I will conclude my comments at that. I am sure other members will respond and I will address any other matters raised in my reply.

The Hon. ADAM SEARLE (23:26): This is an example of good things coming to those who wait. The position taken by the Legislative Assembly is clear and we have before us a statement of some of the reasons that the House found persuasive. The best argument, which was briefly touched upon tonight by the Leader of the Government in support of this position, is that money bills originate in the Legislative Assembly and in our constitutional arrangements this House has no ultimate control over those bills if it does not agree to them. That is, the Legislative Assembly can insist upon them and have them signed into law by the Governor without our consent or concurrence. Therefore, it falls within paragraph (1) and the references to representative government and responsible government. That is the longstanding constitutional arrangement. I will say no more about this matter other than to direct honourable members' attention to the contribution made in the other place by my colleague the shadow Treasurer, Mr Ryan Park, MP.

Mr JUSTIN FIELD (23:28): I move:

That the question be amended by inserting at the end "and proposes the following alternative amendments:

No. 1 **Functions of Public Accounts Committee as Joint Parliamentary Committee**

Page 12, Schedule 2. Insert after line 7:

[23] Section 48A Review of Audit Office

Omit section 48A (12) and (13). Insert instead:

(12) The Chair of the Public Accounts Committee is, on receipt of such a report, to present the report to both Houses of Parliament.

(13) If at the time at which the Chair seeks, in accordance with this section, to present the report to a House of Parliament the House is not sitting, the Chair is to present the report to the Clerk of the House to be dealt with in accordance with section 63C.

No. 2 **Functions of Public Accounts Committee as Joint Parliamentary Committee**

Page 13, Schedule 2 [35], line 19. Omit "the Legislative Assembly". Insert instead "either or both Houses of Parliament".

No. 3 **Constitution of Public Accounts Committee as Joint Parliamentary Committee**

Page 13, Schedule 2. Insert after line 19:

[36] Section 54

Omit sections 54–56. Insert instead:

54 Constitution of Public Accounts Committee

(1) On substitution of this section by the *Government Sector Finance Legislation (Repeal and Amendment) Act 2018* and as soon as practicable after the commencement of the first session of each Parliament, a joint committee of members of Parliament, to be known as the Public Accounts Committee, is to be appointed.

(2) The Committee is to consist of 8 members, of whom:

(a) 4 are to be members of, and appointed by, the Legislative Council, and

(b) 4 are to be members of, and appointed by, the Legislative Assembly.

(3) The appointment of members of the Committee is, as far as practicable, to be in accordance with the practice of Parliament with respect to the appointment of members to serve on joint committees of both Houses of Parliament.

(4) A person is not eligible for appointment as a member of the Committee if the person is a Minister of the Crown or a Parliamentary Secretary.

(5) Schedule 1B contains provisions relating to the Committee.

No. 4 **Functions of Public Accounts Committee as Joint Parliamentary Committee**

Page 13, Schedule 2. Insert after line 24:

[37] Section 57 (1) and (2)

Omit "the Legislative Assembly" wherever occurring.

Insert instead "either or both Houses of Parliament".

[37] Section 57 (4)

Omit the subsection.

No. 5 **Constitution of Public Accounts Committee as Joint Parliamentary Committee**

Page 13, Schedule 2. Insert after line 24:

[37] Section 58 Evidence

Omit the section.

No. 6 **Constitution of Public Accounts Committee as Joint Parliamentary Committee**

Page 14, Schedule 2. Insert after line 22:

[51] Schedule 1B

Insert after Schedule 1A:

Schedule 1B Public Accounts Committee

(Section 54 (5))

1 Definition

In this Schedule, ***Committee*** means the Public Accounts Committee.

2 Vacancies

(1) A member of the Committee ceases to hold office:

(a) when the Legislative Assembly is dissolved or expires by the effluxion of time, or

(b) if the member becomes a Minister of the Crown or a Parliamentary Secretary, or

(c) if the member ceases to be a member of the Legislative Council or Legislative Assembly, or

(d) if, being a member of the Legislative Council, the member resigns the office by instrument in writing addressed to the President of the Legislative Council, or

(e) if, being a member of the Legislative Assembly, the member resigns the office by instrument in writing addressed to the Speaker of the Legislative Assembly, or

(f) if the member is discharged from office by the House of Parliament to which the member belongs.

(2) Either House of Parliament may appoint one of its members to fill a vacancy among the members of the Committee appointed by that House.

3 Chair and Deputy Chair

(1) There is to be a Chair and a Deputy Chair of the Committee, who are to be elected by and (subject to subclause (2)) from the members of the Committee.

(2) The Chair must not be a member of a party that has been elected to Government.

(3) A member of the Committee ceases to hold office as Chair or Deputy Chair of the Committee if:

(a) the member ceases to be a member of the Committee, or

(b) the member resigns the office by instrument in writing presented to a meeting of the Committee, or

(c) the member is discharged from office by the Committee.

(4) At any time when the Chair is absent from New South Wales or is, for any reason, unable to perform the duties of Chair or there is a vacancy in that office, the Deputy Chair may exercise the functions of the Chair under this Act or under the *Parliamentary Evidence Act 1901*.

4 Procedure

(1) The procedure for the calling of meetings of the Committee and for the conduct of business at those meetings is, subject to this Act, to be as determined by the Committee.

(2) The Clerk of the Parliaments is to call the first meeting of the Committee, and the first meeting of the Committee in each Parliament, in such manner as the Clerk thinks fit.

(3) At a meeting of the Committee, 4 members constitute a quorum, but the Committee must meet as a joint committee at all times.

(4) The Chair or, in the absence of the Chair, the Deputy Chair (or, in the absence of both the Chair and the Deputy Chair, a member of the Committee elected to chair the meeting by the members present) is to preside at a meeting of the Committee.

(5) The Deputy Chair or other member presiding at a meeting of the Committee has, in relation to the meeting, all the functions of the Chair.

(6) The Chair, Deputy Chair or other member presiding at a meeting of the Committee has a deliberative vote and, in the event of an equality of votes, also has a casting vote.

(7) A question arising at a meeting of the Committee is to be determined by a majority of the votes of the members present and voting.

(8) The Committee may sit and transact business despite any prorogation of the Houses of Parliament or any adjournment of either House of Parliament.

(9) The Committee may sit and transact business on a sitting day of a House of Parliament during the time of sitting.

(10) Except as otherwise provided by this Act, the practice and procedure of the Committee is to be in accordance with the Standing Rules and Orders of the Legislative Council regulating the committees of the House.

5 Reporting when Parliament not in session

(1) If a House of Parliament is not sitting when the Committee seeks to furnish a report to it, the Committee may present copies of the report to the Clerk of the House.

(2) The report:

(a) on presentation and for all purposes is taken to have been laid before the House, and

(b) may be printed by authority of the Clerk, and

(c) if printed by authority of the Clerk, is for all purposes taken to be a document published by or under the authority of the House, and

(d) is to be recorded in the Minutes, or Votes and Proceedings, of the House on the first sitting day of the House after receipt of the report by the Clerk.

6 Evidence

(1) The Committee has power to send for persons, papers and records.

(2) Subject to clause 7, the Committee must take all evidence in public.

(3) If the Committee as constituted at any time has taken evidence in relation to a matter but the Committee as so constituted has ceased to exist before reporting on the matter, the Committee as constituted at any subsequent time, whether during the same or another Parliament, may consider that evidence as if it had taken the evidence.

(4) The production of documents to the Committee is to be in accordance with the practice of the Legislative Council with respect to the production of documents to committees of the Legislative Council.

7 Confidentiality

(1) If any evidence proposed to be given before, or the whole or a part of a document produced or proposed to be produced to, the Committee relates to a secret or confidential matter, the Committee may, and at the request of the witness giving the evidence or the person producing the document must:

(a) take the evidence in private, or

(b) direct that the document, or the part of the document, be treated as confidential.

(2) If a direction under subclause (1) applies to a document or part of a document produced to the Committee:

(a) the contents of the document or part are, for the purposes of this clause, to be regarded as evidence given by the person producing the document or part and taken by the Committee in private, and

(b) the person producing the document or part is, for the purposes of this clause, to be regarded as a witness.

(3) If, at the request of a witness, evidence is taken by the Committee in private:

(a) the Committee must not, without the consent in writing of the witness, and

(b) a person (including a member of the Committee) must not, without the consent in writing of the witness and the authority of the Committee under subclause (5), disclose or publish the whole or a part of that evidence.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

(4) If evidence is taken by the Committee in private otherwise than at the request of a witness, a person (including a member of the Committee) must not, without the authority of the Committee under subclause (5), disclose or publish the whole or part of that evidence.

Maximum penalty: 20 penalty units or imprisonment for 3 months, or both.

(5) The Committee may, in its discretion, disclose or publish or, by writing under the hand of the Chair, authorise the disclosure or publication of evidence taken in private by the Committee, but this subclause does not operate so as to affect the necessity for the consent of a witness under subclause (3).

(6) Nothing in this clause prohibits:

(a) the disclosure or publication of evidence that has already been lawfully published, or

(b) the disclosure or publication by a person of a matter of which the person has become aware otherwise than by reason, directly or indirectly, of the giving of evidence before the Committee.

(7) This clause has effect despite section 4 of the *Parliamentary Papers (Supplementary Provisions) Act 1975*.

(8) If evidence taken by the Committee in private is disclosed or published in accordance with this clause, sections 5 and 6 of the *Parliamentary Papers (Supplementary Provisions) Act 1975* apply to and in relation to the disclosure or publication as if it were a publication of that evidence under the authority of section 4 of that Act.

Note. The Defamation Act 2005 makes provision for 2 defences in respect of the publication of defamatory matter that is contained in evidence taken by, or documents produced to, the Committee in private, but only if the evidence or documents have been disclosed or published in accordance with this clause.

Section 28 of the Defamation Act 2005 (when read with clause 8 of Schedule 2 to that Act) ensures that such documents attract the defence relating to public documents in defamation proceedings.

Section 29 of the Defamation Act 2005 (when read with clause 17 of Schedule 3 to that Act) ensures that proceedings in which such evidence is taken or documents produced attract the defences relating to fair reports of proceedings of public concern in defamation proceedings.

8 Application of certain Acts

For the purposes of *the Parliamentary Evidence Act 1901* and the *Parliamentary Papers (Supplementary Provisions) Act 1975* and for any other purposes:

(a) the Committee is to be regarded as a joint committee of the Legislative Council and Legislative Assembly, and

(b) the proposal for the appointment of the Committee is to be regarded as having originated in the Legislative Council.

9 Validity of certain acts or proceedings

Any act or proceeding of the Committee is, even though at the time when the act or proceeding was done, taken or commenced there was:

(a) a vacancy in the office of a member of the Committee, or

(b) any defect in the appointment, or any disqualification, of a member of the Committee, as valid as if the vacancy, defect or disqualification did not exist and the Committee were fully and properly constituted.

No. 7 **Constitution of Public Accounts Committee as Joint Parliamentary Committee**

Page 15, Schedule 2 [53]. Insert after line 7:

Dissolution of existing Public Accounts Committee

(1) On the substitution of section 54 by the *Government Sector Finance Legislation (Repeal and Amendment) Act 2018*:

(a) the Public Accounts Committee as constituted immediately before that substitution (the ***existing Committee***) is dissolved, and

(b) each member of the existing Committee ceases to hold office as such.

(2) Subclause (1) does not prevent a member of the existing Committee being appointed as a member of the Public Accounts Committee (as constituted after the substitution of section 54) if otherwise qualified for appointment."

As I move those amendments, perhaps it is worth stepping back five months. That is how long the amendments that were agreed to in this Chamber have been sitting in the other place—five months after arguments were made in this place about the importance of that series of bills and their urgency. Five months it has been sitting there. Clearly the Government was unsure what to do when this Chamber—including with the support of the Labor Party—recognised that the Public Accounts Committee in this State should be changed because it should ensure that the people of New South Wales have a committee that can scrutinise public spending of this Government. It is an important measure of transparency and accountability. That was supported by this Chamber, including the Labor Party, members of the crossbench and others who will speak for themselves in this discussion.

To be clear, the amendments that were moved and supported in this place were in relation to changing the format, the make-up only, and the leadership of the Public Accounts Committee—not its function but its make-up. It would ensure that that committee was reconstituted to be a joint committee—a committee that included members of the Legislative Assembly and the Legislative Council—and that that committee have as its chair a non-government member. The Public Accounts Committee examines the Government's use of resources and the financial operations of agencies. It considers financial probity and whether agency programs are achieving their objective. It reviews reports made by the Auditor-General and reviews the operation of the Audit Office. To suggest that that should not be within the purview of members of this Chamber does not make sense. It does not stand up to scrutiny in and of itself. And the arguments made in the message from the Government do not stand up to scrutiny either.

I turn quickly to those arguments. The Government said it was persuaded by the views of Professor Anne Twomey. She has clearly provided advice to the Government. Where is that advice? That advice has not been available to this Chamber. It has not been made available to the members who are now having to make the case. I call on the Government to make that information public, to put that on the public record, to table it here tonight. Table that advice if that is what the Government has relied on. I take up what was said by the Leader of the Opposition referring to the shadow Treasurer's contribution in the other House when it says: I have looked at the advice and agree with it. Why have the members of this place not been given that advice? I call on the Government to table that advice here during this discussion and make that advice available. That advice is not outlined in the Government's arguments.

The second element, which was the majority of the argument put by the Government, was that outlined in paragraph No. 2 of the message to this place that talked about the amendments not being able to achieve the intended objective of an effective joint committee. That is exactly why I have moved additional amendments tonight. Those concerns are addressed in those amendments. The concern specifically related to the ability of those committees to be given direction by this Chamber and to be required to report to this Chamber. That is all it was—not a significant concern, but something that can be easily remedied by this amendment in this place tonight.

Given that we had the support of this Chamber to change the nature of that Committee to provide for greater transparency and accountability of the Executive for the people of New South Wales, the concerns raised are easily remedied. We can do that here tonight by supporting the amendments of The Greens. One of the components of the argument put by the Government was that since 1902 the Legislative Assembly has constitutional primacy in relation to financial matters and has scrutinised the public accounts of the State through its Public Accounts Committee.

I understand that argument, but since 1902 many things have changed in the operation of government and Parliament and I just do not think that argument stands up in this place tonight or in the public space. The idea that this bill is a tack-on is absurd. This legislation specifically deals with the Act under which the Public Accounts Committee operates. The amendment was inside the long title of the bill that was before us five months ago. At the time the Government did not contest it. At that time the Government certainly did not successfully put it.

The Hon. Adam Searle: That's a different proposition. That is a very different proposition.

The Hon. Don Harwin: Won't argue with that one, Justin.

Mr JUSTIN FIELD: That may well be a different proposition. The Government was not successful and I am sure that it will not quibble with the decision of this House. In his contribution the Leader of the Government argued that this legislation was not consulted on and that it came out of left field. I do not want to steal the thunder of another member, but I would not mind mentioning it again. I thought the Hon. Matthew Mason-Cox made an excellent contribution to the debate five months ago, I am sorry to say. He quoted from the Hon. Doug Moppett from a number of years ago—I believe it was 2001. I might read that back on to the record. I hope I am not stealing the Hon. Matthew Mason Cox's thunder. The Hon. Doug Moppett said:

> If we are to scrutinise public administration more effectively ... it is vital to expand the composition of the Public Accounts Committee to include members of the LC. That is not a revolutionary brainwave that I had one night; the idea has grown steadily in areas of responsible administration ... it is all very well to have fond aspirations and pious hopes and to dwell in the land of easy platitudes, but ultimately, if we are to face the reality of governance, we must be responsible for funding programs and reporting in an informed, clear and transparent manner to the people whom we represent and who contribute to the public coffers.

Not only is it not a new idea that has not been discussed in the public realm, but previous members of the Coalition have also made the case inside their own party and in the Parliament. I believe this conversation has happened inside the Public Accounts Committee. As I understand it, other jurisdictions are moving towards this model because the public demands it and because executives have shown themselves to not be sufficiently accountable. Those committees, when they are controlled by the Government in the House of the Government, do not represent a model that ensures the accountability of the Executive and the accountability of public spending. I do not think that the Government's arguments in the message stack up. I do not think the Government's articulation stacks up. My proposed amendments address the genuine concerns that the Government raised about the operation of the amendment.

About the others, I accept that there are different views about how the Houses should operate. There are different views about the powers that the committee should have and about who should be on it, but arguments have been made in this place and I think they were fair. Not only do I think so, but many other members also feel that we can change it in the interest of the people of New South Wales. I think an objection to that tonight is a step away from accountability and transparency. It is incredibly disappointing to me that the Labor Party, potentially in the lead-up to coming to government in this State, is walking away from its position of five months ago. That is extremely disappointing to me because I thought that Labor was prepared to make the case for change as well. We can still do that and support the amendments. We can go back to the Legislative Assembly and challenge them to ensure that they are meeting the expectations of the people of New South Wales about the accountability, transparency and spending of public funds in this State. I commend the amendments to the House.

The Hon. MATTHEW MASON-COX (23:38): The hour is late, not only tonight but also in relation to this parliamentary session as a whole, so I will keep my comments brief. I certainly do not resile from the position I held some five months ago, but I have heard the arguments of the Leader of the Government and the response from other members in this place. Indeed, I have read the response from the other House. I have seen the advice from Professor Anne Twomey, which is referred to. It is in a letter dated 19 October 2018 that has been given to me confidentially and I will not be tabling or incorporating it tonight. However, it is summarised in the response from the other place.

I note that it really turns on what Professor Anne Twomey refers to as the financial prerogative of the Legislative Assembly based upon history, tradition, inheritance, representative government, et cetera. I note that the response from Professor Twomey was in response to advice that was commissioned by the Clerk of the Legislative Council and provided to me on 18 October 2018. I will seek leave to incorporate in my contribution the advice that was provided to the Government and resulted in the response from Professor Anne Twomey. I seek leave to have incorporated in *Hansard* a letter from the Clerk of the Legislative Council and addressed to me, dated 18 October 2018.

Leave granted.

The Hon Matthew Mason-Cox MLC

Legislative Council
Parliament House
SYDNEY NSW 2000

Dear Mr Mason-Cox,

You have sought my advice as to whether I am aware of any procedural, legal or constitutional impediment to the Public Accounts Committee (PAC) being reconstituted as a joint committee, as provided for in the Legislative Council's amendments to the Government Sector Finance Legislation (Repeal and Amendment) Bill 2018. You have indicated that it has been suggested to you that the concept variously referred to as "the financial prerogative of the Crown" or "the pre-eminence of the lower house in respect of financial legislation" precludes the PAC becoming a joint committee.

I am not aware of any impediment to the PAC being reconstituted as a joint committee. I am confident the concept variously referred as "the financial prerogative of the Crown" or "the pre-eminence of the lower house in respect of financial legislation" in no way precludes the PAC becoming a joint committee. Indeed such a course has been recommended by a number of major reviews of public finances in NSW and is the model for Public Accounts Committees in a number of other comparable jurisdictions with bicameral parliaments.

The Legislative Council amendments

On 6 June 2018 the Government Sector Finance Legislation (Repeal and Amendment) Bill 2018 was amended in the Legislative Council to reconstitute the PAC (which currently consists of 5 members of the Legislative Assembly only) as a joint committee. The amendments provide for the committee to consist of 8 members, including an equality of members from each House (4 members from the Legislative Council and 4 members from the Legislative Assembly). The amendments make further specific provision in relation to the operation of the committee.

The bill was returned to the Legislative Assembly on 7 June 2018. Consideration of the Legislative Council amendments remains an order of the day on the Legislative Assembly Business paper. You note that there now seems to be a desire from the Government for the Parliament to finalise its consideration of the bill before the end of the current session. In order for the bill to be enacted it must pass both Houses in the same form.

It is not particularly common these days for Legislative Council amendments to a bill that originated in the Legislative Assembly to be disagreed to by the Legislative Assembly, or for the Legislative Assembly to make further amendments. However, should one of those two scenarios arise, the disagreement would be dealt with in the Legislative Council under Standing order 156, which provides that:

> **156. Disagreement with Council amendments**
>
> (1) If the Assembly returns a bill with amendments made by the Council disagreed to, or further amendments made, the message returning the bill will be printed and a time fixed for taking it into consideration in committee of the whole, or the House may order that the amendments be considered immediately or "this day 6 months".
>
> (2) Where the Assembly:
>
> (a) disagrees to amendments made by the Council, or
>
> (b) agrees to amendments made by the Council with amendments, the Council may:
>
> (c) insist or not insist on those amendments,
>
> (d) make further amendments to the bill consequent upon the rejection of its amendments,
>
> (e) propose new amendments as alternative to the amendments to which the Assembly has disagreed,
>
> (f) agree to the Assembly amendments to its own amendments, with or without amendment, making consequent amendments to the bill if necessary,
>
> (g) disagree to its amendments and insist on its own amendments which the Assembly has amended, or
>
> (h) order the bill to be laid aside, and unless the bill is laid aside, a message will be sent to the Assembly advising of the Council's action.

Recommendations for a joint Public Accounts Committees

The idea that the PAC should be a joint committee is not a novel one. In 1980 the Joint Select Committee on the Public Accounts and Financial Accounts of Statutory Authorities recommended that the NSW PAC be a joint committee consisting of 5 members of the Legislative Assembly and 3 members of the Legislative Council. Nevertheless, although other recommendations of the joint select committee were included in the subsequent *Public Finance and Audit Act 1983*, the recommendation for a joint PAC was not implemented.

In 2011 the *NSW Financial Audit Report* (known as the Lambert Report) also recommended that the PAC be reconstituted as a joint committee. The reasons for this recommendation were summarised as follows:

> As the PAC is only a Committee of the Legislative Assembly, the current structure does not represent the views of the whole Parliament. Other jurisdictions have made their equivalent Public Accounts Committees joint committees of both Houses of Parliament. Furthermore, the NSW Parliament has already established the Committees overseeing the Independent Commission Against Corruption (ICAC) and Ombudsman as Joint Committees of both Houses of Parliament. Similarly, the PFAA should be amended to make the PAC a joint committee of both Houses of Parliament.

It is understood that the Lambert Report was a major influence on the legislative reform process that has resulted in the introduction of the Government Sector Finance Bill and the Government Sector Finance Legislation (Repeal and Amendment) Bill. Once again,

although many of the recommendations of the Lambert Report have been included these bills, no provision was made for a joint PAC. Given previous discussion of this matter in the Legislative Council, it was not surprising that members of the Legislative Council took the opportunity provided by consideration of the Government Sector Finance Legislation (Repeal and Amendment) Bill to propose, and ultimately agree to, amendments to reconstitute the PAC as a joint committee.

Joint Public Accounts Committees in other comparable jurisdictions

A number of comparable jurisdictions to NSW have joint Public Accounts Committees. For example, the Australian Parliament has a joint PAC consisting of members of the House of Representatives and the Senate. The Joint Committee on Public Accounts and Audit (JCPAA) established under the *Public Accounts and Audit Committee Act 1951* has almost identical functions to those of the NSW PAC.

The Victorian Public Accounts and Estimates Committee, established under the *Parliamentary Committees Act 2003* operates as a joint committee consisting of members of both the Legislative Assembly and Legislative Council. The Victorian committee has broadly analogous functions to the NSW PAC.

There is no evidence that either of these joint PACs have experienced any procedural, legal or constitutional difficulties in discharging their responsibilities.

Other relevant developments in the Legislative Council since the enactment of the *Public Finance and Audit act 1983*

Since the enactment of the *Public Finance and Audit Act 1983*, establishing the currently constituted PAC, there have been a number of relevant developments.

The budget estimates and related papers have been referred for inquiry by Legislative Council committees each year since 1995. The Legislative Council established General Purpose Standing Committees (now named Portfolio Committees) in 1997 with functions including inquiring into the performance of NSW government departments and statutory bodies. I am not aware of any serious challenge to the capacity of these committees to undertake their responsibilities, including the conduct of the budget estimates process, on any procedural, legal or constitutional grounds. Government agencies and ministers have and continue to co-operate with these committees and their inquiries.

On 15 March 2018 the Legislative Council established a new Standing Committee called the Public Accountability Committee, with functions almost identical to the functions of the PAC under section 57 of the *Public Finance and Audit Act*. The committee has since self-referred three inquiries. Two of these inquiries, into the WestConnex project and the CBD and South East Light Rail project, have entailed a number of public hearings at which the Auditor-General and senior government officials have given evidence and to which government agencies have made submissions. Again, there has never been any suggestion that there is any legal, constitutional or procedural impediment to the establishment of this committee. The participation of government officials and agencies in the inquiries, seems to indicate an acceptance of the legitimacy of the committee and a confidence in its operational integrity.

If there was any validity to the suggestion that the concept variously referred to as "the financial prerogative of the Crown" or "the pre-eminence of the lower house in respect of financial legislation" precludes the PAC becoming a joint committee, surely that concept would have had to been relied upon in resisting or refusing to co-operate with the work of these committees which have been tasked with and are undertaking work analogous to the work of the PAC?

The functions of the PAC and reporting to both Houses by the Audit Office

The functions of the PAC would remain unchanged under the recent Legislative Council amendments to the Government Sector Finance Legislation (Repeal and Amendment) Bill. Those functions are set out in section 57 of the *Public Finance and Audit Act* and have, as outlined above, been successfully adapted to the Legislative Council through the functions of the recently established Public Accountability Committee. Apart from paragraph (a) - and to my knowledge there has never been an inquiry conducted by the PAC in relation to a matter referred under paragraph (a) - those functions relate to the oversight of the expenditure of public funds by government agencies and the holding of government agencies to account, by following up on reports of the Audit Office. When the *Public Finance and Audit Act* was enacted in 1983 the Auditor-General reported solely to the Legislative Assembly. The Audit Office now routinely reports to both Houses.

Conclusion

For all of the reasons outlined above there is in my view no procedural, legal or constitutional impediment to the reconstitution of the PAC as a joint committee. Joint PACs are operating successfully in a number of comparable jurisdictions. If there was ever a time when the concept variously referred to as "the financial prerogative of the Crown" or "the pre-eminence of the lower house in respect of financial legislation" was plausible reason for arguing against the establishment of a joint PAC, that time has long passed with the developments outlined above.

Legal advice

As the question you raise goes to the powers of the Legislative Council, I have taken the opportunity to sound out the views of eminent senior counsel Mr Bret Walker SC. Mr Walker concurred with my conclusion in relation to this matter. Further, he advised that as the particular circumstances surrounding this matter at this time involve consideration of amendments to a bill currently before the Parliament, the matter can be reduced to a question as to the legislative competence of the Parliament to enact legislation in the terms in which it has been amended by the Legislative Council. Even if the concept variously referred as the "financial prerogative of the Crown" or "the pre-eminence of the lower house in respect of financial legislation" is regarded as a convention, he said that it cannot be doubted that the Parliament may enact legislation that modifies the operation of such a convention. Any suggestion that the Parliament cannot by express words in a statute modify such a convention would amount to a very serious reading down or denial of the legislative powers of the NSW Parliament under section 5 of the *Constitution Act* — a very grave proposition.

Mr Walker put to me that as there is no legal or constitutional impediment to the re-constitution of the PAC as a joint committee, the only relevant considerations were ones of "merit" or "policy." In that regard, I was reminded of the judgment of Justices Gaudron, Gummow and Hayne in *Egan v Willis*, in which the view of Mr Egan that the Government was only accountable to the Legislative Assembly was soundly dealt with:

> One aspect of responsible government is that Ministers may be members of either House of a bicameral legislature and liable to the scrutiny of that chamber in respect of the conduct of the executive branch of government. Another aspect of responsible government, perhaps the best known, is that the ministry must command the support of the lower House of a bicameral legislature upon confidence motions. The circumstance that Ministers are not members of a chamber in which the fate of administration is determined in this way does not have the consequence that the first aspect of responsible government mentioned above does not apply to them. Nor is it a determinative consideration that the political party or parties, from members of which the administration has been formed, "controls" the lower but not the upper chamber. Rather, there may be much to be said for the view that it is such a state of affairs which assists the attainment of the object of responsible government of which Mill spoke in 1861.

It was suggested to me that this proposition (indeed statement of the law) is equally pertinent to the question of the constitution of the PAC and the oversight of public finances.

Please do not hesitate to contact me if I can be of any further assistance in relation to this matter.

Yours sincerely,

David Blunt
Clerk of the Parliaments

A couple of pertinent points are worth specifically mentioning and emphasising in this debate. It is clear from the Clerk's advice that in his opinion there is no impediment to the Public Accounts Committee [PAC] being reconstituted as a joint committee. The advice goes through the history and is very instructive. I commend it to all members. It also goes through what the situation is in comparable jurisdictions and gives some examples in the Victorian and Commonwealth jurisdictions where there are joint committees for public accounts.

The advice concludes that the point made in Professor Anne Twomey's letter in respect to the pre-eminence of the lower House on financial legislation really has long passed in light of the developments outlined in the letter. More particularly, the Clerk goes on to seek the views of Bret Walker, SC. He would have to be the pre-eminent authority on constitutional matters and has acted on behalf of both the Government and the Opposition on various matters, including in relation to Cabinet-in-confidence issues. He is seen, fairly, as one of the pre-eminent constitutional experts in these areas.

In the letter Bret Walker makes it clear to the Clerk that there is no legal or constitutional impediment to the reconstitution of the PAC as a joint committee. The only relevant considerations are really of merit or policy. When one reads the letter—and I recommend that members take the time to do so—and then reflects upon the reasons put to us tonight it is pretty clear that the reasons put by the Legislative Assembly are probably best described as underwhelming. That is where we are. We could have an argument with legal advice at 10 paces, but I do not think it would advance anything.

In view of the lateness of the hour—both of the day and of the session—I think these issues are perhaps best left to the next Parliament and to the next government of whatever complexion it might be. This is a longstanding issue and has been a longstanding conflict between the Houses. In the end, if this cannot be resolved in what I would call a mature manner then the House will have the opportunity to re-establish a Public Accountability Committee in the next Parliament—should it wish to do so—with the same functions of the Public Accounts Committee of the other place. Sadly, that is the position I have come to and so I will be supporting the Government's position on the message received from the other place.

The Hon. DON HARWIN (Minister for Resources, Minister for Energy and Utilities, and Minister for the Arts) (23:44): In relation to the first of the arguments raised by Mr Justin Field, I maintain my earlier observations about—for want of a better expression—the "tack-on" nature of the amendments. The Government has made changes to its financial legislation in order to update it. The reforms as reflected in the Act have focused on public financial matters rather than the legislative arrangements applying to audits, the Auditor General and the Public Accounts Committee. That is why I characterised them as I did.

The second matter Mr Justin Field raised was about comments by the late Doug Moppett, who I had the great privilege of serving with. Mr Field put a date on those comments; they were made in 2001. The arrangements that applied to the estimates process in 2001 were vastly different from the process that we have today. In fact, the consideration of budget estimates by our portfolio committees now is light years away from what it was in 2001 when the Hon. Doug Moppett made those comments. I wonder if he would have retained those views after the reforms that were passed that were, frankly, initiated by me when we were in opposition and supported by crossbench members.

That brings me to the third matter. It was not raised by Mr Justin Field but by the Hon. Matthew Mason-Cox, although it is connected to the comment made by the Hon. Doug Moppett. Things have changed since 2001 not only in relation to estimates but also since these amendments were insisted upon by this House in July, insofar as the Legislative Council established the Public Accountability Committee, which is currently

inquiring into the scrutiny of public accountability in New South Wales. That committee is dealing directly with matters that were the subject of the original amendments. That is a material and large change, which perhaps takes away some of the impetus that was behind the amendments in the first place.

The last matter that Mr Justin Field mentioned was the Twomey advice. He asked why the Government had not released that advice. I think the Hon. Matthew Mason-Cox dealt with that question quite well when he advised the House that the advice was requested by the Clerk of the Legislative Assembly. So it was, effectively, not for the Government to release at all. I am sure that Helen Minnican would make a copy available to the honourable member if he wanted to look at it. The reality is that these amendments, having been drafted in the way that they were, are jeopardising the full-scale commencement and implementation of the substantive, once-in-a-generation Government Sector Finance Act from 1 December 2018 and its associated reforms to government sector financial management in this State. It is, in the Government's view, essential that we proceed in the manner that is encapsulated in the motion that I have moved tonight.

The CHAIR (The Hon. Trevor Khan): The question is that the amendment of Mr Justin Field be agreed to.

The Committee divided.

Ayes 5
Noes 27
Majority.....22

AYES

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

NOES

Ajaka, Mr	Amato, Mr L	Blair, Mr
Cusack, Ms C	Donnelly, Mr G	Fang, Mr W (teller)
Farlow, Mr S	Franklin, Mr B	Graham, Mr J
Green, Mr P	Harwin, Mr D	MacDonald, Mr S
Maclaren-Jones, Mrs (teller)	Mallard, Mr S	Martin, Mr T
Mason-Cox, Mr M	Mitchell, Mrs	Moselmane, Mr S
Nile, Revd Mr	Phelps, Dr P	Primrose, Mr P
Searle, Mr A	Sharpe, Ms P	Taylor, Mrs
Veitch, Mr M	Voltz, Ms L	Ward, Mrs N

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): The question is that the Committee not insist on the amendments disagreed to by the Legislative Assembly.

Motion agreed to.

The Hon. DON HARWIN: I move:

That the Chair do now leave the chair and report that the Committee has not insisted on the Council's amendments to the Government Sector Finance Legislation (Repeal and Amendment) Bill 2018.

Motion agreed to.

Adoption of Report

The Hon. DON HARWIN: I move:

That the report be adopted.

Motion agreed to.

Messages

The Hon. DON HARWIN: I move:

That a message be forwarded to the Legislative Assembly informing the Assembly that the Legislative Council does not insist on the Council's amendments to the Government Sector Finance Legislation (Repeal and Amendment) Bill 2018.

Motion agreed to.

Adjournment Debate

ADJOURNMENT

The Hon. DON HARWIN: I move:

That this House do now adjourn.

LOCAL GOVERNMENT FINANCING

The Hon. PETER PRIMROSE (00:00): Every two years Local Government NSW undertakes a survey of cost shifting onto local councils by other levels of government. The most recent survey was for 2015-16 and it revealed that New South Wales councils were being asked to pick up the tab for State Government policies to the tune of $820 million every year. State Government cost shifting is now chewing up 17 per cent of council revenue every year. The period 2015-16 was the height of the New South Wales Liberals' and Nationals' forced council amalgamations. Remember the accusations that local councils were not "fit for the future" because they were supposedly not able to properly budget. We were being told that only by making councils bigger would they perform better.

But this survey shows that at precisely the same time that the New South Wales Liberals and Nationals were throwing mud at local councils for poor financial management, they were also cost shifting $820 million worth of unfunded liabilities onto these councils. That is about the same amount that Premier Berejiklian now plans to waste rebuilding one of the stadiums in Sydney. Mayors are now saying:

We didn't need our Councils to be sacked, we just needed Gladys Berejiklian to get her hand out of our pockets.

Local Government NSW President Linda Scott confirms that the ever-increasing levels of cost shifting undermine the financial stability of local government and its ability to deliver the infrastructure and services that communities need. It is not unusual for the State Government to organise a photo opportunity and announce one-off funding for local infrastructure, but then the Government expects the local council to absorb the cost of maintaining that infrastructure year after year.

So what will the next New South Wales Labor Government do differently? The first thing will be to acknowledge that cost shifting is real. The New South Wales Liberals and Nationals treat cost shifting like they treat climate change—they just pretend it does not exist. The evidence is overwhelming for both, and both should be addressed as a high priority. Labor will introduce a local government statement in the State budget. This simple measure, which the current secrecy-obsessed Coalition Government has refused to do, will allow everyone to see what money is going to and from the State Government to local councils, what the future obligations are and to track these over time.

One of our first instalments to help wind back cost shifting will be through our "Labor Loves Local Libraries" policy. The next New South Wales Labor Government will allocate an additional $61.5 million to local councils in its first term to help councils meet the cost of these vital community resources. Unlike the New South Wales Liberals and Nationals, the next New South Wales Labor Government will not only double per capita funding for libraries but also, importantly, link it to the consumer price index so it does not lose its value over time. The Coalition has flatly refused to do this.

Despite being given the Independent Regulatory and Pricing Tribunal [IPART] Review of the Local Government Rating System in December 2016—nearly two years ago—the New South Wales Liberals and Nationals Government still has not released it or responded to any of its recommendations. Equally as bad, in April 2016 IPART handed to the Government its report on compliance and red tape, which examined ways to reduce the financial and administrative burden on councils of complying with unnecessary and cumbersome State government red tape. But again this has been hidden and kept under wraps. The Government has been reviewing the reports since 2016—talk about glacial decision-making.

If the current Government will not make the reports public, the next State Labor Government will. The Government is obsessed with secrecy, even when it comes to local council rates, cutting red tape and trying to find ways to reduce cost shifting. In government, Labor will also invite all mayors and general managers to discuss the future direction of local government financing in New South Wales. A meeting will take place in a regional centre and will focus on how to reduce cost shifting. The initiative will take place in cooperation with local government, rather than mired in the secrecy and conflict that has characterised the relationship under the New South Wales Liberal-Nationals Government.

WESTERN CIVILISATION

Reverend the Hon. FRED NILE (00:05): On Wednesday 14 November 2018 the *Sydney Morning Herald* published a report about a group of University of Sydney academics who have hit back against the attacks on the Ramsay Centre for Western Civilisation. The report is remarkable because it highlights the spirit of the time and the woeful situation we find ourselves in. I recall that the so-called "New Left" movement erupted on university campuses in the 1960s, with radical demands for so-called free speech, free love and radical protest. Now the movement's proponents have degenerated into a mob that have attacked their opponent's exercise of a fundamental human right and freedom. The Ramsay Centre for Western Civilisation is dedicated to free inquiry into and the promotion and protection of the Western values that are free and, indeed, upon which liberal society is built, namely the Judeo-Christian ethic, which we know has arisen from the teachings and demonstrations of our Lord Jesus Christ, the son of God.

The PRESIDENT: Order! Members will cease interjecting. Reverend the Hon. Fred Nile has the call.

Reverend the Hon. FRED NILE: Western civilisation is the basis of the principles that are now exploited by radical Leftist agitators to undermine our common heritage. The biggest irony in this affair is that the principles that define us as a nation have allowed the existence of some of the most hostile and malicious elements of society that call for the destruction of the very thing that has provided them with their privileges of free speech. A milder version of this self-destructive sentiment is the embarrassment of fostering and celebrating our heritage. Imagine an academic—supposedly a knowledgeable person dedicated to free inquiry and research—openly opposing the establishment of an institution on the university campus dedicated to the service of his civilisation. I therefore welcome the fact that a group of academics has now circulated an invitation for their colleagues to support the Ramsay Centre. It is heartwarming that there are still pockets of resistance among the saner elements of academia that have not yet succumbed to the fashionable self-hatred that has permeated higher education in certain sectors.

However, it is sad that it has come to this. In a truly healthy society, such things should not be needed. It should not be necessary for such an open invitation to be published by these academics. It should not be newsworthy enough for a major newspaper to report on. Yet these are the times we live in. There is a tremendous danger in shaming those who want to celebrate our common Western heritage. By doing so, the debate about Western civilisation loses its civility and over time becomes increasingly defined by radical rhetoric. We have seen evidence of this in recent years both in Australia and overseas. When this happens everyone loses, but that is what many on the Left have been pushing for. This year we celebrated the centenary of the end of the World War I. When hostilities erupted in 1914, many considered it to be the end of Western civilisation. If only they knew what was coming 20 years later. The date 11 November is close to the hearts of many Australians who had relatives who fought in the Great War, including my father, who fought in the British Army in France.

There are other nations for whom it has added meaning. Poland, for instance, celebrated not only the end of that war but also its national rebirth as a state in the modern era. Last Sunday it commemorated that date with a march in Warsaw that attracted a record more than 300,000 people. Footage showed attendees from all over Europe, and even an Australian flag could be seen in the march. It was opened by a priest, who spoke about the need to preserve national identity. That was followed by a speech from the President and the singing of the national anthem by the assembled multitude. The march's slogan was "For God, honour and nation!". It is my prayer that our Parliament and our nation will uphold the principles of our Western civilisation. I can only hope that one day we too can host a rally in Sydney that is attended by 300,000 Australians celebrating our cultural legacy under the banner of "God, honour and nation!". Perhaps the Ramsey Centre can contribute to the spirit of cultural and national renewal that the West now needs so desperately.

HEATHCOTE ELECTORATE

The Hon. NATALIE WARD (00:10): I apologise for any offence caused to Reverend the Hon. Fred Nile. I will speak about the Heathcote electorate and the great work of its local member, Lee Evans. Lee is a true advocate for his community. As a result of Lee's hard work, this Government has not only listened but also budgeted unprecedented funding for Heathcote. Among the most significant of his achievements are the T4 Eastern Suburbs and Illawarra line upgrade, the widening of the Heathcote Road Bridge over the Woronora River, the first stage of the F6 extension, significant funding for nine kilometres of Royal National Park boardwalk, a new police station for Helensburgh and a new commuter car park at Engadine station.

Following years of advocacy to improve the journey for commuters, Lee Evans recently announced that the number of carriages would be doubled on the South Coast line's busiest four-car services. The T4 Eastern Suburbs and Illawarra line is one of the first beneficiaries of the state-of-the-art $880 million digital signalling upgrade. Future stages of the program will deliver a 30 per cent increase in peak services on the T4 line, providing more services for South Coast customers. This will have great benefits for commuters as it will boost the capacity

and reliability of services. The ongoing advocacy of Lee Evans for major upgrades is progressing. This is just the beginning and another step in the right direction to improve commuter services along the T4 Eastern Suburbs and South Coast line.

The higher-capacity trains are on track to begin running in early January, just in time to make the journey more relaxing for people returning from the Christmas-New Year break. The Government is committed to delivering an excellent rail service for commuters that will ensure they have trains when and where they need them, now and into the future. A very important announcement for Lee Evans and many of his constituents is the construction of the Woronora River bridge on Heathcote Road. It is projected to cost $173 million and will include the Heathcote Road upgrade closer to Liverpool in the Holsworthy electorate. This long-awaited, long-overdue upgrade will be put out to public consultation later this year.

In 2015 a horrific accident on the bridge took the life of Drew Cullen, a fireman who was on his way back from work. For years he called for action on this bridge. It has taken time. The build is a complicated and difficult one due to the position of the bridge at the base of a valley. Lee Evans consulted with the Cullen family and then made a formal request to the Minister for the bridge to be named after Mr Cullen. It is his hope that this request will be granted by the Geographic Names Board and be a fitting memorial to one of Heathcote's local heroes.

One of the most significant announcements over the past six decades in Heathcote is construction of the F6 extension. For so many years the F6 corridor was spoken about in the context of what should be done with it—how can we use this major corridor that was set aside all those years ago? That question has been answered: We are building the F6 extension. Lee Evans joined the Premier; the Minister for Roads, Maritime and Freight; the Minister for Transport and Infrastructure; the Attorney General, Mr Mark Speakman; the member for Miranda, Ms Eleni Petinos; the member for Oatley, Mr Mark Coure; and the member for Holsworthy, Ms Melanie Gibbons, to make this fantastic announcement.

The PRESIDENT: Order! I call the Hon. Shaoquett Moselmane to order for the first time.

The Hon. NATALIE WARD: The announcement of the first stage of the F6 extension means that it is budgeted and ready to go. This will have a huge, positive impact on traffic to and from the south of Sydney. With all these unprecedented announcements being made, one announcement will make a huge difference to the experience for visitors to the Royal National Park and protect the Royal National Park Coastal Walk from erosion. A further nine kilometres of fiberglass raised boardwalks will be installed to improve access to the Figure Eight Pools and Wedding Cake Rock. It will ensure the visitor experience is a safe and pleasurable one. Thanks to the great work of Lee Evans, the Royal National Park Coastal Walk is being transformed from a rustic experience to an ecologically sound tourist attraction in Heathcote.

In June 2018 Lee Evans announced a new $1.5 million police station for the Helensburgh community that will boost the capacity of local officers. This funding will enable a new police station to be built on the current site, providing local officers with a modern facility that will serve the community now and into the future. When it comes to giving hardworking police officers the resources they need to keep the community safe, the New South Wales Liberals and The Nationals deliver. The community has been calling for this investment and Lee Evans has been working alongside the local officers to ensure they have the tools they need to do their job. Helensburgh officers will now have an updated and modern workplace and the best equipment to assist them fight crime and, most importantly, keep the community safe.

At the end of October 2018 construction on the new commuter car park at Engadine station began, with the contractor building the site compound in preparation for the commencement of major construction later in the year. The new commuter car park will deliver around 78 new car spaces for customers travelling on public transport. Improvement will also be made to the lighting and closed-circuit television surveillance so that customers can feel more secure. Four accessible parking spaces within the existing car park near the station will also be provided to make it easier for less mobile customers to access public transport. The new Engadine station commuter car park is being delivered as part of the New South Wales Government's Transport Access Program, an initiative to deliver modern, safe and accessible transport infrastructure. The people of New South Wales know that none of these projects would have been or could be delivered under Labor. [*Time expired*.]

WESTERN CIVILISATION

The Hon. LYNDA VOLTZ (00:15): I comment on the speech just made by Reverend the Hon. Fred Nile about the study of Western civilisation at our universities. Universities are not there to protect Western civilisation, to promote unquestioning faith or to uphold the principles of Western civilisation. Our universities are for learning and encouraging students to think. That is fundamentally what we expect from our universities. Without them, our civilisation would not have moved forward. We would not have had greater scientific

knowledge; we would not have had better appreciation of the arts. We certainly would not have had greater understanding of the social sciences.

We do not need a centre for Western civilisation; we have a thing called an arts degree. Studying for an arts degree allows people to question principles across civilisations to understand how humanity has moved forward, to question our beliefs and to ask whether they are right. This week we are commemorating the Centenary of Armistice. World War I is a fundamental example of an event that prompted people to question the beliefs of those who went before them, and probably the best example of that is General Monash. My great-grandfather arrived in Belgium in July 1917 and suffered shell shock almost immediately. He was then sent to Passchendaele, where he shot himself in his hand. But my great-grandfather was very lucky because he served under General Monash. Unlike the English and other forces, General Monash did not shoot soldiers for cowardice. He did not shoot soldiers who tried to leave the front line by injuring themselves. He understood humanity; he had empathy for people.

It is a liberal education that delivers this understanding. It is a liberal education, achieved through study of the arts and humanities in universities, that delivers better outcomes in war—and World War I is but one example. There can be no celebration of our common heritage through a centre for Western civilisation. Today some women from Papua New Guinea visited the Parliament as part of the Grass Skirt Project, which is delivering better outcomes in their communities. That is an example not of Western civilisation but of our shared heritage. Papua New Guinea is our closest neighbour, located just three kilometres from Australia. It is part of our heritage but it is not a Western civilisation; it is hugely different. Our universities, particularly our arts and humanities faculties, play a vital role in delivering better understanding of where we live in the world.

I congratulate Tahina Booth, a member of the Orchids rugby league team and a weightlifter, on her work in delivering sports equipment to boys and girls across Papua New Guinea. In particular, they are using sport—as we have done in this Parliament—in the Solomon Islands to empower girls and women in leadership. The programs they run not only deliver sport but they also require people to attend domestic violence and gender equity programs. They also deliver gyms in a box and container loads of equipment to people. The program is run from Australia because we have shared values and we are part of a region that has a heritage of shared civilisation. I become concerned when I hear people telling us that we should uphold certain principles unquestioningly and follow certain faiths as if we are a homogenous society. It is not true. Universities are the last place that should be trying to impose those principles. Attending university is the only time in one's life that one is able to sit and think. They are important institutions and should not be undermined.

SELECT COMMITTEE ON LANDOWNER PROTECTION FROM UNAUTHORISED FILMING OR SURVEILLANCE

The Hon. MARK PEARSON (00:20): As a member of the Legislative Council Select Committee on Landowner Protection from Unauthorised Filming or Surveillance, I thank the secretariat staff for their excellent work in identifying the pertinent evidence that assisted the committee to develop the recommendations set out its report. I also thank my colleagues on the committee for their open-minded approach to a very complex issue concerning the balancing of landholders' rights and the public interest in preventing animal cruelty. When I was voted onto the committee The Greens were at pains to suggest that it was not in the best interests of animals for me to participate and that I would end up being a patsy for intensive farming industries intent on increasing penalties for animal activists engaged in covert surveillance. It was suggested that to participate would be to give legitimacy to the cruel but routine practices involved in intensive agriculture industries and at the same time risk demonising animal activists as domestic terrorists.

The Greens said they would "cut me down". That certainly did not happen. I was confident that the evidence would demonstrate that our existing animal welfare protections are so poorly enforced that animal activists feel compelled to break the law by trespassing and engaging in covert surveillance to expose cruel and illegal practices. I have been vindicated in my belief by the published recommendations of the report. The Greens criticism of my membership of the committee conveniently ignored the fact that the inquiry was going to proceed with or without input from the Animal Justice Party. I had the overwhelming support of members from the Government, Labor, the Christian Democratic Party and the Shooters, Fishers and Farmers Party to be appointed to the committee. The truth is that The Greens would have happily taken the opportunity to be on the committee but did not have the support of the other parties to do so. To save face with its supporters, it became necessary to denigrate my participation on this committee.

As the only member in the Chamber with more than 25 years experience in animal activism, it seems obvious to me and no doubt to those members who voted for me that I would have a unique and important insight into the terms of reference and, in particular, to the motivations of animal activists who seek to obtain covert evidence of animal cruelty. Indeed, my presence on the committee ensured that relevant animal activist representatives were called to give evidence. Further, my questions helped to draw out information that led to the

committee's first three recommendations, which, if adopted by the Government, will significantly improve animal welfare outcomes. In particular, recommendation No. 1, which states:

> That the NSW Government review the resources and powers of the RSPCA in regard to the monitoring and enforcement of animal welfare measures, and consider means by which the RSPCA and the NSW Police can work together more effectively to protect animals from mistreatment. Animal activists and advocates have long identified the need to improve the way in which animal protection is monitored and, in particular, improving the resources available for investigative and enforcement agencies. I have spent the past four years detailing the ongoing and systemic failures of our animal protection systems. Recommendation No. 2 states:

> That the NSW Government encourage animal industries to be proactive in engaging with the community, and collaborate with animal industries to investigate schemes to increase transparency about food production and animal husbandry practices.

I referred to the previous speeches in *Hansard* where I questioned whether animal industries have a licence to operate at all. Greater transparency of their operations will certainly give the public the opportunity to decide whether the industry's treatment of farmed animals is deserving of a social licence. But most importantly, recommendation 3 states:

> That the NSW Government review the *Surveillance Devices Act 2007* to consider whether to insert a public interest exemption for unauthorised filming or surveillance.

Finally, I thank members for voting me onto the committee and by doing so acknowledging the valuable input the Animal Justice Party would bring to this vexed and contentious area of public policy.

STATE ECONOMY

The Hon. LOU AMATO (00:25): Imagine a land of plenty where unemployment is low, and new and exciting career opportunities are there for the taking. In this land the wheels of industry are turning at an unprecedented rate, providing new infrastructure, such as roads, rail, hospitals, new schools and every imagined commodity available in a modern, free democracy. Here in this land abundant beauty exists where majestic snow-clad mountains descend into dry woodlands and arid deserts in the west. As we travel east, ancient rainforests blanket the unspoilt valleys where pristine rivers run wild. Further east we eventually arrive at the ocean where some of the most beautiful surf beaches on the planet can be found. We are truly blessed as we have no need to imagine this truly beautiful place. We are right here in its midst—New South Wales is the number one State.

The New South Wales Government has been a responsible steward of our truly great State. The stewardship of New South Wales involves meticulous planning and commitment. There is no question that our Premier, Gladys Berejiklian, and Treasurer, Dominic Perrottet, have delivered responsible economic policy that has placed New South Wales as the number one State in Australia. On 14 December 2017 Michael Pascoe of the *Sydney Morning Herald* stated:

> In October, the unemployment rate for the Greater Sydney statistical area was just 3.9 per cent. That's the stuff of booms.

New South Wales is indeed enjoying boom times and that is solely due to the leadership and commitment of the New South Wales Coalition Government. The 2018-2019 New South Wales budget is the continuation of the extraordinary economic management that New South Wales has enjoyed since the election of the Coalition Government. As we have come to expect, the Coalition Government has taken a holistic approach in formulating a budget that not only keeps New South Wales in the top spot, but continues to build upon existing foundations for a prosperous and expanding economy well into the future. Since April 2011 the Coalition Government, through targeted investment, contributed to more than half a million new jobs. The Government recognises that creating an economy with jobs in abundance is simply not good enough. We must ensure that our children are adequately prepared to meet the challenges of the ever-changing demands of an evolving employment market.

To ensure our children are adequately equipped to meet the challenges of our highly skilled workforce, the Government is investing $6 billion over four years to deliver 170 new or upgraded schools. In another Australian State first, $197.8 million will be invested over four years extending the Start Strong program to three-year-olds, which will help reduce the cost of early education to families. To ensure that our children are able to maximise their learning potential, the Government understands the need to reduce distractions due to extreme environmental conditions, therefore $500 million over five years will be invested in the installation of reverse cycle air conditioning. During 2018-2019, $160 million will be invested in maintenance to keep our learning facilities in top shape. The Share Our Space program will receive $30 million over four years to open school playgrounds and sporting facilities for community use on weekends and school holidays.

The transition into adulthood is a major step in a young person's life. The New South Wales Government is helping young people get the best start in adult life by investing $156.5 million in a new Parents Package that will improve the wellbeing of new parents and their babies. Young adults transitioning into the workforce will

benefit from an injection of $285.2 million to fund 100,000 fee-free apprenticeships, which not only will provide increased job opportunities for our youth but also will address skills shortages in the State.

Bringing the booming economy together in a better connected New South Wales, the Government is also investing a $3 billion reservation from Restart NSW for the Sydney Metro West, which will connect the Sydney central business district to Parramatta via an underground metro railway. In 2018-2019, $4.3 billion will go towards delivery of the Sydney Metro, including $2.4 billion on Sydney Metro Northwest, linking north-west Sydney and Chatswood; and $1.9 billion on Sydney Metro City and Southwest, linking Chatswood and Bankstown. WestConnex will receive $1.8 billion in 2018-2019 and $1.2 billion will be allocated to continue major road upgrades on the Pacific Highway.

Having the best educated and connected State needs the power of industry to keep the wheels turning. The Government is investing in initiatives to attract, support and encourage unprecedented business activity across New South Wales. We live in a time of increased prosperity, which is the direct result of hard work and sensible policy. I again congratulate Premier Gladys Berejiklian and Treasurer Dominic Perrottet on another outstanding budget.

The PRESIDENT: The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 00:30 until Thursday 15 November 2018 at 10:00.