



New South Wales

Legislative Council

PARLIAMENTARY DEBATES (HANSARD)

**Fifty-Seventh Parliament
First Session**

Wednesday, 5 June 2019

Authorised by the Parliament of New South Wales

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LEGISLATIVE COUNCIL

Wednesday, 5 June 2019

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

The PRESIDENT read the prayers.

Motions

DR DON WEATHERBURN

The Hon. JOHN GRAHAM (11:01): I move:

1. That this House notes the imminent retirement of Dr Don Weatherburn, Director of the Bureau of Crime Statistics and Research, a position he has held since 1988.
2. That this House thanks Dr Weatherburn for his outstanding service to the people of New South Wales.

Motion agreed to.

Documents

UNPROCLAIMED LEGISLATION

The Hon. SCOTT FARLOW: According to standing order, I table a list detailing all legislation unproclaimed 90 calendar days after assent as at 4 June 2019.

TABLING OF PAPERS

The Hon. SCOTT FARLOW: According to the Independent Pricing and Regulatory Tribunal Act 1992, I table the following reports of the Independent Pricing and Regulatory Tribunal:

1. Report entitled *Murray River to Broken Hill Pipeline: WaterNSW: Final Report: Water*, dated May 2019.
2. Report entitled *Review of Essential Energy's prices for water and sewerage services in Broken Hill: from 1 July 2019: Final Report: Water Pricing*, dated May 2019.

I move:

That the reports be printed.

Motion agreed to.

AUDITOR-GENERAL

Reports

The CLERK: According to the Local Government Act 1993, I announce receipt of a Performance Audit Report of the Auditor-General entitled *Domestic waste management in Campbelltown City Council and Fairfield City Council*, dated 5 June 2019, received out of session and authorised to be printed this day.

Budget

BUDGET ESTIMATES 2019 TIMETABLE

The Hon. DON HARWIN (Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council) (11:10): I move:

That, further to the resolution referring the Budget Estimates and related papers to the portfolio committees for inquiry and report, adopted by this House on 8 May 2019, the initial hearings be scheduled as follows:

Day One: Thursday 29 August 2019

PC 5	Police and Emergency Services	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
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PC 1	Finance and Small Business	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
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Day Two: Friday 30 August 2019

PC 6	Transport and Roads	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m.
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		6.00 p.m. – 8.30 p.m.
PC 1	Special Minister of State, Public Service and Employee Relations, Aboriginal Affairs and the Arts	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
Day Three: Monday 2 September 2019		
PC 5	Attorney General and Prevention of Domestic Violence	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
PC 7	Local Government	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
Day Four: Tuesday 3 September 2019		
PC 1	Treasury	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
PC 2	Mental Health, Regional Youth and Women	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
Day Five: Wednesday 4 September 2019		
PC 3	Education and Early Childhood Learning	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
PC 5	Families, Communities and Disability Services	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
Day Six: Thursday 5 September 2019		
PC 2	Health and Medical Research	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
PC 1	Premier	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
Day Seven: Friday 6 September 2019		
PC 3	Skills and Tertiary Education	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
PC 4	Water, Property and Housing	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
Day Eight: Monday 9 September 2019		
PC 6	Better Regulation and Innovation	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
PC 5	Counter Terrorism and Corrections	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
Day Nine: Tuesday 10 September 2019		
PC 6	Regional Transport and Roads	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
PC 4	Agriculture and Western New South Wales	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
PC 1	The Legislature	9.30 am – 12.30 p.m.
Day Ten: Wednesday 11 September 2019		
PC 7	Planning and Public Spaces	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
PC 1	Jobs, Investment, Tourism and Western Sydney	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
Day Eleven: Thursday 12 September 2019		
PC 6	Customer Service	9.30 am – 12.30 p.m.

		2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
PC5	Sport, Multiculturalism, Seniors and Veterans	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
Day Twelve: Friday 13 September 2019		
PC 4	Regional New South Wales, Industry and Trade	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.
PC 7	Energy and Environment	9.30 am – 12.30 p.m. 2.00 p.m. – 5.00 p.m. 6.00 p.m. – 8.30 p.m.

The motion relates to the resolution referring the budget estimates for inquiry and report. It contains a detailed timetable for the initial hearings stretching from Thursday 29 August through to Friday 13 September 2019. The timetable complies with the spirit of the changes to the sessional orders. At this stage I have had no feedback that there is any problem. Every effort has been made to ensure that the hearings do not clash with other matters to be dealt with by Ministers, such as ministerial councils, or personal matters of an urgent nature. All of the Legislative Assembly Ministers are available to attend as requested and as has been the case every year that our Government has been in office. I commend the motion to the House.

The Hon. ADAM SEARLE (11:12): The Opposition will be supporting the motion of the Minister. I thank the Government for its consultation on the timetable. The Opposition acknowledges the significant logistical undertaking to coordinate the availability of Ministers, particularly for the extended period for which estimates has been set down this year by the House. Longer hours are anticipated, not necessarily to the outer limits as set but I want to ensure people's expectations are realistic. Members of the other House cannot be compelled to attend; they attend by request and consent. In the spirit of that collaboration, I indicate that the Opposition will be supporting the Ministers appearing on the days as set, given that the House has already set down the days that are available for estimates.

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

Motion agreed to.

Bills

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2019

Second Reading Speech

The Hon. NATALIE WARD (11:14): On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a second time.

Schedule 1 to the bill contains policy changes of a minor and non-controversial nature. These changes are for proposals that are too inconsequential to warrant the introduction of a separate amending bill. The schedule contains amendments to 20 Acts and includes related amendments to two instruments. I will give an outline of some of the amendments that are included in this schedule.

Schedule 1 includes amendments that reduce the administrative burden faced by sections of industry. The amendment to the Registered Clubs Act 1976 proposed in schedule 1 also reduces administrative burden. Currently whenever a registered club makes a change to its rules, it is required to provide the Secretary of the Department of Industry with a complete copy of the rules, together with a copy of the changes to those rules within one month of the change. The amendment changes this requirement by allowing a registered club to notify the Secretary of the Department of Industry of the change to the rules but only requires it to provide a complete copy of the changed rules with the relevant changes if it is requested by the secretary.

The amendments in schedule 1 also enhance the efficiency of the operation of State programs. An amendment in schedule 1 to the Local Land Services Act 2013 enables the Minister for Agriculture and Western New South Wales to delegate functions relating to the collection of contributions towards the costs of activities undertaken to manage pests within the State. The power of delegation will allow the Minister to confer the functions on staff in the Department of Planning, Industry and Environment, when that department is established later this year. The amendment facilitates implementation of the agreed funding framework for managing locusts and other priority pests across the State.

Schedule 1 includes amendments to the Health Services Act 1997 and the Health Practitioner Regulation (Adoption of National Law) Act 2009. These amendments streamline the process for reporting professional

misconduct or the unsatisfactory professional conduct of visiting health practitioners. Currently chief executives of public health organisations are required to report certain complaints received about visiting health practitioners to a national board and a health professional council. The amendments allow chief executives to meet their obligations under both the Health Practitioner Regulation National Law and the Health Services Act 1997 by making a single report of the relevant behaviour. The report can be made to either a national board or a health professional council. This flexibility improves the efficiency of the complaint-making process without reducing the effectiveness of dealing with complaints.

Schedule 1 contains amendments to Acts in the portfolio of the Minister for Customer Service including the Gaming Machines Act 2001 and the Liquor Act 2007. Currently the Secretary of the Department of Industry has the power to carry out investigations and inquiries to determine whether a complaint should be made to the Independent Liquor and Gaming Authority about a licensee, manager or close associate of a licensee. These amendments ensure that those powers remain available in relation to a proposed complaint and after a complaint has been made, right up until the authority determines the complaint.

Schedule 1 also amends the Marine Safety Act 1998 to ensure persons charged with repeat offences of operating a vessel under the influence of alcohol and other drugs are dealt with in the same way as offenders charged with equivalent road transport offences. Offences relating to operating a vessel under the influence of alcohol or other drugs were made consistent with equivalent offences in road transport laws in 2016. The amendments to the Marine Safety Act 1998 ensure maritime offences are dealt with consistently and in accordance with the intent of the 2016 reforms.

The Road Transport Act 2013 is amended by schedule 1 to adopt the most recent national standards that establish the basic safety principles for the safe carriage of loads on road vehicles. This amendment is required to deliver a consistent approach across all Australian jurisdictions. The amendments implement a consistent approach to the transfer of the ownership of heavy vehicle number plates to road authorities in all Australian jurisdictions, ensuring that the benefits of the national heavy vehicle reforms agreed to in 2018 are realised.

Amendment of the Children and Young Persons (Care and Protection) Act 1998 by schedule 1 to this bill clarifies that all persons who are leaving or who have left out-of-home care are entitled to the possession of a file of original documents of their personal information held by the person or agency that had responsibility for the person during the period in which they were in out-of-home care. The amendment is required to remove an ambiguity in the legislation that refers to "a child or young person". It was not the intention of the legislation that only a child or young person can obtain documents; rather, that all persons can. This change ensures that people who were in out-of-home care as a child or young person have a right to take possession of important documents such as their birth certificate, school reports, medical reports and personal photographs once they have left out-of-home care.

Schedule 2 deals with purely statute law matters consisting of minor technical changes to legislation that the Parliamentary Counsel considers appropriate for inclusion in the bill. Examples of amendments in those schedules are corrections of cross-references, typographical errors and terminology. It also includes amendments arising out of the enactment of other legislation. Schedule 3 continues the program of repealing Acts and instruments that are redundant or of no practical utility. This schedule repeals redundant provisions of the Government Telecommunications Act 2018. Schedule 4 contains general savings, transitional and other provisions. This includes a provision that deals with the effect of amendments on amending provisions. This schedule also includes a provision allowing for regulations to be made that are of a savings or transitional nature.

Each amendment included in the bill is explained in detail in the explanatory notes. The explanatory notes are included at the beginning of the bill or beneath the amendments to each of the Acts and statutory instruments concerned. I am sure that honourable members will appreciate the straightforward and non-controversial nature of the provisions contained in the bill. However, if any amendment causes concern or requires clarification it should be brought to my attention. If necessary, I will arrange for Government staff to provide additional information on the matters raised. If any particular matter of concern cannot be resolved and is likely to delay the passage of the bill, the Government is prepared to consider withdrawing the matter from the bill. Withdrawn proposals can also be dealt with in a second bill, using the procedure for splitting bills in the Legislative Council, and can be dealt with in each of the Houses in the same way as an ordinary bill. I commend the bill to the House.

Second Reading Debate

The Hon. ADAM SEARLE (11:22): I lead for the Opposition on the Statute Law (Miscellaneous Provisions) Bill 2019. As the Parliamentary Secretary indicated, this is an omnibus bill that amends a range of Acts and statutory instruments. The intention is to avoid a multiplicity of separate bills to make these minor and uncontroversial amendments. It is a mechanism that has been used by governments of all persuasions for decades.

Schedule 1 to the bill provides minor amendments to a range of Acts and statutory instruments, which I will not list. Schedule 2 amends Acts and instruments for the purposes of statute law revision. Schedule 3 repeals Acts and instruments, including certain provisions of the Crimes (Administration of Sentences Regulation) 2014.

I will mention that in the original iteration of the bill in the other place schedule 1.1 was opposed by affected stakeholders. That provision provided for a change to the Building and Construction Industry Long Service Payments Act 1986 to extend from seven days to 28 days the time within which an employer was able to register a worker for the scheme. Given that current technology allows almost instant registration for employers, there was a concern that casual workers might never be registered and therefore not obtain the benefit for which the scheme was created. There was also some concern about the lack of consultation with stakeholders. That matter was raised by the Opposition. I note in the current version of the bill those provisions have been withdrawn. My colleague the Hon. Walt Secord will address other aspects of the bill. With those observations, the Opposition does not oppose the bill.

Mr DAVID SHOEBRIDGE (11:24): On behalf of The Greens, I speak to the Statute Law (Miscellaneous Provisions) Bill 2019. I am grateful to be the first crossbench member to have 40 minutes to contribute to debate on a bill.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): The member has up to 40 minutes.

Mr DAVID SHOEBRIDGE: I did not read the fine print. The bill is beautifully described in the long title as:

An Act to repeal certain Acts and to amend certain other Acts and instruments in various respects and for the purpose of effecting statute law revision; and to make certain savings.

That is exactly what the bill does. It is a non-controversial bill containing a compendium of various legislation. My colleagues and I have reviewed the bill. We are grateful for the amendments the Government has made particularly to the building and construction industry long service leave provisions. Concerns were raised by stakeholders that the change from seven to 28 days was both unnecessary and twentieth century. The Greens are grateful that that amendment will not be proceeded with and we hope it has died and will not be proceeded with in another place or in another form. The balance of the amendments either clarify the existing intentions of Acts or make very modest changes based on a solid policy background. The Greens do not oppose the bill.

The Hon. WALT SECORD (11:25): As the shadow Minister for Health I will briefly contribute to the debate on the Statute Law (Miscellaneous Provisions) Bill 2019. I support the comments made by the Leader of the Opposition. As I have said in the past, governments of the day present this type of bill to the Parliament as tidying-up bills. In most cases they are. I know of these so-called miscellaneous bills from my time as a ministerial adviser in the late 1990s and over the course of the last eight years as a member of Parliament. I acknowledge the comments of the Attorney General, Mr Mark Speakman, in his second reading speech on 9 May where he remarked these bills have been coming to Parliament in various forms for the last 30 years. Usually they are non-controversial. If they are controversial they are withdrawn by the relevant Minister and re-presented to the Parliament in a new bill or a separate bill. Statute miscellaneous bills are almost always used to fix drafting errors, cross-references, typographical errors, terminology, oversights by government departments or agencies or mistakes by Ministers, their ministerial staff and departmental officials.

As a shadow Minister, it is customary to seek a briefing on these amendments. After receiving a briefing, the relevant shadow Minister will almost always wave through the bill, so to speak, after consulting with relevant stakeholders. Last week I sought one of those customary briefings from the health Minister's office. His staff provided me information and assurances that have satisfied me, and I am grateful for that. As background, the Berejiklian Government moved amendments and removed parts of the legislation involving health practitioners. There are still three areas of the bill that relate to health: the Health Professionals (Special Events Exemption) Act 1997, the Health Services Act 1997 and Poisons and the Therapeutic Goods Regulation 2008.

As the Attorney General said in his second reading speech, schedule 1 includes amendments to the Health Services Act 1997. These amendments streamline the process for reporting the professional misconduct or unsatisfactory professional misconduct of visiting health practitioners. The Parliamentary Secretary also addressed that. Currently chief executives of public health organisations are required to report certain complaints received about visiting health practitioners to a national board and a health professional council. These amendments allow chief executives to meet their obligations under the Health Services Act 1997 by making a single report of the relevant behaviour. The Berejiklian Government argues that this is an efficient approach that maintains the effectiveness of dealing with complaints. There is a change to the regulation relating to the Poisons and Therapeutic Goods Act 1966, which is currently under review. Therefore, I agree and concur with the Government that the current Poisons and Therapeutic Goods Regulation 2008 should remain in place while the complex review is finalised. That makes sense.

My only concern relates to the Health Professionals (Special Events Exemption) Act 1997. It is not an objection but I seek a clarification from the Parliamentary Secretary in reply. I am advised that the Health Professionals (Special Events Exemption) Act 1997 allows the health Minister to exempt visiting health professionals from overseas who are engaged to provide healthcare services to people participating in a special event in New South Wales from the requirement to be registered under the Health Practitioner Regulation National Law. The current definition of "health care services" recognises only certain health professionals and does not include all registered health professionals under the National Law. The proposed amendment extends the definition of "health care services" for the purposes of the Act to include all services regulated by the National Law. I seek an explanation from the Parliamentary Secretary. Does the exemption include professionals who are overseas trained? Will the Parliamentary Secretary explain the areas of medicine or health this exemption applies to? On the basis of assurances or explanation from the Parliamentary Secretary on the special events Act for overseas practitioners, I commend the bill to the House.

The Hon. NATALIE WARD (11:30): On behalf of the Hon. Sarah Mitchell: In reply: I thank all members who contributed to debate on the Statute Law (Miscellaneous Provisions) Bill 2019. I particularly thank the Leader of the Opposition, the Hon. Adam Searle, for his contribution and Mr David Shoebridge for his brevity. I note that some of the changes really are clean-up amendments. I thank the Hon. Walt Secord both for his contribution to the debate and for his interest in the health aspects. I acknowledge his request for an explanation or clarification of the particular health professionals to whom the Health Professionals (Special Events Exemption) Act 1997 applies. I understand his request does not amount to an objection to the amendment. I will seek further information on the specific health practitioners to whom that applies. I do not have that information with me.

On the basis that the Hon. Walt Secord does not object to new paragraph (3) of section 99A of the Health Services Act 1997, as outlined in schedule 1 to the bill, with the indulgence of the House I will seek clarification. I undertake to provide that information to him as soon as possible. On that basis, I understand that I have his agreement to the bill. Schedule 1 to the bill contains policy changes of a minor and non-controversial nature that are too inconsequential to warrant the introduction of separate amending bills. It contains amendments to 20 Acts and related amendments of two regulations. The bill also deals with matters of pure statute law revision, repeals various Acts and provisions that no longer have any operation, and includes savings and transitional provisions as well as other technical amendments.

The amendments in the bill are not contentious, save and except for the request for explanation of the exemption in the Health Professionals (Special Events Exemption) Act 1997. As part of the ongoing statute revision program, this bill enables minor policy changes to be made efficiently and redundant legislation to be repealed. Overall it ensures that New South Wales legislation remains as up to date and effective as possible. I commend the bill to the House.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): The question is that this bill be now read a second time.

Motion agreed to.

Third Reading

The Hon. NATALIE WARD: On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a third time.

Motion agreed to.

AGEING AND DISABILITY COMMISSIONER BILL 2019

Second Reading Speech

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (11:32): I move:

That this bill be now read a second time.

I have the great privilege and pleasure of presenting the Ageing and Disability Commissioner Bill 2019 that establishes for the first time in New South Wales the dedicated role of Ageing and Disability Commissioner. The commissioner's purpose will be to protect adults with disability and the elderly from abuse, neglect and exploitation and to promote their rights. The bill exemplifies the Government's commitment to and responsibility for the care and protection of people with disability and the elderly. The Government is determined to see a society that is inclusive of all people—regardless of age or disability—so that all can live in safety and with dignity. Accordingly, we are prioritising the improvement of responses to the abuse, neglect and exploitation of some of the most vulnerable people in our communities.

The impetus and foundation for this milestone reform have been provided by a number of recent reviews and reports. The Ombudsman's special report to Parliament, *Abuse and neglect of vulnerable adults in NSW—the need for action*, was tabled in November last year and recommended the establishment of an independent body to investigate and respond to abuse and neglect of vulnerable adults. In May last year the New South Wales Law Reform Commission [LRC] released report No. 145 entitled *Review of the Guardianship Act 1987*. The LRC recommended that a new Act establish a new statutory office, the public advocate, to carry out new advocacy and investigative functions. In 2016 General Purpose Standing Committee No. 2 likewise recommended, in its report *Elder abuse in New South Wales*, the establishment of a public advocate with powers of investigation. This bill embodies the Government's timely response to those recommendations. However, we have chosen to call this statutory office the Ageing and Disability Commissioner to better identify the focus of the office.

A number of national and State bodies or initiatives already exist that focus on the welfare and safety of either those with disability or the elderly. However, there remains a critical gap that this bill bridges. There are significant numbers of people with disability and the elderly who are abused, neglected or exploited, but do not qualify for help through existing channels or for whom existing safeguards do not go far enough. For example, people with disability can have recourse to the protections offered by the National Disability Insurance Scheme [NDIS] Quality and Safeguards Commission only if they are accessing services funded by the NDIS, which many people with a disability are not. The Health Care Complaints Commission can investigate complaints against health practitioners only. The Elder Abuse Helpline and Resource Unit provides invaluable support, advice, referrals to other services and other assistance for older people, but it does not have investigative functions. There is also no corresponding helpline or resource unit for people with a disability.

The Ombudsman offers something of an alternative channel of assistance, but there are serious limitations. The Ombudsman can receive, assess, resolve or investigate allegations of abuse and neglect of persons with disability under the standing inquiry commenced under the Community Services (Complaints, Reviews, and Monitoring) Act 1993. However, this leaves—or will leave—many people with disability without recourse to protection in two ways: firstly, the standing inquiry comes to an end 1 July 2019, and that date is important; and, secondly, it captures only people with disability who receive, or are eligible to receive, community services and is limited in scope to complaints against service providers.

This bill expands the scope of protection given to people with disability to allow reports to be made about any person alleged to be abusing, neglecting or exploiting the vulnerable person. It is telling that the Ombudsman's standing inquiry was commenced because of an increasing number of reports raising concerns about the safety and welfare of adults with disability in the community and in recognition of the fact that no other agency had the powers to investigate allegations that did not amount to criminal behaviour or did not require a coordinated interagency response.

The abuse, neglect and exploitation of older people is also of growing concern. The World Health Organization defines abuse of older people "as a single, or repeated act, or lack of appropriate action, occurring within any relationship where there is an expectation of trust which causes harm or distress to an older person". It is confronting for all of us to contemplate that the number of older people who will experience harm or distress at the hands of people they trust will only increase as the population ages if we do not act now to improve the protections for this sector, address systemic issues, educate the community and raise awareness of the issues facing older adults. There is bipartisan support by Commonwealth, State and Territory governments to take urgent action to address this growing problem.

The Council of Attorneys-General, which includes the Hon. Mark Speakman, has endorsed the National Plan to Respond to the Abuse of Older Australians (Elder Abuse) 2019-2023 in recognition of the physical, emotional and social harm that can occur not just to the older person who is being abused, neglected or exploited but also their families and communities. There is a financial cost to society when abuse and neglect results in increased demands on emergency services and hospitals, and on healthcare services and on aged care services, not to mention the damage done to the wellbeing of society as a whole when we fail in our collective moral responsibility to keep vulnerable people safe.

Our decision to refer to the abuse of older persons, rather than to elders, is in line with our respect for the use of the term "elder" by Aboriginal and Torres Strait Islander communities to denote a person who has gained recognition as a custodian of knowledge and lore, and who has permission to disclose knowledge and beliefs but who may not necessarily be "elderly" in the sense understood by other Australians. In defining who is an "older adult" the bill also recognises the grim fact that Australia has not yet closed the gap with respect to life expectancy between the Aboriginal and Torres Strait Islander population and the rest of the Australian population. For Aboriginal people and Torres Strait Islanders the bill defines an older adult as a person aged 50 years or over. For the rest of the population the age is 65 years or over.

In October last year the Federal Government announced a Royal Commission into Aged Care Quality and Safety following more than 5,000 submissions received from aged care consumers, families, carers, aged care workers, health professionals and service providers. Although the terms of reference focus on abuse and neglect in the Commonwealth aged care system, this will inevitably shine a light on abuse of vulnerable people more broadly. By establishing an Ageing and Disability Commissioner, New South Wales is taking the initiative in improving protections for vulnerable people who do not come within the ambit of other complaints mechanisms.

I turn now to the provisions of the bill. Part 1 contains the objects and principles that inform and reinforce the purpose of the legislation. The simplicity and directness of the bill's objects to protect adults with disability and older adults from abuse, neglect and exploitation, and to protect and promote their rights, reflect the focused and unambiguous purpose of the legislation. The principles recognise important human rights of adults with disability and older adults, including their inherent right to respect for their worth and dignity as individuals, their right to respect for their cultural and linguistic diversity, age, gender, sexual orientation and religious beliefs, and their right to privacy and confidentiality. The principles affirm that adults with disability and older adults should be able to exercise choice and control in the pursuit of their goals and the planning and delivery of their supports and services, and acknowledge the crucial role of families, carers and other significant persons in the lives of these adults.

The principles recognise also that adults with disability and older adults may face multiple disadvantage and are potentially more vulnerable to abuse, neglect and exploitation. This may particularly be so if the adult with disability or the older person is a woman; an Aboriginal person or a Torres Strait Islander; from a gay, lesbian, bisexual, transgender or intersex community; from a culturally and linguistically diverse background; or living in a regional or remote area. These groups can face additional disadvantages as well as barriers to accessing supports and services. The bill requires anyone, including the commissioner, exercising a function under the Act with respect to a particular adult with disability or older adult to have regard to the wishes of that adult.

The bill adopts the same meaning of "disability" as it has in the Disability Inclusion Act 2014, which includes a long-term physical, psychiatric, intellectual or sensory impairment that, in interaction with various barriers, may hinder a person's full and effective participation in the community on an equal basis with others. This definition incorporates the way in which the United Nations Convention on the Rights of Persons with Disabilities defines "disability", ensuring that the bill applies to all those considered to be adults with disability in accordance with the highest international standards.

Part 3 of the bill contains provisions that set out the general functions of the commissioner, although the commissioner also has other functions contained elsewhere in the bill which I will come to. The bill specifies seven main functions. First, the commissioner is to deal with allegations of abuse, neglect and exploitation of adults with disability and older adults, whether on the basis of a report made to the commissioner or at the commissioner's own initiative, including by referring matters to appropriate persons or bodies and by conducting investigations.

As the formulation of the bill evolved, the Government came to realise that our original intention to determine the ambit of the commissioner's functions by reference to allegations of abuse, neglect or exploitation occurring in a "home or community setting" was neither enough nor amenable to unequivocal interpretation. There is, without doubt, a critical gap in protections given to those who are vulnerable to mistreatment in their own homes by people they know and trust. They may be a member of their family or sometimes a neighbour or friend, who is usually, but not always, an unpaid, informal carer. But if the commissioner was confined to investigating reports about abuse, neglect or exploitation in a home or community setting, aside from the clear challenges of legislative interpretation, we would inadvertently exclude others equally in need of protection. For example, it would overlook financial exploitation of a vulnerable person occurring remotely and in technologically challenging circumstances, or abuse of persons living in aged care settings or disability accommodation, or even long-stay hospitals by visiting family or friends.

The bill therefore sets the parameters of the commissioner's functions by specifically excluding circumstances in which there is a clear and more appropriate recourse. The commissioner must decline to deal with a report if the allegation being made amounts to a complaint that can be made to the Health Care Complaints Commission, the Aged Care Quality and Safety Commission or the National Disability Insurance Scheme Quality and Safeguards Commission. The bill will capture all allegations of abuse, neglect or exploitation that are not otherwise captured by these complaints bodies. This approach provides the widest possible protection for people with a disability and older people but avoids overlap, duplication and forum shopping.

Secondly, the bill gives the commissioner wide discretion to take any further action, following an investigation into an allegation, that the commissioner considers necessary to protect the adult from abuse, neglect or exploitation. This includes making an application to a court or tribunal such as applying to the NSW Civil and Administrative Tribunal [NCAT] for guardianship orders in respect of the adult. Examples of other actions that

the commissioner could take, which would come within this wide discretion, include referring conduct that may be criminal to the NSW Police Force, referring the matter to another body for appropriate action, facilitating the provision or better coordination of services, including health services, and facilitating the provision of more appropriate accommodation. The commissioner can also, of course, conclude that the allegation is unsubstantiated or already resolved and that no further action should or needs to be taken. Operational policies and procedures will provide more detail about appropriate actions to take, depending on the findings of the investigation.

Thirdly, the commissioner is to raise awareness and educate the community about issues facing adults with disability and older adults, including for the purpose of preventing the abuse, neglect and exploitation of those adults. Fourthly, the commissioner is to provide advice and general assistance to the public about matters relating to the abuse, neglect and exploitation of adults with disability and older adults. Fifthly, the commissioner is to inquire into and report on systemic issues relating to matters in relation to which the commissioner may conduct investigations. Sixthly, the commissioner is to consult with an Ageing and Disability Advisory Board, set up under the bill, on any matter relating to adults with disability and older adults that the commissioner considers appropriate. Lastly, the commissioner is to advise, and make recommendations to, the Minister—at the commissioner's own initiative or at the request of the Minister—on any matter relating to adults with disability and older adults.

The bill recognises the importance of the independence of the role of the Ageing and Disability Commissioner by providing that the commissioner will not be subject to the control or direction of the Minister in the exercise of the functions relating to conducting investigations, advising or making recommendations to the Minister, and preparing annual reports and special reports. The bill provides that anyone may make a report to the commissioner, providing the person has reasonable grounds to believe the vulnerable adult about whom the report is being made is subject to, or at risk of, abuse, neglect or exploitation. Likewise, persons who are themselves adults with disability or older adults can make a report about themselves if they have reasonable grounds to believe they are personally subject to, or at risk of, abuse, neglect or exploitation.

The bill does not attempt to set parameters around who can make a report, about whom a report can be made and the type of conduct that is eligible for reporting because it reaches some defined threshold. This recognises that it is no easy task to determine who might be at risk and who might cause harm, nor, in all cases, to be sure that conduct is abusive, neglectful or exploitative. Abuse, neglect and exploitation can take many forms, both obvious and subtle, recurring or one-off. Opening the door wide to the making and receiving of reports ensures that no-one in need of protection is inadvertently excluded from the ambit of the bill.

The bill encourages people to bring instances of abuse, neglect and exploitation of adults with disability and older adults to the attention of the commissioner to ensure the protection of these adults by giving the reporter a number of protections. The reporter is not liable to any civil or criminal action or any disciplinary action for a report made in good faith. As well, the identity of a person who makes a report in good faith, and any information from which the person's identity can be deduced, remains confidential and can be disclosed only with the person's consent or if disclosure is necessary for the purposes of law enforcement.

The bill also includes a power to prescribe in regulations other justifications for disclosure, if it becomes apparent that this is warranted. We emphasise that if a person makes a malicious report or a report that is otherwise made in bad faith, he or she will not have any of these reporter protections and may be liable in defamation or face other actions or proceedings; nor will the person who makes a report in bad faith have the benefit of anonymity. The commissioner can investigate a report, refer it to another person or body, or decline to take any action. In order to determine the most appropriate response, the commissioner can make preliminary inquiries and can ask the person making the report for further information.

The bill also advances the achievement of favourable outcomes for adults with disability and older adults by enabling the commissioner to provide certain information to government sector agencies, the NSW Civil and Administrative Tribunal, public health organisations, public hospitals and private health facilities, as well as any persons or bodies that are prescribed in regulations, to enable or assist them to deliver services to, or take other action for, these adults or make decisions or assessments about their safety, welfare and wellbeing. Information can also be provided under this provision of the bill to enable action to be taken for the safety, welfare or wellbeing of adults with disability or older adults generally. The commissioner can also enter into information-sharing arrangements with these agencies and with the president of NCAT.

Information that can be provided by the commissioner, and which can be shared under an information-sharing arrangement, is limited to information concerning a report under the Act; the safety, welfare or wellbeing of adults with disability or older adults; and the abuse, neglect or exploitation of these adults. We propose making a regulation that prescribes the NDIS Quality and Safeguards Commission and the Aged Care Quality and Safety Commission as bodies to whom information can be provided and with whom the commissioner can enter into an information-sharing agreement.

The commissioner cannot conduct an investigation into an allegation unless he or she obtains the consent of the adult alleged to be, or at risk of being, abused, neglected or exploited. Consent can be dispensed with only if the commissioner is of the opinion that the adult is incapable of giving consent or the allegation is so serious that it is not necessary to obtain consent. We have also included in the bill the ability to prescribe in regulations other circumstances in which it will not be necessary to obtain consent. This regulation-making power was included in case it becomes apparent over time, as reports are received, that there are certain situations in which the requirement to obtain consent is having an unacceptable impact on the best interests of some vulnerable adults and is leaving them unprotected and unsupported.

Making exceptions to the requirement to obtain the vulnerable adult's consent to delving into their circumstances may appear at odds with the Government's support of the right of people with disability and older people to have autonomy over their lives. However, when abuse, neglect or exploitation occurs within a close relationship where there is an expectation of trust, especially when the person carrying out the offending behaviour is a family member, there may well be a reluctance on the part of the vulnerable person to condone the investigation for any number of reasons. This may be out of loyalty, even at a cost to the vulnerable person's own mental, physical or financial wellbeing, or out of fear. The vulnerable person may be being manipulated or intimidated. There comes a point at which the delicate balance between respecting the wishes of the adult with disability or the older adult and keeping them safe tips in favour of the latter. If the allegation concerns serious abuse, neglect or exploitation we feel that it is justified to prioritise the safety and wellbeing of the vulnerable person over his or her right to autonomy.

In cases where the vulnerable person does not have capacity to give consent to an investigation, we did not consider it appropriate to require the commissioner to obtain the consent of another person, whether that be a formally appointed guardian authorised to consent on the vulnerable person's behalf or a carer who is the vulnerable person's informal spokesperson. It may well be that the guardian or carer is the very person whose conduct the commissioner needs to investigate. This risk is well illustrated by a case in Western Australia in which an elderly couple affected by dementia had their assets significantly depleted, without their consent, by their three sons. Following a complaint by the granddaughter, the State Administrative Tribunal found the men were involved in "questionable transactions", including transferring \$1.6 million from the sale of the family farm out of the couple's joint account and into their own bank accounts, transferring ownership of a home from the parents' names into their own, and paying for renovations to the home and for legal bills with their parents' money.

In order to investigate a report, the commissioner can compel attendance at meetings and the production of documents and other things, and can execute search warrants. A person will commit an offence if they refuse or fail, without reasonable excuse, to comply with a notice to attend a meeting or produce something, make a false or misleading statement in response to the notice, or alter, suppress or destroy something they are required to produce. However, a person does not have to produce a document if there is an overriding public interest against its disclosure, or if access to the document would otherwise be denied, under the Government Information (Public Access) Act 2009 or if it is a document prepared for the dominant purpose of an investigation by a root cause analysis team under part 4 of the Private Health Facilities Act 2007.

I seek leave to have the remainder of the second reading speech incorporated in *Hansard*.

Leave granted.

The commissioner can apply for a search warrant to be executed on premises where there is an adult with disability or older adult who the commissioner reasonably believes is subject to, or at risk of, serious abuse, neglect or exploitation. A search warrant can authorise the commissioner, or a member of the commissioner's staff named in the warrant, to enter, examine and inspect the premises, take photographs, films, audio, video or other recordings, require documents to be produced for inspection, examine, inspect, copy or take notes from documents, remove documents and things to inspect them further, require the owner or occupier of the premises to provide assistance or facilities that are reasonably necessary for the investigation, and require any person on the premises to answer questions or provide information. Any medical practitioner or prescribed health practitioner accompanying the person executing the warrant can inspect the premises and observe and speak with the adult with disability or older adult and can examine that adult with his or her consent. Anyone who, without reasonable excuse, obstructs or hinders a person executing a warrant commits an offence.

Supporting regulations, and policies and procedures, will augment the legislation, providing operational detail and further guidance for the exercise of the commissioner's functions, including conducting and concluding investigations. The commissioner is also likely to enter into memoranda of understanding with other agencies to ensure the objects of the bill will be achieved in the most effective way.

The bill does not provide for the commissioner to make enforceable orders as it is not intended that the commissioner's role will be quasi-judicial or anything resembling a tribunal. While the commissioner will have strong powers of investigation, we envisage that the commissioner will have an invaluable role in resolving core issues that gave rise to the abuse, neglect or exploitation, or allowed it to occur, and in assisting all parties involved—the vulnerable adult, carers and service providers—to better provide for the safety, welfare and wellbeing of the vulnerable adult. Of course, in serious cases, punitive action against a person harming an adult with disability or an older adult will be a matter for the police and the courts.

Official Community Visitors

The commissioner is to oversee and coordinate Official Community Visitors, being a function transferred to the commissioner from the responsibility of the Ombudsman under the Community Services (Complaints, Review and Monitoring) Act 1993, but only in so far as the program relates to adults with disability.

The Minister can appoint, on the commissioner's recommendation, Official Community Visitors who have functions relating to people with disability who reside in "visitable services", which are accommodation services, in the full-time care of a service provider or assisted boarding houses. The regulations can also prescribe a service provided to a person with disability as a visitable service.

The functions of Official Community Visitors in relation to a place where a visitable service is provided include entering and inspecting the place, conferring alone with resident adults with disability or employees, inspecting relevant documents held there, and providing the Minister and the commissioner with advice or information relating to the conduct of the place.

In relation to adults with disability using visitable services generally, Official Community Visitors can inform the Minister and commissioner on matters affecting their welfare, interests and conditions, encourage the promotion of their legal and human rights, including the right to privacy, confidentiality, adequate information and consultation and the right to complain, consider matters raised by the adults themselves, or raised by staff or people having a genuine concern for the welfare, interests and conditions of those adults, provide information about, and assist them to obtain, advocacy services that can help them with grievances or concerns, and refer those grievances or concerns, if reasonable and practicable to do so, to the providers of the relevant services or to other appropriate bodies.

The Government proposes prescribing NDIS service providers as visitable services to enable Official Community Visitors to continue to visit NDIS participants receiving supports and services from a person or organisation authorised or funded as part of the participant's plan to provide those services.

The commissioner has a general oversight and coordination role in relation to Official Community Visitors and can determine priorities for the services to be provided.

Anyone who makes, or proposes to make, a complaint to an Official Community Visitor is protected from retribution for doing so.

Annual reports and special reports

The commissioner must prepare, and provide to the Presiding Officer of each House of Parliament, annual reports that include a report on the commissioner's activities and the activities of Official Community Visitors during the relevant year and the commissioner's recommendations, if any, for administrative action or changes in the State's laws.

The commissioner is also to prepare a special report on any matter requested by the Minister, which report the commissioner may provide to the Presiding Officer of each House of Parliament. The commissioner may also, of his or her own volition and at any time, prepare a special report on any matter relating to the commissioner's functions. This report may also be given to the Presiding Officer of each House of Parliament, provided the Minister has first been given a copy.

Establishing the office of the Commissioner

Part 2 contains the machinery provisions of establishing the office of the Ageing and Disability Commissioner. The commissioner is appointed by the Governor and can hold office for a term of up to five years, but can be reappointed for one further term, whether or not those terms are consecutive.

The commissioner is employed under a contract of employment between the commissioner and the Minister, with certain provisions of the Government Sector Employment Act 2013 relating to the employment of Public Service senior executives applying to the commissioner. These include provisions relating to the band of employment and remuneration, employment benefits and allowances. However, the office of commissioner is a statutory office and the provisions of the Government Sector Employment Act 2013 relating to the employment of Public Service employees do not otherwise apply.

The commissioner does not directly employ staff but persons may be employed in the Public Service under the Government Sector Employment Act 2013 to assist the commissioner exercise the functions of the office and the commissioner may delegate any of these functions to a member of staff (or to someone belonging to a class prescribed by the regulations, if any).

The office of the commissioner becomes vacant if the commissioner dies, completes a term of office and is not reappointed, resigns, becomes bankrupt (or in other circumstances related to bankruptcy and insolvency), becomes mentally incapacitated, is convicted or imprisoned for certain offences in certain circumstances or is removed from office by the Governor. The Governor may only remove the commissioner from office for incompetence, incapacity or misbehaviour. The Minister may appoint an acting commissioner during the vacancy or during any illness or absence of the commissioner and can remove an acting commissioner at any time.

Ageing and Disability Advisory Board

I referred earlier to the Ageing and Disability Advisory Board. The bill sets up this body to advise the commissioner on any matter related to adults with disability and older adults that it considers appropriate or that the commissioner refers to it. The board will comprise the commissioner, who will be the Chair, and persons appointed by the Minister who have, in the Minister's opinion, relevant knowledge of, and experience in, matters relating to adults with disability and older adults. Its composition must also reflect the diversity of the community.

This bill demonstrates and represents the Government's strong commitment to the safety and wellbeing of adults with disability and older adults and I commend it strongly to the House

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): Order! According to sessional order, proceedings are now interrupted for questions.

*Visitors***VISITORS**

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): I welcome to the public gallery student leaders from high schools in New South Wales who are attending the Secondary Schools Student Leadership Program conducted by the Parliamentary Education Office.

*Questions Without Notice***SOUTH-WEST SYDNEY SELECTIVE SCHOOL**

The Hon. ADAM SEARLE (12:00): My question is directed to the Minister for Education and Early Childhood Learning. Given that in February the Minister's predecessor, the Hon. Rob Stokes, told *The Sydney Morning Herald* Schools Summit, in relation to selective schools, that "segregating schools according to labels has created more of a problem that we have to deal with, rather than resolving the fundamental problem", why has the Government departed from that approach?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:00): I thank the Leader of the Opposition for his question about the announcement made yesterday that we are intending to have a new selective school in south-western Sydney. I gave an answer relating to this subject in my first Dixer yesterday as well. We are doing this because we know that there is a strong demand for selective schools, with around 15,000 applications for only 4,200 places. We also know that western Sydney and particularly south-western Sydney is a big growth corridor. We expect there to be two million people in what will become Sydney's third city over the next 20 years. That is why we made the announcement that we did yesterday.

I also make the point that, yes, one part of yesterday's announcement was about a new selective school, but there were two other elements. I went into this in some detail in the House yesterday, particularly around the expansion of our new High Potential and Gifted program. We know that there are great students at every public school and we want to give them the opportunity to thrive and succeed as well. That is why that was the second element of our announcement. The third element was around extending the Bump It Up initiative to all of our schools—looking not just at academic results around literacy and numeracy but also at student wellbeing, equity and attendance. It is a range of measures—

The Hon. Adam Searle: Point of order: The Minister is not being directly relevant in accordance with your ruling. The question was why the Government, in making the decision, departed from the direction indicated by the previous Minister. The Minister is not going directly to that issue. She is not going straight to the point or being straightforward.

The PRESIDENT (12:02): The Minister is being directly relevant to the question in its entirety. The part that the Leader of the Opposition mentioned is merely the last line of a six-line question. The Minister is being directly relevant in relation to segregating schools, selective schools and other matters within the ambit of the question. There is no point of order.

The Hon. SARAH MITCHELL: As I was saying, this is part of a three-pronged initiative that we announced yesterday. We wanted to make it clear that this is our intention. We will now be able to start our planning and consultation with the local community about the school. I understand that there are a wide range of views on selective schools. I have had some of them raised with me and it is something that I am obviously aware of as Minister. But we have made this announcement and now we will start the work and get underway.

INDIGENOUS VETERANS

The Hon. MATTHEW MASON-COX (12:03): My question is addressed to the Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. Will the Minister update the House on recent commemorations for Indigenous veterans?

The Hon. DON HARWIN (Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council) (12:04): I thank the Hon. Matthew Mason-Cox for his question. On Friday 31 May I attended a remembrance ceremony for Indigenous veterans at the Anzac Memorial in Hyde Park. As part of National Reconciliation Week, similar ceremonies were held in each capital city to commemorate the service and sacrifice of Aboriginal and Torres Strait Islander service men and women. Aboriginal and Torres Strait Islander Australians have served in every major Australian conflict. It is fitting, proper and important that we take the time to acknowledge their service and sacrifice.

While the passage of the 1967 referendum ensured that Indigenous Australians were counted equally among their fellow citizens, it was apparent that they were still not treated equally. Members know that many

Aboriginal and Torres Strait Islanders were not given the same support and provisions for their service as other Australian veterans. Land holdings and payments were refused to many returned Indigenous service personnel, despite them having made the same contributions as their fellow Australians. That makes the contribution of those Indigenous Australians who fought in the First World War, the Second World War and the Korean War even more remarkable. Those Indigenous service personnel still raised their hands to serve in the armed services in the defence of Australia. Today close to 2,000 Aboriginal and Torres Strait Islander men and women are serving in the Australian Defence Force. The Commonwealth Department of Veterans' Affairs is working to identify the Aboriginal and Torres Strait Islander members of the veterans community, with up to 7,000 war widows and dependants in the community already identified.

I was pleased to be joined by the Premier, the veterans Minister, the member for Auburn, the member for Wyong and the Governor of New South Wales to recognise our Indigenous veterans. I acknowledge Aunty Kathy Dodd-Farrawell of the Kaanju-Birri people, who performed the acknowledgement of country, and guest speaker Chief Petty Officer Tina Elliot of the Gubbi Gubbi people. Aboriginal and Torres Strait Islander school students were encouraged to attend to enhance their awareness and appreciation of the role played by Aboriginal and Torres Strait Islander veterans in defending our nation; they placed wreaths on the memorial. For many years the sacrifice of Indigenous soldiers was left unacknowledged in our country. I am proud to be Minister at a time when we now take particular time to specifically remember their sacrifice. I commend their service.

SOUTH-WEST SYDNEY SELECTIVE SCHOOL

The Hon. WALT SECORD (12:07): My question is directed to the Minister for Education and Early Childhood Learning. Given that former education Minister and current head of the Gonski Institute for Education the Hon. Adrian Piccoli said that he "doubts" the idea for a new selective school came from the Department of Education, is that correct? What advice did the Minister receive from the Department of Education on this matter?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:07): I thank the member for his question. I am aware of the views that have been expressed by a former colleague and former Minister, the Hon. Adrian Piccoli. He is entitled to have those views. He is able to speak about matters in his own capacity; that is a matter for him. As I said in my answer to the question asked earlier by the Leader of the Opposition and also in response to questions about this yesterday, as a Government we have made a decision that this is something we want to proceed with. We will start to do the work of planning and—

The Hon. Walt Secord: Point of order: My point of order goes to the Minister not being directly relevant. The second part of the question relates to what advice she received from the Department of Education on this matter.

The Hon. Trevor Khan: To the point of order: It may be that the Hon. Walt Secord wants a particular part of his question answered. In being directly relevant, the Minister is entitled to respond to whatever part of the question she chooses.

The PRESIDENT (12:09): I mentioned earlier in this new Parliament that I have looked at rulings of past Presidents. The following still applies: It is not for the Chair to direct how a Minister should answer a question. The Chair cannot compel a Minister to answer a question in a certain way or direct what part of the question a Minister should answer, but the answer must be directly relevant. The Minister was being directly relevant to a part of the question that she was asked. It is up to the Minister how she continues her answer.

The Hon. SARAH MITCHELL: As I said, the Government has made the decision to build the school. The Government is taking advice and considering demand in terms of the number of applications and the places available. We have made the announcement and now we will be getting on with it.

CONFUCIUS CLASSROOMS PROGRAM

Mr DAVID SHOEBRIDGE (12:10): My question without notice is directed to the Minister for Education and Early Childhood Learning. Noting that on 8 May last year a spokesperson for then education Minister Rob Stokes advised that the Department of Education was investigating concerns and reviewing the Chinese Government funded Confucius Classrooms program, what are the terms of reference of the review and when will the review be made publicly available?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:10): I thank Mr David Shoebridge for his question. I have some information. Obviously the review is currently underway, but I will seek some further advice. I do not have information to hand about the terms of reference and the other part of his question, which I will take on notice.

Mr DAVID SHOEBRIDGE (12:11): I ask a supplementary question. I note that the Minister is going to seek some advice. Would the Minister also seek advice about who was approached to make submissions for the review?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:11): I am very happy to take the supplementary question on notice as well, and come back with some more advice.

PRINCIPAL EDUCATION FORUMS

The Hon. TAYLOR MARTIN (12:11): My question is addressed to the Minister for Education and Early Childhood Learning. Would the Minister update the House on her participation at the Narrandera and Chatswood education forums for principals last month?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:11): I thank the honourable member for his question. More than 1,800 principals from 2,200 schools attended the forums held across the State—from Port Macquarie to Armidale, Penrith to Chatswood and Wollongong to Narrandera—throughout May. I had the pleasure of attending and speaking at the Narrandera and Chatswood forums. The purpose of the forums was for principals to engage face to face with the Department of Education and discuss ways to improve the academic achievement and wellbeing of approximately 800,000 students across the State.

The forums provide an opportunity for principals to meet directly with key education leaders and offer a valuable chance for the department to hear their insights and share our vision and goals for system-wide school improvement. I agreed with Department of Education Secretary Mark Scott when he told principals, "There are only two kinds of jobs in the education system; helping students to learn and helping those who help students learn." Principals had lengthy discussions about the pivotal role that school leadership plays in delivering outcomes for students and transforming New South Wales schools. School leaders create the context and provide the first line of support to the tens of thousands of teachers who are in our classrooms with students every day.

Principals welcomed the Government's plan to expand the Bump It Up strategy to help all students reach their potential. We made this announcement yesterday. Principals were keen to see that wellbeing, equity and attendance were also given targets. The expanded program makes sure that all students, no matter where they live, can reach their potential—and not just through their academic results. The forums gave the department a chance to talk about its commitment to reducing the administrative burden on schools.

Through ongoing engagement with principals and schools more than 20 initiatives have been identified for focus in 2019 on delivering more time back to principals, allowing them to focus on providing educational leadership in schools and to support teachers, administration staff and students. The department estimates that it has already delivered a reduction in administrative hours for principals of 58 hours per year, and administrative staff have experienced a six-hour reduction in their workload.

When I addressed the principals I outlined the commitments we made earlier this year, particularly around our school and infrastructure commitments, addressing the school maintenance backlog, increasing access to before- and after-school care across the State and ensuring more professional growth opportunities for our outstanding teachers. The commitments made by the Department of Education in its strategic plan strongly resonate with me: That every child and young person is known, valued and cared for and is improving every year through engaged learning, and that students in our schools are quickly set on the pathway to be independent learners, confident in their ability to learn, to adapt and to be responsible citizens. As Minister for Education and Early Childhood Learning, I want to be a champion of teachers everywhere in New South Wales. I have a great and sincere respect for the profession. I enjoyed the opportunity to meet with those principals and address them at the recent forums.

BANKSIA MENTAL HEALTH UNIT

The Hon. MARK BANASIAK (12:15): My question without notice is directed to the Minister for Mental Health, Regional Youth and Women. When can the people of Tamworth expect the Government to deliver on its 2018 commitment to upgrade Banksia Mental Health Unit so that we do not have a repeat of the case of Jason Langfield, who almost lost his life because of a lack of support services in the electorate?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:15): The 2018-2019 New South Wales budget included a record \$2.1 billion investment in mental health services. Of that, \$700 million is being invested in the statewide Mental Health Infrastructure Program. The Banksia unit at Tamworth, which the member referred to specifically in his question, received \$365,000 as part of the Government's Mental Health Infrastructure Program to improve therapeutic environments. The Banksia Mental

Health Unit is a 25-bed facility that provides inpatient mental health support for approximately 1,000 voluntary and involuntary admissions each year.

Work began in April this year. The painting of client areas, bathroom refurbishments, installation of new cupboards and desk spaces in bedrooms, and installation of artworks in bedrooms and common areas, are currently underway. Outdoor spaces are being renovated, with a sensory garden being installed. That is tremendous news because such gardens make a huge difference to inpatients. The Hunter New England Local Health District has received encouraging feedback from patients, carers and staff on the changes so far. That is really good news. The district is currently drafting a clinical services plan to outline the future direction of mental health services for the New England area. The plan will have a strong focus on services provided at the Banksia unit in Tamworth and the Clark Centre in Armidale.

Consultations are underway, which will guide the recommendations made for the overall clinical services plan that is expected to be complete by mid-2019. As with all New South Wales mental health services, the Banksia unit is supported by a network of mental health services across its local health district—in this case the Hunter New England Local Health District. If there is increased demand for mental health services in Tamworth at a particular time, patients can receive care at other facilities within the district. There is also a variety of community-based mental health programs and services available in the Tamworth region, including the School-Link coordinators program. I am sure that, having been a teacher, the honourable member is aware of that program.

Other programs include adult acute community mental health services, supported recovery services, Aboriginal mental health programs, youth programs and the greatly successful Rural Adversity Mental Health Program. There are also partnerships with other community-based mental health services, such as Billabong Club House. Those programs are important in helping the Government to provide holistic treatment for those in our community living with mental illness. I thank the honourable member for his question and his concern for the people of Tamworth.

SOUTH-WEST SYDNEY SELECTIVE SCHOOL

The Hon. PENNY SHARPE (12:18): My question is directed to the Minister for Education and Early Childhood Learning. What criteria did the Minister's department use to determine that the new school for south-west Sydney will be a selective school?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:18): I think I have canvassed this issue pretty well in my answers to the first two questions today. I said that we announced yesterday that this is something we are intending to do. We will begin planning and consultation with the local community in relation to the school. We wanted to be up-front that it would be a selective school. We know that there is demand; the number of applications far outweigh the number of places that are available in this State. That is why we have made the commitment.

The Hon. PENNY SHARPE (12:19): I ask a supplementary question. Will the Minister elucidate her answer? The Minister touched on some of the reasons that could be defined as criteria for the decision on the school, but I specifically want her to elucidate what criteria her department used.

The Hon. Scott Farlow: Point of order: That is not a supplementary question. It is a restatement of the original question and is seeking the answer that the Hon. Penny Sharpe wants rather than the answer that the Minister gave.

The Hon. Penny Sharpe: To the point of order: I am specifically asking for an elucidation of the part of the answer in which the Minister started to talk about the reasons for the decision. I believe the question is in order.

The PRESIDENT: As I have previously indicated, for a supplementary question to be in order it must be accurately related to the original question asked. That box is ticked. It must also relate to or arise from the answer and it must seek to elucidate a part of an answer given. As the Hon. Penny Sharpe said, in her answer the Minister touched on some of what could be viewed as criteria for the decision, but I do not recall the Minister referring in any way to criteria that the department used. I believe the honourable member is simply re-asking part of the question that the Minister did not refer to in her answer. The supplementary question is out of order.

YOUNG FARMER BUSINESS PROGRAM

The Hon. NIAL BLAIR (12:20): My question is addressed to the Minister for Mental Health, Regional Youth and Women. What is the New South Wales Government doing to support young farmers to develop their businesses and stay local?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:21):

I thank the Hon. Niall Blair for his question and for his advocacy and commitment to farmers. The New South Wales Government always has and always will continue to put country and coastal communities at the top of its agenda. We want to create every opportunity for young people to stay in their region and get a job or develop a sustainable business that not only supports them and their family but also enhances the local economy. This week, along with the Minister for Agriculture and Western New South Wales, Adam Marshall, I was pleased to announce a \$400,000 investment in two initiatives—a new business coaching pilot and grants for leadership and development to be run for young farmers and fishers across the State through the Department of Primary Industries Young Farmer Business Program.

Those initiatives are a game changer for young farmers and fishers who, like many other people in small business, sometimes go it alone. Participants will not only build a network of like-minded people, in the case of the business coaching, but also benefit from a mix of face-to-face training, online modules, a social media group and business coaches who will be available to answer questions. From living on a farm and being married to a farmer, I understand firsthand the challenges of living remotely, running a business in isolation and the 24/7 demands of managing a farm.

The Hon. Walt Secord: Break out the new questions. She's brought up her family again!

The PRESIDENT: Order! The Minister will resume her seat. I call the Hon. Walt Secord to order for the first time. To interject across the Chamber to a member, a Minister or even to me is one thing. To direct an interjection to staff members in the President's gallery who are there at my discretion and can be directed by me to leave is another thing completely. It is fortunate for them that they did not respond. If they had, they would have been removed. The Minister has the call.

The Hon. BRONNIE TAYLOR: Managing a farm comes with 24/7 demands and that is why I am so thrilled to help our future generations through programs like this. Grants of up to \$10,000 for eligible groups who support young farmers and fishers offer a great chance for flexible delivery as they can be used for activities and projects related to business and leadership development. It could be as simple as inviting a guest speaker, conducting a farm visit or just having a quick online chat. The Young Farmer Business Program is shutting down the adverse factors that so many young farmers and fishers face. It is allowing more young people to continue building their agricultural businesses from home, employing locals and contributing to the local economy.

Flexible local programs like this appeal to young farmers and fishers. Over 1,500 people have already attended 60 face-to-face events since they began in 2018 and been provided with fantastic opportunities to connect. The new initiatives as part of the Young Farmer Business Program are just another example of how this Government is continuing to put regional youth first so that they can live, work and thrive in regional New South Wales. I am very proud to be the first regional youth Minister in this place.

PERSONAL INFORMATION SECURITY

The Hon. ROBERT BORSACK (12:25): My question is directed to the Hon. Don Harwin, representing the Premier. What assurances will the Government give to New South Wales firearms owners that their data is secure and free from malicious intent given that Minister for Customer Service Victor Dominello is now in charge of all data in the State and his office has been found to have an appalling record in data security and leakage?

The Hon. DON HARWIN (Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council) (12:26): I see no connection between the two, and I am sure that the Premier would pass on the same guarantee that I am giving now: Their data is absolutely secure.

DROUGHT ASSISTANCE

The Hon. MICK VEITCH (12:26): My question is directed to the Minister for Finance and Small Business. Given that the 2019 drought survey conducted by the NSW Farmers Association identified the need for financial support to all agriculture-related small businesses in drought-affected country areas, what specific drought-related financial support has the Minister developed for those businesses in regional New South Wales?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:26): Drought and its impact on small businesses is clearly a top priority for the Government. I acknowledge the answer given by the Hon. Bronnie Taylor regarding the impact of drought that she has experienced firsthand as a country member in this place. The Government is doing much to inject services and opportunities into regional New South Wales. I will outline a few for the benefit of the Hon. Mick Veitch. The Government has committed over \$1.1 billion in drought relief to New South Wales. That includes one-off \$50,000 interest-free loans to support families. They

operate with a seven-year term and families do not have to pay anything back for two years. The Government has also offered up to \$250,000 as loans for capital works for important infrastructure in farming communities.

The Government has offered 50 per cent off transport costs of up to \$20,000 a year to ensure that the cost of transporting stock and feed to agricultural communities is reduced. It has also included up to an additional \$40,000 for transporting stock, water and fodder, and 50 per cent off courses worth up to \$5,000 to develop farmers' skills, as the Hon. Bronnie Taylor referred to earlier. The Small Business Commissioner is taking a number of other initiatives, including visiting with regional communities and interacting with small businesses to ensure that there is a connectedness between them. One thing I often suggest, which was also alluded to by the Minister, is the ability of city communities to contribute to regional life. One thing I have mentioned in the Chamber previously is, for instance, in school holidays this year for people in cities to change their holiday plans and, rather than go to Bali, go to Bathurst or some regional place and spend money in regional communities. I thank the member for his question. [*Time expired.*]

STATE ECONOMY

The Hon. LOU AMATO (12:29): My question is addressed to the Minister for Finance and Small Business. How are western and north-western Sydney powering the New South Wales economy and is the Minister aware of any alternative situations?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:30): I thank the member for his question and his interest in the State's economy, which is going gangbusters, as we will hopefully hear in the upcoming budget. A CommSec report entitled *State of the Regions 2019*, which was released on 9 May 2019, shows that west and north-west regions of Sydney are a key part of our strong economy in New South Wales.

The Hon. Trevor Khan: Point of order: My point of order is that the Hon. Penny Sharpe continues to interject on the Minister as he is trying to give an answer. She should be called immediately to order.

The PRESIDENT: I uphold the point of order of the Hon. Trevor Khan. I ask the Hon. Penny Sharpe not to continue to interject. Although it was not a point of order, I agree with the Leader of the Government where your tie should be done up.

The Hon. DAMIEN TUDEHOPE: I thank the Hon. Trevor Khan for his protection of my position. The CommSec report was the first of its kind to look at 88 individual regions across Australia. It focused on four key economic indicators: building approvals, unemployment rate, population growth and growth in business counts. Baulkham Hills, Hawkesbury and Blacktown are among the five strongest regions in the country, with unemployment rates in the Baulkham Hills and Hawkesbury regions averaging 3 per cent in 2018 and rates in Blacktown averaging 4.9 per cent. Parramatta topped the list for the fastest growth of businesses, with a 22 per cent increase over the past decade. According to the report, health care, professional, scientific and technical services and retail all helped power employment across western Sydney.

The Hon. Wes Fang: Point of order: I am desperately trying to hear the fantastic answer from the Minister but the cacophony of noise from the other side, particularly from the Hon. John Graham and the Hon. Daniel Mookhey, is too much to hear the answer. I ask you to call them both to order.

The PRESIDENT: I uphold the point of order. I almost went into panic mode when I saw the two members sitting together. My initial instincts are being proven correct. Members will cease interjecting. This morning I saw Lynda Voltz, the member for Auburn, and told her that the Hon. Trevor Khan is 100 per cent correct. The Minister has the call.

The Hon. DAMIEN TUDEHOPE: Strong business numbers and building approvals for new homes were shown to be key growth factors in those regions. The Government is playing its role in building the strong economy in the west and north-west, delivering transformational projects like the Sydney Metro Northwest, Sydney Metro West, the Parramatta Light Rail and Bankwest Stadium—all projects which those opposite never thought about delivering. Those projects create thousands of jobs during construction and when complete will attract businesses and investment and make those communities more livable and connected. Ultimately this strong showing from the west and north-west is a clear reflection of the diligent aspirational workers and families in those communities.

It is worth informing the House of an alternative to this CommSec report. A CommSec *State of the States* report in 2010 revealed our economy was the worst performing in the nation. We were ranked dead last in key economic indicators such as home building statistics, construction work and unemployment. At that time, the New South Wales unemployment rate was 5.9 per cent. I will not mention who was in government in 2010.

However, I will mention this: Only this side of the House can deliver a strong economy, which in turn drives good and tangible social benefits for the good of this State. *[Time expired.]*

TEMPE STATION

Ms ABIGAIL BOYD (12:34): My question is directed to Minister Harwin, representing the Minister for Transport and Roads. An unexpected benefit of the refurbishment work by Sydney Trains to the stairs of Tempe railway station has been the opening of direct at-level access from Griffiths Street, making platform 4 fully accessible and allowing people with mobility issues or with prams or carts to easily access stations to the south, including the lifts at Wolli Creek station. However, Sydney Trains has advised that upon completion of the refurbishment work the access from Griffiths Street will be closed, despite the residents of Tempe, supported by the Inner West Council, requesting it to be retained. Will the Minister for Transport and Roads act to maintain the improved accessibility of Tempe station by directing Sydney Trains to retain the at-level access from Griffiths Street?

The Hon. DON HARWIN (Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council) (12:35): I thank Ms Abigail Boyd for her detailed question about Tempe railway station and in particular about the easier access upgrade program across a number of railway stations, as she mentioned. At present 57 per cent of our suburban and intercity stations are wheelchair accessible. While that is 57 per cent of stations it in fact covers 90 per cent of overall patronage in accessing those stations, which is good. I am delighted there are many more stations that are now accessible than there were eight to 10 years ago. There are 53 more wheelchair accessible stations than there were in 2011. At the moment 54 projects are progressing to planning activities. As Ms Abigail Boyd mentioned, Tempe is one of those where work is underway. The member raised some specific matters which I have not got in front of me but which I am hoping I will have some more details on before the end of question time. If not, I will obtain an answer as quickly as I possibly can.

DROUGHT AND MENTAL HEALTH

The Hon. SHAOQUETT MOSELMANE (12:37): My question is directed to the Minister for Mental Health, Regional Youth and Women. What administrative steps has the Minister taken to increase access to mental health workers in drought-affected areas?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:38): I thank the member for his question and his interest in the regions. As we know, the New South Wales Government is investing about \$2.1 billion in mental health funding in the 2018-19 budget. It is expanding programs in telehealth technology to increase access for rural hospitals, which will reduce unnecessary travel for access to expert care. In 2018-19, \$2.5 million will be allocated to the Northern Mental Health Emergency Care Rural Access Program, a 24/7 telehealth service for Hunter New England, mid North Coast and northern New South Wales local health districts. This is an incredible initiative for the northern part of the State when considering what that region is facing with drought. It is an exciting and fantastic initiative, offering 24/7 care via telehealth to psychiatrists and the like. Mental health professionals use audiovisual links to provide 24-hour specialist mental health assessment for emergency departments across northern New South Wales.

Access to mental health services and support is provided across the State through the New South Wales Mental Health Line. The New South Wales Government is providing \$6.3 million over two years from 1 July 2018 to 30 June 2020 for emergency drought relief and mental health support to help farmers and people in rural communities manage the effects of the drought. A range of responses has been developed with resources that are flexibly tailored and delivered to where they are most needed. Fifteen new farm gate counsellors and frontline mental health workers will cover drought-affected areas in three local health districts: western New South Wales, Hunter New England and Murrumbidgee—another fantastic initiative in mental health for drought-affected areas.

The Hon. Shaoquett Moselmane: Point of order: My point of order is direct relevance. My question relates to the mental health of workers in drought-affected areas.

The PRESIDENT: Order! I call the Hon. Niall Blair to order for the first time. I indicate to all members that when a point of order is being taken I am happy to hear from members who wish to contribute to the point of order. I have shown that I afford all members an opportunity to do so. What I will not accept during a point of order is other members screaming across the Chamber what they believe the situation to be. I and I alone will rule on a point of order. There is no point of order. The Minister was being directly relevant to a number of portions of the question asked. The Minister has the call.

The Hon. BRONNIE TAYLOR: This program involves assertive outreach, coordination with local services in communities and providing ongoing support to individuals, families and carers affected by drought. Community wellbeing events are being held in Western NSW Local Health District, managed by the not-for-profit

group the National Association for Loss and Grief. These events aim to increase engagement with local support services and provide opportunities for individuals to engage with their local communities. The Emergency Drought Relief Package mental health supports provide for an additional five Rural Adversity Mental Health Program coordinators who inform, educate and connect individuals, communities and workplaces with appropriate services and programs. [*Time expired.*]

The Hon. SHAOQUETT MOSELMANE (12:42): I ask a supplementary question. Will the Minister elucidate her answer with regard to the number of counsellor positions, as mentioned in her answer, that have been filled?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:42): I thank the member for his question. Out of all of the positions that are currently available I understand there is one that has not yet been completely filled but they have selected a successful applicant and it will be. I am pleased to advise the House that all of the coordinator positions will be filled.

SYDNEY OPERA HOUSE

The Hon. WES FANG (12:43): My question is addressed to the Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. Given it is World Environment Day, will the Minister update the House on sustainability measures the Sydney Opera House has taken to reduce its impact on the environment?

The Hon. DON HARWIN (Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council) (12:43): I absolutely can. It is indeed World Environment Day and I am delighted to advise the House that the Sydney Opera House announced it has been awarded a five-star Green Star—Performance rating by the Green Building Council of Australia. A five-star Green Star—Performance rating is an extraordinary achievement for any building, let alone for a World Heritage-listed site which is also one of the busiest performing arts centres in the world and the nation's most visited tourist attraction. The Opera House is the first heritage building in Australia to achieve this rating and one of only a handful of World Heritage-listed buildings globally to achieve an equivalent certification.

The measures taken are practical measures to reduce the environmental impact of the Opera House and include being certified carbon neutral in September 2018, the implementation of a new waste management program, increased efficiencies in water use and a more than 9 per cent reduction in energy use. I am also pleased to advise that the Opera House has also signed a power purchasing agreement with energy retailer Flow Power. This will result in the Opera House investing its annual \$2.4 million electricity spend in renewable projects. For the next seven years more than 85 per cent of the Opera House's yearly energy consumption will be matched with available supply from New South Wales wind and solar projects.

In addition, last month the Opera House installed a series of modular artificial reefs around Bennelong Point. This project has been jointly undertaken by the Opera House and the University of Technology Sydney and was funded through a New South Wales Government Environmental Trust Restoration and Rehabilitation grant. The project aims to increase marine biodiversity and support the local ecology of Sydney Harbour by providing a home for smaller and native fish species. The Opera House's commitment to these programs is important as it continues its major capital works program, renewing the magnificent building for future generations with the financial support of the New South Wales Government. I applaud the Sydney Opera House staff—particularly the chief executive officer, Louise Herron, who does a fantastic job, and the executive director of building, Ian Cashen—for their achievements today. I look forward to seeing the Sydney Opera House continue to build on its sustainable practices into the future.

MINING AND WATER SECURITY

Ms CATE FAEHRMANN (12:46): My question is directed to Minister for Mental Health, Regional Youth and Women, representing the Minister for Water, Property and Housing. The November 2018 *Initial report on specific mining activities at the Metropolitan and Dendrobium coal mines* by the Independent Expert Panel for Mining in the Catchment found that three million litres of water per day is potentially being lost from reservoirs because of subsidence caused by the Dendrobium mine alone. WaterNSW has called for restrictions on future mining in its submission to the initial report. What actions are being taken to protect Sydney's water security during this severe drought from longwall coalmining in the catchment's special areas?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:47): I thank the member for her question. As it relates to a portfolio and a Minister in the other place I will have it considered and get back to her.

Ms CATE FAEHRMANN (12:47): I ask a supplementary question. Will the Minister elucidate her answer in relation to communicating with the Minister in the other place? I gave the Minister in the other place this question two days ago so that the Hon. Bronnie Taylor could be prepared for this answer now.

The Hon. Trevor Khan: Point of order: That is not a supplementary question.

The PRESIDENT: I indicate to Ms Cate Faehrmann—and she well knows this—that that was not a supplementary question but rather an opportunity for the member to make a debating point, which is clearly unacceptable. The supplementary question is out of order.

WALGETT IGA FIRE

The Hon. WALT SECORD (12:48): My question is directed to the Leader of the Government. What assistance will the Government provide to the community of Walgett following the fire that destroyed the Walgett IGA?

The Hon. DON HARWIN (Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council) (12:48): I thank the member for his question. I will take the question on notice. I am not aware of all the details of that fire nor of all the response options that are available to various Ministers. I will attempt to get an answer as quickly as I can for the member.

PENRITH PUBLIC SCHOOL

The Hon. SHAYNE MALLARD (12:49): My question is addressed to the Minister for Education and Early Childhood Learning. Will the Minister update the House on the facilities upgrade and official opening at Penrith Public School? I'm a Penrith boy.

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:49): I thank the Hon. Shayne Mallard for his question, who is a Penrith boy. Late last month I was thrilled to join the Premier and the member for Penrith, the Hon. Stuart Ayres, to officially open a fantastic new building at the Penrith Public School. The New South Wales Government invested \$10 million to build a brand-new two-storey classroom block, which was handed over for day one of term two this year. The new facilities provide staff and students with 12 new innovative learning spaces, new student amenities, improved open play space and a refurbished administration building. The new classrooms are more adaptable and include learning neighbourhoods with flexible and adaptable spaces that facilitate students' use of modern technology while working independently and in groups.

The Principal of the Penrith Public School, Chantal Beltran, explained to us that the school community was very keen to incorporate elements from the surrounding natural environment into the design of the new building. To ensure a relaxing and tranquil learning environment for the students of the Penrith Public School, the school community included natural light, greenery and colours replicating the school surrounds in the design of the building. From having just a short visit to the Penrith Public School, it was immediately clear to me how conscientious and ambitious some of the students are, particularly their school leaders. It was fantastic to see that.

Some of the students told us they were budding teachers, one wanted to be a farmer, and another one thought they might be a future Premier. I look forward to seeing those students thrive even more as a result of this new state-of-the-art building. The Government is determined to provide current and future New South Wales students with world-class public education. We are raising the bar and modelling best practice through our innovative approach to teaching, learning and infrastructure design.

The PRESIDENT: The Clerk will stop the clock. While it is good to see members so happy and laughing, I cannot hear the Minister. I am certain that Hansard cannot hear the Minister over all that wonderful laughing from both sides of the Chamber. For the sake of Hansard, not for my sake, I ask members to cease interjecting. The Minister has the call.

The Hon. SARAH MITCHELL: New adaptable learning spaces like those at the Penrith Public School are giving teachers greater options for student engagement and providing students with access to the latest technology in adaptable settings that enable them to work both independently and in groups. This means that our schools are now equipped to meet the needs of a diverse student body. Our innovative new learning spaces are enabling us to do away with the one-size-fits-all approach to learning and providing teachers with the flexibility to ensure that all learning styles are catered for. The Government's investment in the Penrith Public School is just a small part of the Government's \$2 billion investment in public schools across western Sydney.

This Government is investing more in school education in western Sydney than has any previous government. This Government has listened and is delivering. I am honoured to be part of this unprecedented

investment in public education. I look forward to joining other communities like the Penrith Public School as they also benefit from this record investment in New South Wales public schools. I thank the Penrith Public School community, the principal, the P&C representatives and all of the teachers who hosted us during our visit. It was great to be able to celebrate with them all. [*Time expired.*]

LAND CLEARING

Mr JUSTIN FIELD (12:53): My question is directed to the Minister for Mental Health, Regional Youth and Women, representing the Minister for Energy and Environment. Media reports this week reveal new data on land clearing in New South Wales that was obtained from the Office of Environment and Heritage under the Government Information (Public Access) Act and applied to the period 2016-17. The most recent *State of the Environment* report released just last month identified land clearing as a driver of biodiversity loss but only reported land clearing for the period two years earlier, 2014-15. I ask the Minister why the *State of the Environment* report did not include the most up-to-date land clearing data?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:53): I thank Mr Justin Field for his question. As it relates to a portfolio of a Minister in another place, I will seek detail and take the question on notice.

GENDER QUOTAS

The Hon. ROSE JACKSON (12:54): My question is directed to the Minister for Mental Health, Regional Youth and Women. Given that, as the Minister for Women, an aspect of the Minister's role is to promote pathways for women into leadership positions within government, what consideration has the Minister given to the use of gender quotas to ensure women have access to those leadership positions?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:54): I thank the Hon. Rose Jackson for her question. Since becoming the Minister for Women, I publicly stated my view on quotas and I have changed my position on that. Before I was elected, I came from a very female-dominated profession in health, nursing, and entered one that was very male dominated in Parliament. What I have realised is that there are really good pathways to talk about getting more women into Parliament. One of the main things I want to do is see more women and a better gender balance in Parliament, as I am sure the member who asked question would also.

What is really important in relation to this issue is that we are not defined by quotas. As women in this place, we need to be able to tell people our stories. Our stories exemplify something that is really important about people. For example, the Hon. Penny Sharpe is the first woman to lead from the upper House in the Labor Party and that is a great story. On the Government side of the Chamber, I cite the example of the Minister for Education and Early Childhood Learning, the Hon. Sarah Mitchell, who is an incredible young woman and who leads education policy in this State. That also is a great story. It is a great story for all the students who visited Parliament today to see that incredible women can and do perform leadership roles. I cite also the example of the Hon. Rose Jackson, who asked the question. I know she has a long history and has been a great success in head office. Obviously, she has been a great success and is now a woman who is a member of Parliament. That is fantastic!

I was a nurse for 20 years and never in my wildest dreams imagined I would be a member of this House, but I talk to women and girls of all ages and say, "You can put your hand up if you really believe in something." I refer to the inaugural speech made by the Hon. Tara Moriarty, which was a fantastic story of her experiences as a young girl and what it did for her. It led to the Hon. Tara Moriarty putting up her hand and becoming a member of Parliament. Let's tell that story! Another great story is that of the Hon. Natalie Ward, who is an amazing lawyer and has been standing up for people who did not have the opportunity to stand up for themselves, and now she is a member of Parliament. I am sure The Greens members have fantastic stories as well. As women, those are the stories we must tell because the stories are about real people and real experiences. That will motivate other women to come forward.

CHILD AND ADOLESCENT MENTAL HEALTH

The Hon. TREVOR KHAN (12:57): My question is addressed to the Minister for Mental Health, Regional Youth and Women. Will the Minister update the House on the steps the New South Wales Government is taking to help to address child and adolescent mental health?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:58): I thank the Hon. Trevor Khan for his question. Around 14 per cent of children and adolescents aged from four to 17 years old will experience a mental disorder. Three in four adult mental health conditions emerge by age 24 and half emerge by age 14. If those concerning statistics are left unchecked, it will result in more people being admitted to acute care and an increase in suicide in future years, which none of us would want.

In the next 10 years the New South Wales population of children and young people will grow by 9.7 per cent. Specialist mental health services for this age group need to grow in response to this service demand. The New South Wales Government is undertaking a decade-long whole-of-government reform of mental health care in response to Living Well: A Strategic Plan for Mental Health in NSW 2014-2024. The New South Wales Government is investing over \$21 million under the mental health reform to continue growing these services for children, young people and families. This is additional to funding provided to local health districts. Under this reform program, the New South Wales Government is enhancing specialist clinical mental health services across community and inpatient care for children and young people and their families and interventions for children with emerging conduct disorder and their parents.

The culturally tailored model of Got It!, which began in 2018, will benefit Aboriginal families in the area of south-western Sydney. The \$2.7 million four-year trial will help localise the model that will nurture the emotional and social wellbeing of Aboriginal children. Community-based psychosocial support services have been extended for young people through the Youth Community Living Support Service's initiative and \$2.4 million was invested in 2018-19 for community-managed organisations to continue to provide the service in partnership with five local health districts. A further \$2.3 million funding is also delivering additional assertive outreach community mental health services and consultation liaison to the health, welfare and education sectors. It is absolutely critical that we continue to focus on early intervention and that is why this Government is investing in the mental wellbeing of our young people.

Never has there been a more important time to do this. We need intervention and we need to make sure that our young people have every opportunity to thrive, to be the best that they can be, to build resilience, to know how to access services and the system. We are spending more money than we have ever spent before. We need to make sure we are getting the outcomes that we need. We owe that to our young people and to our communities because they are our most precious resource. I am very fortunate to be the relevant Minister in this place and I plan to make sure that we can continue to— [*Time expired.*]

The Hon. DON HARWIN: If honourable members have further questions, I suggest they place them on notice.

Supplementary Questions for Written Answers

DROUGHT ASSISTANCE

The Hon. MICK VEITCH (13:01): My supplementary question requiring a written response is directed to the Minister for Finance and Small Business. Can the Minister please elucidate his response to my previous question by providing details of all drought-related support currently being provided to small businesses in regional New South Wales other than farm-related businesses?

Questions Without Notice: Take Note

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. MARK LATHAM: I move:

That the House take note of answers given to questions this day.

SOUTH-WEST SYDNEY SELECTIVE SCHOOL

The Hon. MARK LATHAM (13:02): I take note in particular of the answer given by the Minister for Education and Early Childhood Learning about the new selective school in south-west Sydney. As a representative from that district I think it is very important for the House to understand that on current population projections there will be an extra 1.3 million people living west of the M7 in the vast suburbs stretching from the Badgerys Creek airport site down to Camden, so naturally you would have extra schools; of course there would be extra schools, selective and non-selective; that is a logical outcome of the massive population growth. I think the population growth is too rapid but if it is the projection from the Government, the Government needs to provide the essential services and jobs before the people move in. I welcome the fact that the Minister is doing that planning and part of it is a selective school.

The other aspect is that selective schools in south-west Sydney are enormously popular. They live out the modern Australian dream: first- and second-generation migrant families coming to this country and wanting their children to get ahead, not necessarily affording the fees for the top-level non-government schools in south-west Sydney but relying on schools like Macquarie Fields, Elizabeth Macarthur and Hurlstone at Glenfield to drive their kids hard to become scientists, engineers and doctors, and it is a wonderful aspiration. I know the Opposition had some scepticism about this, and we heard some unfortunate things about Asian aspiration in the last week of the election campaign. Let me tell the House and congratulate the Minister on the fact that Asian aspiration in south-west Sydney is a beautiful thing. Those kids are coming out of Cabramatta, Fairfield,

Bankstown and surrounding districts and going into schools like Hurlstone, which, unlike the time when I was there, is 95 per cent of an Asian background. They do the tutoring and hard work; they have the work ethic to get ahead. Why would we not support that? I think it is a great thing and I would want everyone in this Chamber to support that type of educational development in the region where I have lived now for nearly 55 years.

It is also to the credit of the Minister that she must be aware of the research showing that every child should have their potential in education realised to the maximum, and selective schools do that for the intellectually gifted. They give them an environment in which every single person, particularly the intellectually gifted, can get ahead in a competitive environment and maximise their results. I heard mention of Adrian Piccoli. He came out to Hurlstone, our best selective school in south-west Sydney, and broke his election promise. He had sworn on a stack of *Bibles* as education Minister and shadow Minister that he would not touch the land, the name and the siting of Hurlstone at Glenfield. At the end of 2015, without consultation with the school community and without consultation in the broader community, he broke that promise and wanted to rebuild Hurlstone at the university campus at Richmond, a place in north-west Sydney where nobody had asked for the relocation of Hurlstone. It is good that a new selective school is being planned but let us also keep the Hurlstone name at Glenfield. [*Time expired.*]

SOUTH-WEST SYDNEY SELECTIVE SCHOOL

The Hon. WALT SECORD (13:05): As the Deputy Leader of the Opposition, I state that I support selective schools. I think that there is a role for selective comprehensive and independent schools and that a person of faith may choose to send their children to an independent school. Our questions today related to the rationale behind the decision of why it was selected. We wanted to note the government processes on the criteria and the location. I understand that the Minister and the Premier yesterday did not designate a location other than geographical area, but we all know that there is a massive need for more schools, whether comprehensive or selective. As a parent with a daughter in her late 20s, there was strong support among parents to attend and prepare their children to get into selective schools. But again, our questions related to how the Government made the decisions and the criteria and the rationale. I will leave my comments there.

SOUTH-WEST SYDNEY SELECTIVE SCHOOL

The Hon. NIALL BLAIR (13:06): I add further to the contribution on selective schools and pick up on a couple of aspects of the contribution by the Hon. Mark Latham, in particular, in relation to Hurlstone Agricultural High School and its move to the Western Sydney University campus in Richmond. I come at this from a different angle because I, too, was involved in some of the discussions around this. This matter was heavily considered, particularly by the Hon. Adrian Piccoli. This goes back to the review undertaken by Professor Jim Pratley on agricultural education in New South Wales. For anyone who has read its findings, the Pratley review identified a number of areas, including making sure that we can continue to have specialised agricultural selective schools to make sure that we are bringing through the scientists, technicians and people who are going to look at our food and fibre production for the next generation.

I know that there is further debate around Hurlstone, which has not always been at Glenfield. It was at a previous site in Sydney before it moved to Glenfield. It retained the name and logo. That is something that will continue when it goes to Richmond. A conscious decision was made that if the school was going to move, it should be co-located next to a university that has specialist areas in food and fibre production and a TAFE campus nearby. I am not dismissing the debate around what is happening at the current Glenfield site.

The Hon. John Graham: Point of order: Mr President, I refer to your previous ruling about the purpose of this debate and ask that the member be brought back to the take-note debate rather than a contribution around other matters.

The PRESIDENT: The member was originally referring to answers given by the Minister. As I have ruled previously, a member can indicate if they agree or disagree with a contribution of a member when it relates to an answer given by the Minister. I believe for most of his contribution the honourable member was doing so. He was probably just starting to stray a little bit. I bring the member back to the take-note debate.

The Hon. NIALL BLAIR: Thank you, Mr President. It is probably something that the member and I can discuss further in detail not during this time. I just wanted to put another aspect of selective schools and some of the reasoning behind them that was further to the debate raised by the House today.

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (13:10): My contribution will be brief. I thank members for their contribution to the take-note debate, particularly their

views on selective schools. As I said during question time, our Government has made this commitment and we look forward to getting on with it.

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

Motion agreed to.

Written Answers to Supplementary Questions

SUICIDE PREVENTION

In reply to **Mr DAVID SHOEBRIDGE** (4 June 2019).

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women)—The Minister provided the following response:

The New South Wales Government is focused on making mental health care more accessible and culturally safe for Aboriginal people. In 2018-19 \$5 million has been provided to improve mental health care for Aboriginal people in New South Wales, including suicide prevention initiatives and expanding the Aboriginal workforce in mental health services.

The Strategic Framework for Suicide Prevention in NSW 2018-2023 recognises that nationally, Aboriginal people are almost twice as likely to take their own lives as non-Aboriginal people and that people in rural and remote communities have a suicide rate nearly twice that of people in cities. With the launch of the framework, a record investment in suicide prevention of \$90 million over the next three years will be made. This includes approximately \$6.6 million to improve wellbeing and resilience in Aboriginal communities.

The Mid North Coast Local Health District [MNCLHD] is committed to providing recovery focused mental health care to the community of Kempsey. Any suicide is a tragedy for the families and the community.

The MNCLHD is aware that over the past four months the Kempsey community has experienced four suicides which came to the attention of the Mental Health Service, two of whom were Aboriginal people, and two were non-Aboriginal people. The community has experienced other deaths which are awaiting a Coroner's outcome as police have reported them as unexpected or suspicious deaths.

The MNCLHD along with other agencies have put in place a number of strategies to support this community:

- The MNCLHD has directly enhanced resources, adding an additional two FTEs to further support the emergency mental health responses and one health practitioner to support youth mental health services
- Current services include: Got it!, a school-based program aimed at early intervention in behavioural disorders; Perinatal and Infant Mental Health to support vulnerable families; Adult and Youth services; Older People services; and services provided by Aboriginal specific clinicians
- Drug & Alcohol services include an Opioid Treatment Program, counselling services and withdrawal management services
- A new headspace service will be established in Kempsey to be run through the North Coast Primary Health Network [PHN], as announced by the Commonwealth Government in April 2019
- The Breaking Cycle Intersectorial Group in Kempsey provides interagency collaboration and coordination to address the community needs. It comprises representation from FACS, Housing, Justice, Health, Education, the local Durrri Aboriginal Corporation Medical Service, and the local council.

New South Wales is also a member of the Aboriginal and Torres Strait Islander Mental Health and Suicide Prevention Project Reference Group. This recently formed group will report through the Australian Health Ministers' Advisory Council [AHMAC] on priorities for planning and investment arising from the Fifth National Mental Health and Suicide Prevention Plan.

Enhancing the Aboriginal workforce is a priority for NSW Health, which will also strengthen the capacity to deliver mental health services for Aboriginal people. The Premier's priority to double the number of Aboriginal people in senior leadership roles from 2014 and the minimum target of 2.6 per cent Aboriginal staff in NSW Health has been reached. NSW Health now has an aspirational target of 1.8 per cent Aboriginal representation at all salary levels and occupations across all organisations to be achieved by 2023.

SCHOOL STUDENTS LITERACY

In reply to **the Hon. MARK LATHAM** (4 June 2019).

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning)—The Minister provided the following response:

CESE is conducting a qualitative review of L3. The Centre for Education Statistics and Evaluation [CESE] will provide findings of the review to the department as they become available. The review is expected to be finished by May 2020.

A Year 1 phonics screening check is being developed by the Commonwealth. We will continue to work with the Commonwealth in the best interests of students in New South Wales.

SCHOOL STUDENTS LITERACY

In reply to **the Hon. COURTNEY HOUSSOS** (4 June 2019).

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning)—The Minister provided the following response:

In 2018, all New South Wales public schools with kindergarten enrolment (1,728) received a minimum budget allocation of \$50 per kindergarten student to purchase decodable texts. Total spend \$3,735,000.

The PRESIDENT: I will now leave the chair. The House will resume at 3.00 p.m.

Bills

LIBRARY AMENDMENT BILL 2019

Returned

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I report receipt of a message from the Legislative Assembly returning the bill without amendment.

AGEING AND DISABILITY COMMISSIONER BILL 2019

Second Reading Debate

Debate resumed from an earlier hour.

The Hon. PENNY SHARPE (15:00): I lead for the Opposition on the Ageing and Disability Commissioner Bill 2019. NSW Labor supports this bill but we are concerned that in some ways it does not go far enough. The bill will establish a new statutory office, the Ageing and Disability Commissioner. The primary function of this new commissioner will be to deal with allegations of abuse, neglect and exploitation of adults with disability and older adults. The abuse, neglect and exploitation of people with disability and older people are serious issues. These problems can take many forms, including violence, neglect, financial abuse and emotional and psychological abuse, often from people who are closest to them.

Unfortunately there is not enough information regarding the prevalence of elder abuse and abuse of people with disability. The Australian Bureau of Statistics Personal Safety Survey for 2016 estimates that 40,000 older people and 90,000 people with disability experience violence each year in New South Wales. However, these figures do not capture the full extent of the problem because they do not include instances of financial exploitation, neglect or emotional abuse, which many older people and people with disability experience. The problems of elder abuse and the abuse of people with disability are increasingly being recognised.

In October last year the Commonwealth Government established a Royal Commission into Aged Care Quality and Safety. In April this year the Commonwealth Government established a Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability. These two royal commissions were established following other inquiries, including the inquiry into violence, abuse and neglect against people with disability conducted in 2015 by the Australian Senate's Community Affairs References Committee and the inquiry into elder abuse conducted in 2016 by the New South Wales Legislative Council General Purpose Standing Committee No. 2.

The genesis of the bill appears to be a recommendation made by the Legislative Council Inquiry into Elder Abuse in New South Wales. The elder abuse inquiry was chaired by Labor's Greg Donnelly and one of the members was Labor's shadow Minister for Ageing and Disability Services, Sophie Cotsis. I thank them for their work on and passion for this issue over a very long period. One of the recommendations made by the elder abuse inquiry was the establishment of a public advocate. The committee recommended this public advocate should have:

... powers to investigate complaints and allegations about abuse, neglect and exploitation of vulnerable adults, to initiate its own investigations where it considers this warranted, and to promote and protect the rights of vulnerable adults at risk of abuse.

That recommendation was made in June 2016. It is three years later. In January 2017 the Government provided a response to the elder abuse inquiry in which it noted the Law Reform Commission was examining the Guardianship Act 1987. The Government stated in its response:

Legislative change in this area should be deferred until the recommendations of the NSW Law Reform Commission Guardianship report can be considered. The report is expected in 2017.

The Law Reform Commission's review of the Guardianship Act was not provided to the Attorney General until May 2018 and it was not tabled in Parliament until August 2018. The Law Reform Commission recommended the establishment of a public advocate with "investigative functions to obtain evidence about neglect, abuse and exploitation" and "advocacy functions to complement the current work of community groups." In November 2018 the Ombudsman published a special report to Parliament regarding the abuse and neglect of vulnerable adults in New South Wales. In that report the Ombudsman called for the creation of a public advocate. Finally, in

December 2018 Legislative Council Portfolio Committee No. 2 ended its inquiry into the implementation of the National Disability Insurance Scheme by recommending that the New South Wales Government create a public advocate with the powers to investigate cases of potential abuse, neglect and exploitation of people with disabilities.

The Opposition welcomes the Government's decision to create the Ageing and Disability Commissioner but we regret that it has taken three years to get here. Before discussing Labor's concerns with the provisions of the bill in detail, I address the recent inquiry held by the Standing Committee on Social Issues regarding the bill. I again note the importance of this new bills committee process. It gives an opportunity for the public and advocates to have a say about legislation passing through this place. It has been a very positive, although of course necessarily very short, process. The bill was referred to the Committee on Social Issues on Tuesday 28 May 2019. Stakeholders were given literally 24 hours until Thursday 30 May 2019 to make written submissions. Incredibly, given the interest in relation to this matter, which is not surprising, 17 written submissions were received by the committee. On Friday 31 May 2019, just last week, 23 witness appeared to give evidence at a hearing. This is an incredible turnaround for a committee. On behalf of the Labor Opposition, I thank all the stakeholders who contributed to the inquiry on such exceptionally short notice.

The reason for the short time frame for the inquiry was to meet the Government's agenda to pass this bill and establish the new commissioner by 1 July 2019. The Opposition understands the Government's haste to try to do this before 1 July. However, it has been three years since the inquiry in 2016. The complex issues in the bill probably would have been much better dealt with if the Government had given more time for further consultation. In June 2016 the elder abuse inquiry recommended that a new body be created. We now have this legislation being rushed through the Parliament, despite significant concerns being raised by the stakeholders. We can do better when we are making legislation in relation to these matters. Sometimes allowing more time is better.

It is clear from the inquiry by the Standing Committee on Social Issues that the Government failed to adequately consult relevant stakeholders about the bill. The Government told the committee in both its written submission and its evidence at the hearing that it had consulted stakeholders regarding the bill. Whatever consultation the Government undertook it was clearly inadequate. The inquiry found many stakeholders had concerns with many aspects of the bill. I foreshadow that Labor will move amendments to address these issues. I also note that some of the issues raised by stakeholders are complex and the stakeholders who appeared before the inquiry expressed differing and nuanced views—again, another reason why a bit more time would help us work through the issues in a better way. This was particularly the case regarding issues which relate to consent and supported decision-making. While many stakeholders expressed concerns about the language contained in the bill, it is clear that further examination of these issues will be warranted in order to ensure the legislation reflects best practice and balances competing concerns.

It is unfortunate that the Government has rushed this legislation through Parliament. This has denied Parliament time which could have been used to work with stakeholders through the committee process to develop amendments and address their concerns. We hope the new Ageing and Disability Commissioner will consult extensively with stakeholders regarding the concerns they raised through the Standing Committee on Social Issues inquiry. We hope also the new commissioner will report to Parliament any recommendations for legislative changes considered necessary to protect people with disability and older people.

One of Labor's main concerns is that the bill does not go far enough. We are concerned that the bill creates a commissioner who does not have the powers that they need and could be a toothless tiger. While the bill provides the new commissioner with powers to investigate allegations of abuse, it does not provide any specific powers which the commissioner can use if a complaint is substantiated. Clause 12 (1) (b) of the bill states that the commissioner may "take further action ... including by making an application to a court or tribunal". However, the bill does not specify what applications the commissioner is empowered to make.

Another concern Labor has is that the bill restricts the jurisdiction of the commissioner to adults with disability and older adults. Labor does not object to the definition of older adults provided in the bill. However, Labor does not support the bill restricting the jurisdiction of the commissioner to adults with disability. We recognise that the bill has come about from a desire to address a gap in the existing framework to protect vulnerable people. Specifically, we recognise the primary intent of the bill is to provide protection for adults in family and community settings who are not covered by existing schemes such as the Aged Care Quality and Safety Commission or the NDIS Quality and Safeguards Commission.

However, we believe restricting the bill to adults will create new gaps. It will mean the Ageing and Disability Commissioner will be unable to investigate and report on issues affecting children and young people with disability. We believe it will be heartbreaking and frustrating for parents and carers of children and young people with disability if they are unable to have their concerns investigated by the Ageing and Disability Commissioner because of legal technicalities. Our concerns were echoed by many stakeholders who appeared

before the social issues committee inquiry into the bill, including the Physical Disability Council of NSW, the NSW Disability Advocacy Alliance and People with Disability Australia. I foreshadow that Labor will move amendments to ensure the bill covers all people with disability regardless of age.

Another concern Labor has is the lack of an explicit power for the Ageing and Disability Commissioner to refer matters to the police and the Director of Public Prosecutions. The abuse, neglect and exploitation of older people and people with disability are crimes. These crimes may involve violence, sexual assault, theft and fraud. As it stands, the bill provides an explicit power to refer matters for investigation to the Health Care Complaints Commission, the Aged Care Quality and Safety Commission and the NDIS Quality and Safeguards Commission. However, the bill does not contain any explicit power to refer matters for investigation to the police. The bill also does not contain an explicit power to refer matters to the Director of Public Prosecutions. Labor believes the bill should contain an explicit power to refer matters to the police and the Director of Public Prosecutions.

Crimes against older people and people with disability are generally under-reported. Even if a report is made it is often not prosecuted. In 2016 the Ombudsman found that of 1,140 allegations of abuse against people with disability only 18 allegations resulted in prosecution. Let us stop and reflect on that for a minute: 1,140 allegations of abuse and only 18 allegations resulted in prosecution. Older people and people with a disability need better protection than that and greater resources should be given to police to ensure that they can adequately assess and lay charges in relation to these matters.

Labor believes it is important the commissioner can refer criminal matters for prosecution and that data be gathered regarding the outcomes of those referrals. By gathering data on referrals for prosecution, Parliament and the public will be able to understand whether additional resources or changes in the law are required to ensure that vulnerable people who are victims of crime receive justice. Labor's concerns were echoed by many stakeholders who appeared before the social issues committee inquiry into the bill, including the National Disability Services, the Physical Disability Council of NSW, the Council on the Ageing and the NSW Disability Advocacy Alliance. Another concern relates to the penalty provisions for offences under the bill. Clauses 16, 29 and 30 of the bill provide only a monetary penalty of \$5,500 if a person commits an offence, such as obstructing the commissioner. I foreshadow that Labor will move amendments to include the possibility of a 12 month imprisonment sentence for offences under the bill. This will show Parliament is serious about stopping violence, neglect and abuse of people with disability.

Labor believes the Ageing and Disability Commissioner should have the power to hold public inquiries regarding systemic issues which affect people with disability and older people. Currently clause 12 of the bill provides that one of the functions of the commissioner is "to inquire into and report on systemic issues". However, the commissioner has no express power to hold a public inquiry. Many stakeholders who appeared before the social issues committee inquiry also believed that there needs to be the ability to have public inquiries. The stakeholders who have agreed with this are the National Disability Services, the Physical Disability Council of NSW, the Council on the Ageing and the NSW Disability Advocacy Alliance. Labor urges the Government to guarantee continued funding for non-government advocacy organisations. The New South Wales Government's funding for non-government disability advocacy organisations will expire in 12 months. During her evidence to the social issues committee inquiry, Meg Clement-Couzner of the NSW Disability Advocacy Alliance said:

... our organisations face funding cuts by June 2020. We are concerned that the architecture of the bill, which relies heavily on advocacy—as it should—will not be able to be enacted if our organisations do not exist.

Labor believes non-government advocacy organisations have a vital role to play supporting the functions of the commissioner and the objectives of the bill. It urges the Government to end the uncertainty facing the sector and guarantee ongoing funding for advocacy organisations. Members of this House would know that this has been a significant issue and it was a big issue during the election campaign. We are in a complex environment as we transition to the NDIS. Most members of Parliament will have had people attend their offices who are struggling with issues associated with the NDIS.

Some people are able to advocate for themselves or they have the support of family members who are able to advocate and work their way through what is a very complex system. The need for advocacy organisations within this sector is greater than it has ever been during the transition period and the setting up of roles such as the commissioner. I again urge the Government to fund advocacy for disability organisations and organisations for older people. Their expertise and ability to advocate is necessary for those who cannot do it themselves or do not have supportive family to do it on their behalf.

As I have stated, the New South Wales Labor Opposition supports the bill. We are disappointed it took the Government three years to introduce the bill. People with disability and older people deserve better. They deserve to be protected. We hope members will support Labor's amendments. We hope also that the Government and the new commissioner will work with all members of Parliament to address other issues identified by

stakeholders during the social issues committee inquiry into the bill. This is an important bill that will establish the framework for how some of the most vulnerable people are dealt with in our community. They deserve to be supported and included as part of our community. They should be able to live free from fear and free from abuse. I commend the bill to the House.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I note the Hon. Mark Banasiak seeks the call. Has there been an agreement on the crossbench as to who will speak first to the bill? As there is no response, the Hon. Mark Banasiak will be the first crossbench member to speak to the bill.

The Hon. MARK BANASIAK (15:15): The Shooters, Fishers and Farmers Party supports the Ageing and Disability Commissioner Bill 2019. It is vital that this important bill is thorough and does not place the aged or disabled at further risk. The Shooters, Fishers and Farmers Party will be moving amendments at the committee stage, as will the Labor Party and The Greens. These amendments or improvements will give the commissioner the necessary tools and make the legislation more effective in safeguarding the rights of the most vulnerable and ensuring accountability and greater transparency.

The Shooters, Fishers and Farmers Party understands and welcomes the dedicated role of the Ageing and Disability Commissioner that the bill creates. The commissioner will be charged with the responsibility of defending the rights and liberties of the most vulnerable people in our State. Regardless of the appointment of this commissioner, the Government will always hold a level of responsibility when it comes to our most vulnerable people. The bill should not be used by the Government to sidestep an implied degree of responsibility on behalf of the State in relation to our most vulnerable people in society by absconding or buck-passing its responsibilities to its Federal colleagues.

The Hon. LOU AMATO (15:17): I support the Ageing and Disability Commissioner Bill 2019. Elderly and disabled Australians are some of our most vulnerable citizens. As a just and prosperous society, we have an obligation to ensure the safety and security of all Australians. Most of us are aware of recent media coverage depicting some of our elderly citizens who have experienced cowardly abuse by those entrusted to care for them in aged care facilities. Such behaviour will not be tolerated by the Government. It represents a dark and evil mark that we are committed to stamping out.

All of us, myself included, have family and friends who are infirm due to advanced age or some form of disability. Often we entrust these people to the care of professionals and specialised facilities. At a minimum, all Australians are entitled to be treated with dignity and respect regardless of age, health and personal beliefs. The Government will not under any circumstances tolerate any acts or omissions that do not respect the right of all persons to live with dignity. A just and compassionate society is judged by how well it treats its citizens, especially the elderly and vulnerable. As a nation we recognise that the dignity of every person is sacrosanct and we embrace this truth as the essence of who we are as Australians.

The Ageing and Disability Commissioner Bill 2019 affirms our commitment to stamping out neglect and the exploitation of senior adults and those with a disability. To achieve this, the bill establishes the office of Ageing and Disability Commissioner and the Ageing and Disability Advisory Board. Part 2 of the bill sets out the appointment, employment conditions and remuneration of a commissioner by the Governor. Other factors are included, such as the duration of employment, the hiring of public service staff and the removal of the commissioner from office on the grounds of incompetence, incapacity or misbehaviour.

Part 3 explains the functions of the commissioner, which include the following: to deal with allegations of abuse, neglect and exploitation of vulnerable adults, such as the elderly or those with a disability—allegations can be on the basis of a report received by the commissioner or at the commissioner's own initiative; initiate any necessary action based on an investigation of an allegation of abuse or exploitation of a vulnerable adult; raise public awareness through education in matters pertaining to the abuse; provide advice and general assistance to the public about matters relating to the abuse; inquire into and report on systemic issues regarding matters in relation to which the commissioner may conduct investigations; consult with the board on matters relating to the abuse, neglect and exploitation of vulnerable adults; and advise and make recommendations to the Minister at the commissioner's own initiative or at the request of the Minister on matters relating to the abuse and neglect.

The commissioner is independent of the Minister in administering the proposed Act when conducting investigations. The commissioner may make a referral to another person or body for further action, or may decline to take action on reports received on matters relating to the abuse, neglect and exploitation of vulnerable adults. In the event the commissioner is of the opinion that a report or part of a report constitutes a complaint that may be referred for further action, the commissioner must refer the report to the Health Care Complaints Commission, the Commissioner of the Aged Care Quality and Safety Commission, the Commissioner of the National Disability Insurance Scheme [NDIS] Quality and Safeguards Commission or any other person or body prescribed by the regulations. The bill empowers the commissioner to require a person to attend a meeting and produce documents

or evidence to assist in any investigation of a report. The bill makes provision for the commissioner to apply for a search warrant if reasonable grounds exist to believe that an adult is subject to or at risk of abuse, neglect or exploitation at a care facility. The bill prevents any other Act or law from preventing access of information to the commissioner to exercise his or her functions under the proposed Act.

Part 4 of the bill defines the scope of Official Community Visitors inspecting a visitable service. Currently the Official Community Visitor program, to the extent that it relates to visits to accommodation provided to vulnerable adults, is administered by the Ombudsman. The bill transfers such administration directly to the commissioner. Official Community Visitors are appointed under the Community Service (Complaints, Reviews and Monitoring) Act 1993. A "visitable service" is defined under the bill as an accommodation service where adults with disability are in full-time care, a boarding house for people with additional needs or any other services as prescribed by the regulations. The bill provides protections to whistleblowers from any form of retribution for making a complaint or for providing information to an Official Community Visitor.

Part 6 of the bill establishes the Ageing and Disability Advisory Board, which will provide advice to the commissioner on matters pertaining to the abuse, neglect or exploitation of senior adults and those with disabilities. Persons involved in the administration of the proposed Act are protected from liability if they are acting in good faith. The bill makes it an offence for anyone involved in the administration of the proposed Act to disclose confidential information to unauthorised parties. Unauthorised disclosure attracts a penalty of 50 units. It is an offence under the proposed Act to hinder or obstruct without reasonable excuse the function of the proposed Act. The maximum penalty in such instances is 50 penalty units. Any offence under the proposed Act may be dealt with summarily before the Local Court. The bill will enable the Governor to make regulations, including savings and transitional regulations, for the purposes of the proposed Act.

This Government acknowledges the great work that many aged care and disability support facilities provide for our most vulnerable citizens. Many careworkers and facilities go beyond the call of duty to provide exemplary care to those who need ongoing care. These people are the compassionate and caring faces of humanity for the elderly and handicapped, many of whom are lonely and see family members infrequently. In many cases our most vulnerable community members have no immediate family. The kind and compassionate care from careworkers is their only link to family and friendship. It is a very sad state of affairs.

To the people who dedicate their lives in service to alleviate the suffering of the elderly and handicapped, this House gives its heartfelt thanks for their much-appreciated service to our community. However, we have also witnessed the terrible atrocities committed by a few individuals who have no regard for the dignity and respect of many vulnerable adults. This Government will not tolerate anything less than the best possible care of all Australians. The Ageing and Disability Commissioner Bill 2019 is a big step towards maintaining the dignity, respect and wellbeing of some of our most vulnerable citizens. I commend the bill to the House.

The Hon. JOHN GRAHAM (15:25): I speak to the Ageing and Disability Commissioner Bill 2019. I will raise one particular issue with this bill in support of the amendments that the Opposition has foreshadowed. I will make a couple of introductory comments. I am pleased to support the bill and the amendments the Opposition will move during the Committee stage. A number of amendments were outlined by my colleague the Hon. Penny Sharpe. I commend the work of the Standing Committee on Social Issues. This is another great example of the committee system really working very well, very fast and under a lot of pressure given the time lines. The legitimate issue the Government is trying to deal with is to have this commission in place by 1 July. The outstanding committee report was done under pressure. I thank the committee staff and all members involved. It is important work of the House. This is another case of that system working well, reviewing bills coming through and reviewing them rapidly.

I commend the work of shadow Minister Sophie Cotsis. She has done a tremendous amount of consultation. That is one reason why there will be quite a number of proposed amendments. I will speak to one of those; it comes out of the work of a former committee of the House that looked at students with disabilities. The Hon. Lou Amato, who spoke previously, was chair of that committee. The proposed amendment goes to the remit of the bill, whether it just deals with adults and older adults with disability or whether it should also include children and young people with disability. I congratulate the Hon. Lou Amato as he re-enters the debate. This proposed amendment should be looked at in more detail; that was the view of the Physical Disability Council of NSW, the NSW Disability Advocacy Alliance and People with Disability Australia.

Carers New South Wales had a more considered view. It did not put forward a strong view; it said it was on the fence on this issue. It did not want to over-complicate the area. That was not the universal view of agencies consulted. I am not closed on this question if the Government has a strong argument. I note the Government argued in its submission that there are already protections in place. It stated:

... not least of which ... the Department of Family and Community Services.

There are also a number of agencies who have oversight of and responsibility for promoting the best interests of children and young people, including the NSW Ombudsman, the NSW Children's Guardian, the Advocate for Children and Young People and the Kids Helpline. The Opposition does not want to confuse things. I accept that concern. However, this was found in the students with disabilities report when it came to parents' and children's experience of trying to raise issues legitimately within the system, either in public or private schooling. At one point in the committee's report it was described as disappointing and grossly ineffective. The issues were a lack of transparency, a lack of access to information, a lack of communication and lengthy time frames, and an overall sense that this process was incredibly disempowering for families and kids with disability.

I note the Government's position. My view is that we should consider accepting the Opposition's amendment to widen the scope of the legislation to include young people with disability and to allow the commission to work in that area as well. I invite the Minister to clarify what has changed since the students with disability report landed in the education system. If the Government's case is that no action should be taken, what is different? What steps have been taken in the education system that results in parents effectively being unable to make complaints? All members of this House agree that the complaints system was grossly ineffective. If the Government wants to advance the argument that the amendment should be resisted, what has changed? The Opposition will pursue this amendment. Above all, though, I argue the case for change in education. We cannot leave the situation how it is. If the Government wants to resist the proposed amendment, it must act to ensure that people are able to make complaints regarding the education system. I commend the bill to the House.

Ms ABIGAIL BOYD (15:31): I welcome the opportunity to speak on the Ageing and Disability Commissioner Bill 2019. I thank the Government for its initiative in introducing a bill to establish a commissioner to protect and promote the rights of adults with disability and older adults, and to protect them from abuse, neglect and exploitation. I am particularly pleased to see the acknowledgment in clause 4 (3) (b) of the need to recognise that an adult with disability or an older adult may face additional challenges in accessing supports and services if they are also a woman, or Aboriginal, or Torres Strait Islander, or it they are queer, or from a culturally and linguistically diverse background, or living in a regional or remote area.

The inquiry last year into the implementation of the National Disability Insurance Scheme [NDIS] and the provision of disability services in New South Wales, the submissions to the Aged Care Commission and the Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability paint a clear picture of vulnerable people being left behind under the current arrangements. They show that we have so much more work to do until older adults and people with disability are fully supported to live a good life. To do that successfully we need to enact whole-of-sector reform, including by focusing on the systemic and long-term challenges that create obstacles to the proper and intended implementation of that reform. In addition, we cannot escape the need to dramatically increase funding for both preventative and responsive services and programs.

I note the short one-day inquiry held last Friday into the provisions of the bill before the House. I acknowledge the exceptionally high quality submissions from stakeholders that were provided, despite the short time frame. Ideally we would have had time to engage in deeper consultation with stakeholders in a less rushed manner. I understand there was some consultation by the Government in relation to the concept of the commissioner more broadly, but of course that is not the same as allowing proper consultation on the full details of the commission as set out in the bill.

Parliament must take great care to avoid unintended consequences arising from the laws we enact. The expertise of stakeholders is vital in guiding us to ensure that our intentions are accurately reflected in practice and that the laws we pass address the core issues and go to the heart of the problems faced in communities across New South Wales. However, regardless of the constraints, the submissions were absolutely invaluable. I thank each and every organisation that found the time to contribute. In particular I thank the Physical Disability Council of NSW, the NSW Nurses & Midwives' Association, the Combined Pensioners & Superannuants Association, Mr Robert Wade, the New South Wales Council for Intellectual Disability, the Public Service Association of NSW, the NSW Disability Advocacy Alliance, the NSW Ombudsman, the Australian Services Union NSW & ACT, the Council on the Ageing New South Wales, People with Disability Australia, National Disability Services, Family Advocacy, Carers NSW and the Law Society of New South Wales for their submissions. I also thank them for their ongoing advocacy and support of those living with disabilities in New South Wales.

The Greens are generally supportive of this bill, but we have a number of concerns and suggested amendments that we believe will result in a stronger and more effective bill—one that will deliver better outcomes for those living with a disability, in particular. We note that a number of stakeholders queried why it was decided to have one Ageing and Disability Commissioner as opposed to two separate commissioners; that is, an Ageing Commissioner and a Disability Commissioner. Although appreciating that there are overlaps between the two groups of people, we are wary of the potential for the conflation of disability and ageing issues, or for the commissioner to inadvertently focus on one group to the detriment of the other. At Friday's inquiry, we heard that the potential for two separate commissioners had not been considered by the Government. It is unfortunate that we are now in a position where there is apparently no time to consider it.

Last Friday we also heard from a number of stakeholders that it would be desirable to also include children with a disability within the commission's remit. However, the supports and services required by children with a disability and their carers and families are unique and, in our view, cannot be included at this late stage without significant risk of unintended consequences. We would welcome the opportunity to hear from experts and stakeholders in the context of an inquiry into whether existing regulatory and oversight mechanisms are sufficient to promote the rights of children and young people with disability and to protect them from abuse, neglect and exploitation as well as on whether changes to such regulatory and oversight mechanisms are necessary or desirable, including the potential to include them within the commission's remit.

The Greens have given notice of a motion to refer such an inquiry to the Standing Committee on Social Issues and hope that this House will give it support when it is heard. Notwithstanding our concerns about the scope of the commissioner's role and the time frame for consultation, The Greens are of the view that a commissioner as described under this bill is better than no commissioner at all. But there are a number of items we want strengthened. Having a truly independent commissioner is essential to ensuring positive outcomes are achieved. For a disability and ageing commissioner to appropriately address concerns of exploitation, abuse and neglect they need to be independent of the Government and have the space and authority to investigate, to inquire and to advocate for those who have been discriminated against. The Greens will move a number of amendments to cover that concern.

The Greens also will move amendments to increase the transparency and accountability of the commission to ensure the commissioner is not unduly fettered in achieving its goals. We will seek to ensure that all necessary decision-making supports are made available to people when being asked for their consent under the Act and to ensure that the advisory board is truly representative. Finally, we will move an amendment to ensure that the independent advocacy organisations, referenced in this bill and acknowledged as providing such a valuable role in the sector, will receive long-term secure funding from the Government. I will speak more on that issue when that amendment is moved. When the amendments are moved at the Committee stage, I hope that members will support them. Let us not allow this opportunity to go to waste. I believe that we can improve the bill for the benefit of older adults and adults with disability.

The Hon. MATTHEW MASON-COX (15:37): I must say that our Mr Deputy President, the Hon. Niall Blair, looks resplendent in the chair and is a natural accoutrement to this House. Mr Deputy President, I congratulate you on your recent promotion to high office. I also congratulate the current ageing and disability Minister and previous Ministers for the sterling work they have done to introduce the Ageing and Disability Commissioner Bill 2019 to Parliament. I share some of the frustration expressed by other members over the long period of its development, but sometimes we have to wait for good things to happen. When they do, members should get on board. The bill closes a serious gap that has existed for some time and resulted in bandaid solutions, such as the NSW Ombudsman's standing inquiry into disabled people. I note that the Ombudsman's inquiry will conclude on 30 June this year. It is important for this bill to pass before then to ensure that protection for some of the most vulnerable people in our community continues.

I was pleased to be a member of General Purpose Standing Committee No. 2, chaired by the Hon. Greg Donnelly, which inquired into the important area of our ageing cohort. Elder abuse involves some of the most heinous acts in the community and some of the most hidden as well. It is difficult to understand exactly what goes on in people's homes. It is the role of this new commissioner to delve into those difficult areas to gain an understanding, give support and, where necessary, intervene on behalf of that very vulnerable cohort. Similarly, in regard to adult disabled people, there have been a number of reviews and inquiries. Indeed, the Federal Royal Commission into Violence, Abuse, Neglect and Exploitation of People with Disability is presently being conducted so we have known that there are serious problems in this area for a long time. It is very important that this House and indeed this Parliament support this very important bill that seeks to address these issues.

I note that the Minister for Families, Communities and Disability Services has just walked into the Chamber. I advise him now that he can be called to the bar of the House for some questioning later on! I know that he would be only too willing to do that because he feels passionately about this important issue. Now that he is here, I commend him for his passion and diligence in introducing this bill as one of the first bills of the Fifty-Seventh Parliament. Of course, every Minister stands on the shoulders of previous Ministers and the Hon. Pru Goward has done a lot of work to bring this bill to this place.

I make some reflections having been part of the one-day inquiry that went into some detail about the various provisions of the bill. A whole range of amendments have been foreshadowed by members opposite. I will deal with those foreshadowed amendments in the Committee of the Whole. I place on record my thanks to the organisations that came at short notice to give their reflections on the bill and as a whole were very supportive of what the Government is seeking to do. Indeed, the foreshadowed amendments are perhaps a little bit picky.

I think a lot of the balanced points in the bill are right on the money. The Minister and the Government have the balance pretty much right.

However, I reflect on two issues in particular. The first is the role of this building and the push by some to include children with a disability. The second is disability advocacy services and their future, which are important issues. Members would be well aware of my strong interest in child protection. Whilst I will always be critical of whoever is on the Government benches in relation to improving this issue—and I continue to put forward proposals to assist in that regard—it is one of those great intractable issues that has a strong and passionate group of government and non-government bodies in the field to address it. Indeed, the child protection regime in New South Wales, while still struggling under the weight of the risk of serious harm issue and the failure to really deal with the problem of face-to-face interviews with children who are reported at risk of serious harm, tends to be forgotten. Sadly, only about 30 per cent of children who are assessed as being at risk of serious harm in this State have a face-to-face interview. That continues to be a problem but I know the Government continues to work hard at resolving that issue.

The last thing we need to do when we are spending a lot of time and resources on an issue as serious as child protection is then parcel up part of it, in relation to disabled children, and dump it into a new body called the Ageing and Disability Commissioner. Disabled children, children with a disability, are children first. They have a regime that is built for them that has a range of safeguards. It may not work as effectively as we would like but it is still there, it can still be worked on and should be kept in its current position. Let us continue to spend the time and resources addressing those problems. Let us not pretend they will be addressed better by then picking them up and slotting them in with an Ageing and Disability Commissioner who has no expertise in this regard. One of the important things to note is that if somebody with a disabled child or disabled person who is a child needs referral, the simple thing to understand is that there is a "no wrong door" policy. If there is a referral to the Ageing and Disability Commissioner, then of course the commissioner would refer that back to the appropriate child protection authorities. These are the things that practically will happen. We do not need to create more problems for resourcing or have people fall through the cracks as a result of taking unnecessary steps.

The second issue relates to disability advocacy services. I have had a separate chat to the Minister in this regard. The Minister understands this issue personally and the implications for the whole sector if we do not get this right. The bill is predicated on disability services agencies being a key source of referral to the commissioner as well as a key way to spread education about what services can be accessed by disabled people. That is in the bill. It permeates through the bill in a number of provisions. It is clear that we must have a healthy disability advocacy sector in order for the commissioner to be able to do his or her job properly. The National Disability Insurance Scheme [NDIS], whilst it is a fantastic and innovative response to some of the problems faced by disabled people in this country, is going through—and has for some time now—a significant teething exercise.

As a parent who has a disabled child, I have been through this exercise and I can tell members that it is incredibly frustrating, but at the end of the day there is light at the end of the tunnel. There is much being achieved but there is also much more to achieve. As part of this process I have had the need to access disability support services. Coming from a regional area I have learned that the coverage across New South Wales is rather chequered. It is clear that there is a real need for these services, especially to navigate the complexity of the NDIS and the complexity of some of the State systems that abut the NDIS, particularly some of the demarcation disputes that occur in this area.

A particular area of concern to me as a father is how the health system abuts the disability system—the State health system and the Federal NDIS. There is a demarcation dispute about whether it is a health issue or a disability issue, and it creates problems for families because we just do not really care about demarcation disputes; we just want to get some help. It is really simple: Put the demarcation in a bucket and let us get on with it. People need to be assisted with this. I found this incredibly frustrating, as has my family. To have to go through a disability advocacy service to try to work this out, even for somebody who has an understanding of government, has been quite an exercise. I learnt quite a deal about some of the inadequacies of the system through that process. There was a perverse part of me that wanted to go through the system to understand it better and improve it—we do need to improve the system.

At the committee inquiry on Friday I asked some of the disability support services representatives who gave evidence a few questions about the issue. The problem is continuing and still in need of resolution. I asked the Family and Community Services representatives how they will handle the transition in 2020. It is a bit of a work in progress. The best way to summarise it is that whilst the NDIS is a transformational way of dealing with and empowering disabled people, it only deals with around 10 per cent of people with disability in the community. Another 90 per cent have to deal with all the issues of trying to get around and become productive members of their communities when they can. They really want to be part of their communities, but there are a lot of obstructions to that.

When I put some questions to the Family and Community Services representatives there was an acknowledgement that the issue would be sorted out with the NDIS but there was not a full acknowledgement that we need to sort the problem out more widely. The NDIS is only part of the problem in terms of advocacy services. I ask the Minister to address that issue in his speech in reply or in the Committee stage. I also ask him to give some thought to the next 12 months and beyond and how governments at both the State and Federal level will deal with the conflict in this area. I understand that we have the Federal NDIS Information, Linkages and Capacity Building program, which has some elements that will certainly fund some of the necessary advocacy services in the community for people with disability. That is not restricted to the NDIS; we also have the National Disability Advocacy Program, which reaches out in the community and supports some of those organisations.

I am really concerned that whilst the negotiations are continuing, we may have some disconnect with some of the existing advocacy programs and organisations. Those services have important community networks and relationships with disabled people and their families who are affected by government programs. Whether they are seeking to be part of the NDIS or are outside of the NDIS guidelines or criteria, they still need to sort out their issues. Disability advocacy support services are crucial for them to be able to do that. We need to sort that out over the next 12 months. In fact, I would argue that it needs to be sorted out now for the simple reason that people are looking to their futures and uncertainty breeds uncertainty. They will need to make decisions about what they are going to do in the next number of months, if not earlier. Some of the services are based in regional and rural areas and they may look to 2020—next year—and realise that there is no funding for their positions. They are concerned and are contacting our offices. It is a real issue. We need to rationalise those services in a way that ensures that we do not lose those important networks and contacts that they have with people in our communities.

It is not a simple issue but it is important that we address it. I felt reassured by what the Minister said to me about this issue. He understands the priority of negotiating and determining exactly where the Commonwealth stands on particular grant programs, particularly the National Disability Advocacy Program. I think that will be resolved in the near future, but I would like the Minister during his speech in reply or in the Committee stage to give us some comfort on this. It is a real issue that needs to be addressed. We need to ensure that the NDIS works to promote the wellbeing of people with disability. We also need to ensure the commissioner is effective in his or her role as a person who will intervene in some really dark places to ensure that the most vulnerable people in our community are protected.

Reverend the Hon. FRED NILE (15:54): The Christian Democratic Party strongly supports the Ageing and Disability Commissioner Bill 2019. Some members may say that I have a conflict of interest because I am 84 and will be 85 in September. But I am still well and strong—I enjoyed marching in the Anzac Day parade again this year. I congratulate the Minister for Families, Communities and Disability Services, the Hon. Gareth Ward. The Minister stated in his speech that he lives with a disability. He is probably the first Minister responsible for disability services who has a disability. He explained that he lives with albinism and legal blindness. As a result he has experienced segregation, discrimination, alienation and hurt. He is probably the first Minister responsible for disability services who understands what individuals with disabilities have experienced in our society.

The Minister has introduced a very effective bill that establishes the office of the Ageing and Disability Commissioner with the purpose of protecting adults with disability and older adults from abuse, neglect and exploitation and protecting and promoting their rights. Obviously, the Ageing and Disability Commissioner Bill 2019 is strongly supported by the Government. It is evidence of its commitment to and responsibility for the care and protection of people with disability and older people. The Government has set out its own agenda and is determined to create a society that is inclusive of people of all ages, with or without disability, so they can live safely and with dignity. A great deal of work was done prior to the introduction of this bill. Reforms have been proposed in various reports.

The Ombudsman's special report to Parliament entitled *Abuse and neglect of vulnerable adults in NSW—the need for action*, tabled in November last year, recommended the establishment of an independent body to investigate and respond to the abuse and neglect of vulnerable adults. In May 2018 the Law Reform Commission released its report on the Guardianship Act 1987, which recommended that a new Act establish a new statutory office for a public advocate to carry out advocacy and investigative functions. In 2016 Portfolio Committee No. 2 - Health tabled the report *Elder abuse in New South Wales*, which also recommended establishing a public advocate with powers of investigation. This bill is the Government's timely response to those recommendations. I trust that the House will pass the bill today. During the Committee stage we will consider many of the foreshadowed amendments. We will have to consider those amendments with care to ensure that they do not in any way weaken the objectives of the bill. On behalf of the Christian Democratic Party I am very pleased to support the bill.

The Hon. COURTNEY HOUSSOS (15:59): The Ageing and Disability Commissioner Bill 2019 will establish a new statutory office of Ageing and Disability Commissioner. From the outset I indicate—as have my

colleagues—that Labor will support the bill. I will provide a few reflections upon this bill that seeks to protect some of the most vulnerable members of our society. Other members have reflected upon the work of a number of committees and inquiries that has led to the formulation of the bill. I particularly pay tribute to Portfolio Committee No. 2 - Health under the leadership of our Labor colleague the Hon. Greg Donnelly, who in 2015 initiated the first inquiry into elder abuse. That inquiry recommended that we needed something like an Ageing and Disability Commissioner. I later served with the Hon. Greg Donnelly on the committee in its drug rehabilitation inquiry. That inquiry heard about people committing elder abuse while under the influence of drugs and about the need for a public advocate or somebody to provide elderly people with support.

Last year Portfolio Committee No. 2 undertook an inquiry into the implementation of the National Disability Insurance Scheme. The NDIS is a great Labor initiative, but the stories we consistently heard suggest it is not working in practice. It is not living up to its promise for everybody in the way that it should. I acknowledge the comments of the Hon. Matthew Mason-Cox about his direct experience. Out of the stories that came to us in that inquiry two things concerned me most. The first was the need for individuals to advocate consistently in order to receive the services and treatment that should be provided by the NDIS. Requiring people to get expensive report after expensive report is not how the system was set up. The second most concerning aspect was the need for advocacy services to provide support to even the most informed participants within the system—as the Hon. Matthew Mason-Cox referred to in his personal experience.

As part of the inquiry, we heard some truly horrific stories about a deeply concerning situation that resulted in the deaths of a number of people in large-scale residential centres in the Hunter. Those stories were included in an Ombudsman's report that was released as we went into budget estimates hearings last year. If nothing else, my experience on Portfolio Committee No. 2 has highlighted the need for this type of commissioner. It has also made clear to me the need for ongoing support of advocacy services. Funding for disability advocacy services is scheduled to run out next year, and I take this opportunity to appeal to the Government to consider continuing that very worthwhile funding. In the context of the State budget, \$13 million is not a great deal of money.

The Hon. Penny Sharpe has spoken about the amendments that Labor will propose to address some of the bill's shortcomings. I have reflected today upon how this House and its committees have shown they can work and how the best of this House can operate to produce recommendations that lead to bills such as this. I appeal to the Government and the crossbench to listen carefully to the arguments for Labor's amendments and to take them on board so that this bill, in its completion, can exhibit the best that this House has to offer. I support the bill and commend it to the House.

The Hon. SHAYNE MALLARD (16:04): My brief contribution to the debate on the Ageing and Disability Commissioner Bill 2019 is made in the context of my having chaired the Standing Committee on Social Issues, which looked at the bill on Friday and had a 24-hour turnaround. As we have heard, the bill establishes the Ageing and Disability Commissioner from 1 July 2019 to protect and promote the rights of adults with disability and older adults and protect them from abuse, neglect and exploitation. "Older adult" means someone who is 50 years or over for an Aboriginal or Torres Strait Islander person, and 65 years or over for other people. It is tragic that we have to include in the bill the difference between the life expectancy of Aboriginal Australians and other Australians. The bill is intended to cover gaps in the regulatory oversight of such adults. It will give the commissioner powers to deal with allegations of abuse, neglect or exploitation of people with disability and older adults who are vulnerable to mistreatment in their homes or in community settings by people they know and trust.

This is the first bill of the Fifty-Seventh Parliament. The Selection of Bills Committee referred the bill to the Standing Committee on Social Issues to hold an inquiry and to report recommendations to the Legislative Council. We had the inquiry on Friday, with 24 hours notice for stakeholders to provide submissions. Stakeholders advised that in general they are supportive of the overall objectives of the Ageing and Disability Commissioner Bill 2019—to protect and promote the rights of adults with disability and older adults and to protect those adults from abuse, neglect and exploitation—and broadly welcomed the establishment of the office. I think that there is no debate in this Chamber or this Parliament, nor in the community, that it is a good bill and it is doing good work, it has good objectives and it is needed. As I have said in other debates, it is the fine print and the details that cause us to have our debates.

We took evidence from stakeholders and they had varying positions. There was no unanimity of position on the issues that have been raised in the amendments foreshadowed by Labor. Indeed, the Government has its views on them as well. I will point out the key issues raised in the report, without going into detail. They were: the independence of the commissioner; whether the commissioner's remit should include young people with a disability; the requirement for consent to investigate; public inquiries for systemic issues; the referral of matters to other agencies, including the police; information sharing with other agencies; funding for advocacy organisations; the ongoing role of the NSW Ombudsman; and representation on the advisory board. Most of those

matters are addressed in amendments and, as I said, there was no unanimity from stakeholders in their submissions on many of them. During the short inquiry, the committee considered a number of concerns that were raised. The committee acknowledges those concerns. It has recommended that the Legislative Council proceed to consider the bill and any amendments in the Committee stage that address stakeholder concerns raised in the inquiry—if necessary, I would add.

On behalf of the committee, I thank all those who participated in the inquiry, provided submissions and attended the public hearing at such short notice. The committee was given an extremely short time frame for the inquiry, as the bill is drafted to commence from 1 July 2019. We now know that is because of the inclusion of the Ombudsman's permanent inquiry into matters where it has been dealing with complaints. I acknowledge the inconvenience the time frame may have caused some inquiry participants and I thank them for their flexibility and willingness to lodge submissions and appear at the public hearing at such short notice. While the time frame was necessary in these circumstances, my recommendation to Parliament is that it would be preferable that future inquiries into bills benefit from a lengthier time frame when possible. I will expand upon that.

This House has a great reputation going back 20 or 30 years for having thorough and in-depth inquiries that result in well-considered recommendations. As Ann Symonds used to say, often the best inquiries are the ones that unite all sides of the Chamber through consensus, and cause the Government to take heed and move on with sensible progress. Twenty-four hours is not enough time to do justice to that past reputation. I experienced quite a lot of heat from the stakeholders because my signature was at the bottom of the letter that went out that day, and the secretariat staff experienced some unnecessary pressure. Because we met on a Friday, someone in the secretariat worked over the weekend to get the report done. Hansard staff had to work extra hours as well. I acknowledge that it is part of the job, but I think we could do better in the future if we had more time for inquiries into bills that come before the House. I think that it will be occurring more frequently, given the nature of the House in the current term.

I thank the secretariat—Jenelle Moore, Helen Hong, Rebecca Main and Elise Williamson—for their incredible work. There will be no take-note debate, so I wanted to express my thanks during the second reading debate. Finally, I sincerely commend the Minister, who is a good friend of mine, and the Government for the ongoing commitment to protect and promote the rights of adults with disability and older adults and to protect those adults from abuse, neglect and exploitation. The best work of this House occurs when we work together to protect the most vulnerable people in our society. I commend the bill to the House.

Mr JUSTIN FIELD (16:10): The objects of the Ageing and Disability Commissioner Bill 2019 speak for themselves. They are "to protect and promote the rights of adults with disability and older adults and to protect those adults from abuse, neglect and exploitation." Over the past few years the country has been shocked to see so many instances of older Australians and people with disability being taken advantage of or suffering abuse and neglect at the hands of people they know and trust. They have had their dignity, their resources and their ability to participate in society taken away. I understand the reasons behind this bill, and I support it in its intention and in its detail.

Many members who have made a contribution to this debate have a much greater depth of understanding than I have about these matters and how we have arrived at this bill including the inquiries that have been conducted over the past couple of years, the reports that have been written and the process that the Standing Committee on Social Issues has just gone through. I thank the Minister, the Minister's office and the office of the Opposition's spokesperson for the time they have given me over the past couple of days to understand the detail in the bill and also the rationale around the amendments that will be put during the Committee stage.

Everyone has come to this debate with a sense of goodwill to try to get the best outcome from this process and this bill to ensure that the commissioner can do the job that needs to be done for those people who need advocacy and support in our State. I recognise that the bill has been put forward as a result of a range of previous inquiries and recommendations. I can see how the bill will create the circumstances to enable a commissioner to do their job. I look forward to listening to the contributions of the Opposition and the responses from the Government with regard to the amendments. I can see the merit in all of those amendments but I also recognise that some of them step away a bit from the intention in the drafting of the bill and the expectations of certain stakeholders.

I note the contribution of the Hon. Shayne Mallard, who chaired the inquiry on Friday. I understand that it was a short inquiry, constrained by limited time. Both sides have recognised that there was not a unanimity of opinion among the stakeholders. I will contribute to the debate on the amendments but I think it is difficult to take the side of one group of stakeholders over another when there is no unanimity. I have gained some perspective after talking to the Government and the Opposition over the last little while. I think that some of the concern of stakeholders has come from a scarcity mentality within the affected sectors. People feel that, over time, the resources have been stripped away from them or that there have never been sufficient resources to meet their

needs. There seems to be a concern that one group has been pitted against another. They should not have to feel like that. I do not think that the way people vote or how they consider the amendments should be regarded as a person or a party taking one side over the other. It is a recognition that more work needs to be done for the most vulnerable members of our community.

I thank the Government for putting forward this bill. I thank the Opposition for its considered approach, and I thank all stakeholders who contributed to the debate in the lead-up to the bill coming to the Chamber this afternoon. I look forward to making some additional contributions during the Committee stage. As it stands, I certainly support the intent and the detail in the bill. I look forward to Parliament establishing the office of the commissioner today.

The Hon. GREG DONNELLY (16:14): I will not make a lengthy contribution to debate on the Ageing and Disability Commissioner Bill 2019 because much of what I want to say has already been put on the record. I commend and thank all honourable members who have participated in the debate thus far. I will give a little bit of context to the consideration of the issue of elder abuse and go through a chronology of some of the reports that have been done so that those matters are on record. I think that Australia is starting to come to terms with the enormity of what we are facing. As I was reflecting on the chronology I thought that, in some senses, elder abuse is perhaps a little like the tragedy of domestic violence. It took some time before society started to come to terms with that and to understand the size and the gravity of what was going on. The tragedy of domestic violence—family violence—is that it usually takes place between individuals behind closed doors. Often the truth about what is happening is trapped inside those closed doors and does not make its way out. In some sense that is analogous to elder abuse because it also involves intimate family relationships. People involved in domestic violence or elder abuse often wish to keep the matters to themselves.

Some of the reports have been mentioned in this debate but I would like to detail them quickly. In June 2016, the General Purpose Standing Committee No. 2 report on its inquiry into elder abuse in New South Wales was tabled in the Legislative Council. I had the privilege of chairing that inquiry. We took evidence from around the State. I recommend to members who have not already read that report to do so. It was a revelation to me. The aspect of the report that stood out was that financial abuse in the context of elder abuse was rated very highly. It was quite excruciating to hear some of the evidence that witnesses provided to the committee in camera. Members who were on that committee would remember the examples given of extraordinary pressure being placed on the elderly. It is hard to imagine that anyone would be prepared to do some of the things we heard about to another human being, let alone a family member—their own blood.

In some cases people were pressured with regard to financial matters. A terrible example stuck in my mind. A family member made an undertaking to an elderly parent. If the parent was prepared to sell her property—the value of properties in the major metropolitan areas have increased significantly in recent years, even though they may be falling a little bit at the moment—the child would build a granny flat where the parent could live. I think the father had predeceased the mother. The mother sold the house and a large amount of money—the proceeds of the sale—was transferred into a bank account that the child had access to. The child subsequently withdrew the offer to build the granny flat and the parent was left stranded. The mother then had to find accommodation in a retirement village or the like. The committee could not believe that a son could do that to his mother. It is instances such as that which opened my eyes to the extent of this egregious behaviour.

Members may be aware that in May 2017 the Australian Law Reform Commission produced a report entitled *Elder Abuse—A National Legal Response*. That was a huge report—almost 450 pages long. That was the first inquiry at a national level to look at the size and scope of elder abuse in Australia. From that Australian Law Reform Commission report came the commissioning of the Australian Institute of Family Studies to commence a research project entitled Elder Abuse National Research Strengthening the Evidence Base—Stage One. This project has been going for several months. I encourage members to look at the Australian Institute of Family Studies website and the work that is being done.

This research project is spending a significant amount of time and effort to look at the work that is done internationally to define "elder abuse" as accurately and reasonably as possible. The term gets bandied around and can be used a bit loosely. The work being done by the Australian Institute of Family Studies is endeavouring to come up with a robust definition of elder abuse which can be used in Australia by respective Federal, State and Territory governments and agencies. If in one State or Territory the definition of "elder abuse" is different from that of another State or Territory, particularly with respect to the framing of laws, there could be issues of failure of comity of meaning across jurisdictions, particularly in the ability to prosecute those who may be involved in elder abuse. The research project is ongoing and it is very important that it produce a robust definition that we can all use in the future.

Members already commented on the Commonwealth Royal Commission into Aged Care Quality and Safety, which commenced earlier this year. I am sure members have heard testimony from that royal commission.

If one is interested to do so, one can go to the website and read the transcript of evidence provided to that royal commission. Once again some of it is quite excruciating. There are instances of elderly people in retirement villages and aged-care facilities saying that they wish that their life would come to an end because they find living in conditions where they are utterly isolated and lonely—they have no visitors—and, more to the point, where they are manifestly failing to receive basic standards of care and attention that should be delivered by professional providers of aged care, causes them to be so distressed that some of them are contemplating that it would be more preferable for them to die than continue to exist in those types of places. This is in the record of oral evidence from witnesses that one can read in the transcript. The royal commission still has some time to run.

For completeness I also mention the tabling in December 2018 in the New South Wales Legislative Council of the report of Portfolio Committee No. 2: *Implementation of the National Disability Insurance Scheme and the provision of disability services in New South Wales*. The Hon. Matthew Mason-Cox made some very thoughtful points about that report and its recommendations—the bill deals with matters of both ageing and disability. Arising from his comments I make the point that there are Federal and State jurisdictions and there is a degree of overlap in what governments do in the areas of ageing and disability. With ageing, it is loosely said that the Commonwealth provides the funding for aged-care facilities, retirement villages and what have you and the States pick up whatever the difference is. There is a problem of definition around who has responsibility for what and perhaps the lines are not as clear as one might like them to be. This is the challenge of having a federation and operating in the way that we do—I guess it has been the case since 1901.

When we know there is such potential for difficulties between the Commonwealth and the States in getting the finest of the lines drawn, which has been the case for many decades, there is all the more reason to take time to carefully craft bills that ultimately will become laws. Those laws need to be able to interface as closely as possible without creating conflict between the States and the Commonwealth. On the point I made earlier about definitions, jurisdictions need some comity in the way in which they deal with matters. When it is all said and done, Australians are Australians no matter where they live.

I commend the Government for introducing the bill. I fully concur with the Hon. Penny Sharpe and the shadow Minister about the fact that there is a sense that the bill is being rushed. It would have been better if more time had been given to work through some of the issues. The fact that there are many proposed amendments reflects the fact that there are concerns. I also understand that there is a sense that we have to get this bill passed because that is what the Parliament does and that is its job. However, if extra time can be given to work through some of the issues, particularly where there are Commonwealth and State jurisdictional issues, as a Parliament we will create better laws. I commend the bill to the House.

The Hon. MARK PEARSON (16:27): The Animal Justice Party commends the Ageing and Disability Commissioner Bill 2019 to the House. We think it is extremely important. There are many amendments, some of which we will oppose and some of which we will support. We are dealing with extremely vulnerable groups in our community who are facing some of the situations that the Hon. Greg Donnelly has spoken about—the systemic, ongoing abuse of these people through means such as taking their money or their food or through actual physical abuse, et cetera.

When a commission is established with a commissioner who has the brief to investigate and properly interrogate and get an understanding of what is happening to people in this vulnerable situation, it raises their standing. If people who are helping—people delivering Meals on Wheels or cleaners—have suspicions or concerns, the establishment of the commission increases their capacity to report. By establishing such a commission it is clear that the Government and the community agree that these are serious needs and vulnerabilities. It is important that people in these situations of vulnerability to abuse have their application for assistance, help and advocacy upheld by such a commission and such a bill. The Animal Justice Party commends the bill to the House.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:29): In reply: I thank the following members for their contributions: the Hon. Penny Sharpe, the Hon. John Graham, Ms Abigail Boyd, the Hon. Mark Banasiak, the Hon. Lou Amato, the Hon. Matthew Mason-Cox, Reverend the Hon. Fred Nile, the Hon. Courtney Houssos, the Hon. Shayne Mallard, Mr Justin Field, the Hon. Greg Donnelly and the Hon. Mark Pearson, all of whom have made speeches supporting the bill. As there are significant proposed amendments to be moved, I do not intend to speak for a long period in reply. Because of the general consensus relating to the passing of the bill it is important to move to the proposed amendments quickly. The speakers highlighted various issues which will be the subject of proposed amendments.

One significant contribution made by a number of members highlighted the issue of advocacy services. In the last budget I contributed to the debate in relation to the continuing provision of advocacy services. In my previous role in another place I was a great proponent for the ensuring of funding for advocacy services. No doubt there will be some discussion arising from the amendments that are being sought on that issue. I assure the House

that the Minister acknowledges the importance played by advocacy services. He acknowledges that some people will be covered by advocacy services provided in the National Disability Insurance Scheme [NDIS]—there is some \$300 million set aside.

But some people will not be covered by the NDIS and we ought to ensure there is adequate provision for advocacy services. The Hon. Matthew Mason-Cox powerfully puts the position probably better than any other person in this place about the necessity for those advocacy services. If someone like him, who is from a legislative background, has to wade through the intricacies of the various services that are available—or alternatively the lack of services—then it certainly points to the need for ensuring those services are provided. Whether the amendments achieve that will no doubt be debated shortly.

The other issue raised is the extent to which children should be included under the supervision of the new disability commissioner. Again that will be the subject of significant debate relating to the amendments that will be moved. The Hon. John Graham asked for assurance in relation to students who he perceived were not being sufficiently looked after. He referred to a report addressing the inadequacy of the delivery of services on behalf of students in educational institutions. I submit generally that that is an issue for the Minister for Education and Early Childhood Learning, who is in the Chamber, because the delivery of services for children in schools is the responsibility of that Minister. Any inadequacy should be addressed to her.

The bill is designed specifically to give the disability commissioner jurisdiction over persons in either homes or in care and not necessarily students. While I accept that is not a total answer to the issue raised by the Hon. John Graham, I suggest it is probably within the province of the jurisdiction of the education Minister to direct an inquiry to her about the level of which services are provided to students within a school environment. A submission was made by Ms Abigail Boyd concerning the independence of the commissioner. The independence of the commissioner is well established within the bill. The role is not one of a public servant; it is an independent commissioner. It is not a part of government and it takes no direction in relation to the making of reports or otherwise. A proper examination of the bill would probably satisfy the member that the commissioner is independent of government. I will not speak any longer. Because of the unanimity with which the House perceives the bill, it is important that we move quickly to the consideration of the bill.

The PRESIDENT: The question is that this bill be now read a second time.

Motion agreed to.

Instruction to Committee of the Whole

Ms ABIGAIL BOYD (16:37): I move, according to sessional order:

That it be an instruction to the Committee of the Whole that it has power to consider an amendment relating to funding for disability advocacy.

The Hon. Sarah Mitchell: Point of order: I seek your ruling on the constitutionality and legal effectiveness of two of the amendments: amendment No. 1 on sheet c2019-002B to be moved by the Shooters, Fishers and Farmers Party and amendment No. 27 on sheet c2019-009A to be moved by The Greens.

Mr David Shoebridge: To the point of order: It is difficult to know on what basis the Government is making the assertion of unconstitutionality, if it is, but if it is relying upon the argument that was run in the other place, the provision of the Constitution Act that was referred to and relied upon by the Speaker to rule the amendment in the other place out of order by reason of unconstitutionality clearly references only the Legislative Assembly and only restrictions on the capacity of the Legislative Assembly to consider such amendments. That section makes not a single reference to a restriction on the powers of the Legislative Council. Not knowing upon what basis the Government is asserting unconstitutionality, which puts you in an unfortunate position, Mr President, I find it an unusual approach from the Government. On the assumption that the Government is relying upon the same argument it progressed in the other place, that would be the position we put to you.

The PRESIDENT (16:39): My understanding is that Ms Abigail Boyd has moved the motion with reference to The Greens amendment No. 27 on sheet c2019-009A. What I am not certain of is whether the Shooters, Fishers and Farmers Party intends to proceed with its amendment No. 1 on sheet c2019-002B. If it is not proposing to move that amendment it would assist me.

The Hon. MARK BANASIAK (16:39): We do not intend to proceed with that amendment, provided Ms Abigail Boyd's amendment stands.

The PRESIDENT (16:40): I will take it on the basis that Ms Abigail Boyd's amendment is to be dealt with first. As no other member wishes to seek the call and speak on the motion I will continue. I have had an opportunity to look at this matter carefully in my office during the break and can indicate the following. Ms Abigail Boyd has moved an instruction to the Committee of the Whole that it has power to consider an

amendment relating to funding for disability advocacy. This is presumably a reference to The Greens amendment No. 27 on sheet c2019-009A. However, I also note that the Shooters, Fishers and Farmers Party has also circulated an amendment in similar terms on sheet c2019-002B. The respective powers of the Legislative Council and Legislative Assembly in relation to financial legislation, appropriations and amendments which impose financial obligations have been the subject of dispute since 1856. There are a number of relevant provisions in the Constitution Act: sections 5, 5A, 5B and 46.

It could be argued that the amendment as circulated amounts to an appropriation and that if it was agreed to by this House it would turn the bill into a bill appropriating part of the public revenue for the purposes of section 5. Section 5 of the Constitution Act is clear in stating that all bills for appropriating any part of the public revenue shall originate in the Legislative Assembly. It seems to be suggested that, if the amendment is agreed to, this bill would now become a bill falling foul of section 5 by originating in the Legislative Council. Whilst it is difficult to see how a bill can originate in both the Legislative Assembly and the Legislative Council, I will put that matter to one side as it is not necessary to rule on that matter on this occasion.

It may be that the amendment circulated by the Shooters, Fishers and Farmers Party could be construed as impliedly appropriating part of the public revenue and cannot proceed as it would fall foul of section 5 of the Constitution. However, I understand it may not be proceeded with if The Greens amendment is successful. However, the amendment of The Greens explicitly merely "recommends" the State provide financial assistance. It does not compel appropriating public revenue. In fact, it is understood that the wording of The Greens amendment is not inconsistent with a number of earlier precedents for such amendments recommending financial obligations or indeed included in legislation that has originated in the Legislative Council. If The Greens amendment was to be agreed to and the bill enacted including that amendment it would be a matter for the courts to determine its legal impact. Determining questions of law is not the role of the President.

It is the role of the courts to determine enforceability, even when I would consider that it is not enforceable. I note the body of precedent for this House considering amendments of this nature. I also note that the House is considering whether to instruct the Committee of the Whole as to whether it has power to deal with The Greens amendment. If the House agrees to the instruction, it is a matter for the Committee of the Whole to consider the wisdom or the merits of the proposed amendment. If the bill is amended and read a third time by this House it will return to the Legislative Assembly and will be a matter for that House to determine its response, which is the way in which these matters have tended to be resolved between the two Houses for more than 160 years. In all of these circumstances I do not believe it would be appropriate for me to constrain the House and potentially the Committee of the Whole from considering The Greens amendment by ruling the motion is out of order. The question is that the motion be agreed to.

Motion agreed to.

In Committee

The CHAIR (The Hon. Trevor Khan): There being no objection, the Committee will deal with the bill as a whole. There are 11 sets of amendments, which I will quickly detail: Shooters, Fishers and Farmers Party amendments appearing on sheets c2019-002B and c2019-010; The Greens amendments appearing on sheet c2019-009A; and Opposition amendments appearing on sheets c2019-016C, c2019-017A, c2019-015B, c2019-014A, c2019-013, c2019-012, c2019-011 and c2019-003G. We will start with Opposition amendments appearing on sheet c2019-011.

The Hon. PENNY SHARPE (16:49): By leave: I move Opposition amendment Nos 1 to 10 on sheet c2019-011 in globo:

No. 1 Application of Act to all persons with disability

Pages 2 and 3, clause 4, lines 37, 38 and 42 on page 2 and lines 1, 3, 5, 9, 13, 23 and 24 on page 3. Omit "adult with disability" and "adults with disability" wherever occurring. Insert instead "person with disability" and "persons with disability", respectively.

No. 2 Application of Act to all persons with disability

Page 3, clause 4 (3) (b), line 15. Omit "an adult with disability". Insert instead "a person with disability".

No. 3 Application of Act to all persons with disability

Page 3, clause 4 (3) (b), lines 19, 21 and 22. Omit "adults" wherever occurring. Insert instead "persons".

No. 4 Application of Act to all persons with disability

Page 3, clause 4 (4), line 25. Omit "the adult". Insert instead "the person".

No. 5 Application of Act to all persons with disability

Pages 6 and 7, clauses 12 and 13, lines 5, 6, 10, 15, 17, 21, 25, 34 and 37 on page 6 and lines 4, 23, 31, 32, 34–36, 45 and 46 on page 7. Omit "an adult with disability" and "adults with disability" wherever occurring. Insert instead "a person with disability" and "persons with disability", respectively.

No. 6 Application of Act to all persons with disability

Pages 6 and 7, clauses 12 and 13, lines 11, 13, 35 and 38 on page 6 and lines 24 and 25 on page 7. Omit "the adult" wherever occurring. Insert instead "the person".

No. 7 Application of Act to all persons with disability

Page 9, clause 17, lines 19 and 26. Omit "an adult with disability" wherever occurring. Insert instead "a person with disability".

No. 8 Application of Act to all persons with disability

Page 9, clause 17 (3), line 42. Omit "adult with disability". Insert instead "person with disability".

No. 9 Application of Act to all persons with disability

Page 9, clause 17 (3), line 43. Omit "adult concerned, examine the adult". Insert instead "person concerned, examine the person".

No. 10 Application of Act to all persons with disability

Page 15, clause 27, lines 5 and 9. Omit "adults with disability" wherever occurring. Insert instead "persons with disability".

The first of the amendments is designed to expand the jurisdiction of the Ageing and Disability Commissioner to all people with disability, not just adults. Currently the bill excludes children and young people with disability from the jurisdiction. Labor believes that the Government has not stated why children and young people with disability are excluded from this jurisdiction and the work of the commissioner. During the second reading stage, the Hon. Matthew Mason-Cox referred to the intention of the Government to exclude children and young people to avoid duplication of the child protection system. The problem with trying to avoid duplication is that it can lead to silos. A silo forms when a body has a narrowly defined jurisdiction that prevents it from dealing with complex or novel situations. In 2015 the Senate Community Affairs References Committee conducted an inquiry into violence against people with disability. The report states:

... a 'siloed' approach to complaints handling ... made it confusing for individuals to know where to lodge complaints.

Labor believes that excluding children and young people with disability from the jurisdiction of the new commissioner will create an arbitrary barrier. The barrier will prevent parents and carers of children with disability from being able to make complaints to the new commissioner. During the inquiry by the Standing Committee on Social Issues, evidence was given by stakeholders in relation to this issue. Ms Serena Ovens of the Physical Disability Council of NSW stated:

The Physical Disability Council [PDC] would be supportive of children being included in this bill. We would suggest that many parents who struggle to manage children with disability and all the issues that can sometimes occur will find it additionally confusing to work out where they should be going in terms of what commissioner and other points. We would be supportive of, at the very least, clear acknowledgment of where this should lie. But we would be supportive of children being included in a disability specialist commissioner's oversight.

Ms Meg Clement-Couzner stated:

Speaking both in my role from the alliance but also from the People with Disability Australia [PWDA], I would say that we would be supportive of the commissioner having oversight of children with disability as well. So we would recommend that the terminology be changed to "persons with disability". I think that a key reason for that is that, from the perspective of people with disability, I would think that it is somewhat confusing, additionally, for people to have to distinguish between where they may go for complaints and oversight if there is violence, abuse, neglect or exploitation happening. I also think that it is really important that the rights of children with disability are upheld and recognised by the commission. We know that children with disability are very vulnerable to violence, including, sadly, sometimes by their parents.

Mr Stephen Kilkeary, who is with People with Disability Australia, also told the committee:

A lot of very vulnerable children with disability are in very bad situations of violence. It is quite often very difficult to get positive outcomes for some of those things. If the commission had strong powers to investigate and act upon matters involving children that would be a good thing.

Labor agrees with those views. The disability groups raise very serious matters, some of which very clearly fall within the child protection system, particularly if violence is involved. However, other members have alluded to a whole range of issues associated with systemic arrangements concerning the way children with disability are treated in schools and in other settings. In those circumstances, the way that children with disability are being treated is not covered by current complaint mechanisms. It would be very appropriate for the commission to have oversight of that. I commend the amendments to the Committee.

The CHAIR (The Hon. Trevor Khan): For the information of members, I indicate that generally after the mover of the motion has spoken, I will invite the Minister to speak so that we know what the rules of engagement are. Then other members may seek the call. Hopefully that procedure will result in the Committee moving with relative speed through consideration of the amendments.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:52): The issue to which the Hon. Penny Sharpe referred in many respects was well dealt with by the Minister in the other place. Nevertheless, I make the following points: The suggestion that has been very clearly put is the extension of the operation of the commissioner's ambit to all persons with a disability, including children and young people. However, it is not necessary or appropriate to do that. The Government would argue that potentially it is dangerous. Appropriately a number of national and State agencies are charged with responsibilities to promote and protect the safety, welfare and wellbeing of all children and young people, including children with disability, not least of which is the child protection agency, the Department of Family and Community Services, and the system of mandatory reporting of the abuse of children under which the department operates.

There are also a number of agencies that have oversight of and responsibility for promoting the best interests of children and young people, including the NSW Ombudsman, the New South Wales Office of the Children's Guardian, the Advocate for Children and Young People and the Kids Helpline. Extending the jurisdiction of the Ageing and Disability Commissioner to children with disability is unnecessary and would have the effect of reducing the ability of the commissioner to focus on the critical gaps in our service system that currently exist. Moreover it would create confusion over responsibilities for children, duplication of resources and competition for available funds. That is particularly relevant where there are multiple children in one family being reported and one of the children has a disability. It would be an undesirable situation to have two oversight systems intervening for one group of siblings.

This would have significant deleterious results for children with disability. The effect of such a proposal likely would be quite the reverse of what is intended by the member who moved the amendments. Rather than increasing children's protection and ensuring they have access to appropriate supports and services, the confusion over responsibilities and overlap will create a gap into which children with disability may fall, thereby denying them the protection and services that we want to ensure they have. Providing the protection and services they need should be our primary intention. Extension of the operation of the commissioner's ambit to all persons with a disability would end up being completely counterproductive. We would not serve children with a disability under that proposal. We would not serve older adults and adults with disability who we know from numerous inquiries and reports are missing out on services and protection. The intention of this legislation is to provide greater protection and services.

Amendment No. 9 is particularly problematic. The effect of it is that the medical practitioner attending with the officer executing a search warrant could examine a child with the child's consent. This is completely at odds with the health consent policy to which all health practitioners must adhere. Not all children would be competent to give such consent. The Government opposes the amendments.

Ms ABIGAIL BOYD (16:56): During the second reading debate I stated the reasons that The Greens do not support children being included within the commission's remit. However, I am sympathetic to the Opposition's views on this. I believe that currently there are gaps and that more gaps will be created that need to be investigated. I implore the Committee to support The Greens amendments in relation to setting up an inquiry into children and young people with disability to examine the potential regulatory and oversighting gaps. We heard from many stakeholders last Friday during the committee's inquiry. In an ideal world the issues intended to be addressed by the amendments would have been fleshed out much earlier and members would have had a longer period in which to assess the pros and cons of including children with disability in the scope of the bill. But as the bill stands, at this point acceptance of the Opposition amendments would lead to unintended consequences. For that reason The Greens do not support the Opposition amendments.

The Hon. MARK PEARSON (16:57): The Animal Justice Party thoroughly understands the underlying purpose of the Opposition's amendments, but we feel that it would strike at the strength of what the commission can do and the role it can perform. The amendments will make the role of the commissioner so broad that the very purpose of the commission being set up would be restricted. Furthermore the capacity of the commission to carry out investigations and inquiries also would be restricted. The Department of Family and Community Services has had its problems throughout time like any other regulatory authority, but it has not been dismantled. The department has been investigated and improved. The department exercises care for young disabled people at this stage. If the department is kept functioning to the best of its capacity, the Animal Justice Party is convinced that protection of children with disability will be properly addressed. For the reasons I have stated and to ensure optimal and best care for children and young people with disability, the Animal Justice Party believes it is better to keep legislation focused and less broad.

The Hon. MATTHEW MASON-COX (16:59): I made some detailed comments in my contribution to the second reading debate but I reiterate a couple points. We do have a comprehensive regime for the care and protection of children in this State. In that regard members should be aware of not only the child protection hotline and mandatory reporting requirements that apply to children at risk but also the Children's Guardian, the Advocate for Children and Young People and the Children's Court. These arrangements all work together. Whilst I, probably more than most people in this place, have been critical of the effectiveness of some of that regime—and the Minister is well and truly aware of that—we can always do better and these are very difficult areas of public policy.

I am particularly concerned—and I think it picks up the point of the Hon. Mark Pearson—that just because we set up the role of commissioner, which has responsibility, amongst other things, for disability complaints, that suddenly the commissioner will magically have the expertise to deal with disabled children who are being dealt with, one way or another, by the current system. I do not think that necessarily follows and the risk is that we may end up with creating another entity that we hope will fix a problem we cannot deal with appropriately under the constraints of the current system so in that sense it is probably false hope. Let us just focus on ensuring that through this commissioner the existing provisions relating to aged disabled people and aged people can be set in place to cover the gaps in the current system rather than deal with problems in the existing child protection system, which, in itself, should be the subject of vigorous efforts from the Minister and the department concerned.

The Hon. DANIEL MOOKHEY (17:01): I am mindful of the contributions of other members. I am equally mindful of the sincerity in which the Government holds its belief that the existing child protection system is adequate for the scope of protecting children with a disability. I hear these arguments with two things in my memory—that is, in the Fifty-Sixth Parliament the inquiry we undertook into the child protection system and, equally, the inquiry we undertook into the experiences of children with disabilities in the school education system.

Perhaps the House should be reminded of a couple of facts about the context here. It is the case that the number of mandatory reports being received about all children is rising. It is the case that the number of people who are at risk of serious harms who are able to receive reports, I think from memory, is close to 30 per cent; 70 per cent of existing children are not. That is before one isolates the sample of disabled children within that cohort. That is the first point I make. The second point is that Parliament has seen evidence about the systemic alienation of children with a disability from institutions overseas. I accept there are aspects that will create bureaucratic difficulty for a short period of time but we are creating a powerful instrument, a commissioner, and we are choosing not to allow that commissioner to have a look at the experience that this Parliament knows is already taking place.

I understand there are questions around overlap but I trust the ability of the commissioner, Family and Community Services [FACS] and, believe it or not, the Minister to resolve such issues should we decide to give the commissioner that power. There are good, positive reasons for why such a power is needed. It comes down to the difficulties we know we are experiencing in the child protection system. I hear the Minister's arguments about the Office for Young People and the Ombudsman but to the extent to which they have power, it is power over protection of kids who are in the child protection system already, who have been known to the child protection system and who have had oversight. We know from evidence that the only way in which a child tends to get an inspection, as we heard from FACS in the previous inquiry, was when up to 10 mandatory reports have been received. That was the evidence we took.

We know as well that the ability to dispatch a person to undertake the inspection is hard and limited. When the Parliament faces such a choice, we are not suggesting for a second that the commissioner ought to be all-powerful, that the existing functions ought to be displaced, that the Ombudsman is doing a bad job or that FACS is doing a bad job in this respect; we are saying that if we are to create a powerful office that has the ability and scope to act for the needs of people with a disability, it ought to apply to children.

An allusion was made to the fact that different siblings might be treated in different ways. We know now that we are going to run the risk of allowing an adult with a disability to be treated under one system, but should that person also have a child with a disability, which is not uncommon, that will be treated under a different scenario. The same problem, highlighted by the Government to suggest that it should not act, applies in that scenario. There is a case that parents with disability often have kids with disability and under the proposed system we will be effectively saying to them, if it is an adult over the age of 18, "Incidentally, if you have one sibling that has reached the age of majority, over the age of 18, they will have to go down one pathway and the other one who is a minor will have to go down another pathway."

My point is simple: There is complexity in this scenario regardless of what we do. The choice before the Parliament is whether or not we use the opportunity created by the presentation of the bill to establish this office to ensure that it has wide scope, trust the commissioner to exercise discretion and trust the departments and the

Minister to make adjustments if necessary or, because it did not occur to the department, whether we should limit this jurisdiction artificially.

Mr DAVID SHOEBRIDGE (17:05): I join with my colleague Ms Abigail Boyd in acknowledging where Labor is coming from with this amendment but not being in a position to support it at this point. It would be a particular difficulty to put yet another commissioner in the child-related space because we have the Children's Guardian. Indeed, the role of the Children's Guardian is under review at the moment, particularly in relation to the scope of the role of the Children's Guardian looking at private schools, religious organisations and the like. I urge the Government to conclude that review and come back to us and explain how the Children's Guardian role will expand because that is essential. But that is under review at the moment.

We have the role of the Ombudsman, another statutory oversight body relating to children, particularly in relation to employment-related matters. The scope and future of the Ombudsman's role is also contested at the moment. To add yet another independent statutory body to oversight children would create a good deal of jurisdictional confusion. I state at the outset—and I agree with the observations of the Hon. Matthew Mason-Cox—that the current situation is woefully inadequate. I do not believe that children are being adequately protected and I do not believe they have a clear statutory body in their corner at the moment.

We have an obligation to come back and do for children what we are doing for the aged and for adults with disability, but I do not think we will be serving the interests of children by just expanding the role of this current commissioner into an area that is already quite fragmented and uncertain. I do not think that is the answer to having a genuine, proper guardian, commissioner and statutory protector for children. It is an urgent need of the party and The Greens would join with Labor in seeking an urgent inquiry into the matter and we would welcome that coming forward from Labor or from any other party in this place to advance the matter. We acknowledge the goodwill of the intent but we are not in a position to support the amendment for those reasons.

Mr JUSTIN FIELD (17:07): I acknowledge where the Labor Opposition is coming from when it talks about expanding the scope of the commissioner but I recognise the Government's point about the jurisdictional overlap. If the bill were drafted with this in mind, there could be a range of things in the bill. I would imagine one would be looking at a different set of staff with different expertise working under different legislative frameworks. One would be looking potentially at a significantly different entity. Much has been said in the second reading debate of the value of this short inquiry that was conducted recently. It has been stated that there was not unanimity on a number of issues, particularly on this matter. I will not read too many because it reflects the debate happening in the Chamber now. Mr Steven Kinmond, former Community and Disability Services Commissioner and Chair of the Association of Children's Welfare Agencies, advised that at this time it was not necessary to include children with disability. He stated to the committee:

I would argue that that is not necessary at this time but I would commend Parliament to look at the issue of vulnerable children with disability and the adequacy of the service system and the oversight system to respond to that issue ...

It seems that the Chamber is unanimous that that is necessary, regardless of whether this amendment passes. At this stage I will not be supporting the Labor amendments, but we should all reflect on the evidence that was given to the short inquiry and the inadequacies that have been identified by various speakers today.

The CHAIR (The Hon. Trevor Khan): The Hon. Penny Sharpe has moved Opposition amendments Nos 1 to 10 on sheet c2019-011. The question is that the amendments be agreed to.

The Committee divided.

Ayes15

Noes24

Majority.....9

AYES

Banasiak, Mr M
D'Adam, Mr A
Jackson, Ms R
Moselmane, Mr S
(teller)
Secord, Mr W

Borsak, Mr R
Donnelly, Mr G (teller)
Mookhey, Mr D
Primrose, Mr P
Sharpe, Ms P

Buttigieg, Mr M
Graham, Mr J
Moriarty, Ms T
Searle, Mr A
Veitch, Mr M

NOES

Ajaka, Mr
Boyd, Ms A

Amato, Mr L
Cusack, Ms C

Blair, Mr
Faehrmann, Ms C

NOES

Fang, Mr W (teller)
 Franklin, Mr B
 Maclaren-Jones, Mrs
 (teller)
 Mason-Cox, Mr M
 Pearson, Mr M
 Taylor, Mrs

Farlow, Mr S
 Hurst, Ms E
 Mallard, Mr S
 Mitchell, Mrs
 Roberts, Mr R
 Tudehope, Mr D

Field, Mr J
 Latham, Mr M
 Martin, Mr T
 Nile, Revd Mr
 Shoebridge, Mr D
 Ward, Mrs N

PAIRS

Houssos, Mrs C

Harwin, Mr D

Amendments negatived.

Ms ABIGAIL BOYD (17:18): By leave: I move The Greens amendments Nos 1 and 16 on sheet c2019-009A in globo:

No. 1 **Commissioner's functions**

Page 6, clause 12 (1) (d), line 17. Insert ", including referrals to independent advocacy services, where appropriate" after "older adults".

No. 16 **Functions of Official Community Visitors**

Page 12, clause 21 (1) (h), line 26. Insert "independent" after "about".

These are relatively minor clarifying additions. At the inquiry on Friday concern was raised that there might be an intention now or in the future to have the commissioner take over—

The CHAIR (The Hon. Trevor Khan): If the Hon. Natalie Ward and the Hon. Walt Secord want to continue their conversation, they can do so outside the Chamber.

Ms ABIGAIL BOYD: As I was saying, these are relatively minor changes to clarify that there is no intention for the commissioner to usurp the role of independent advocacy services. Both of these proposed amendments clarify that.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (17:20): The Government opposes The Greens amendments Nos 1 and 16. The amendment is unnecessary as the commissioner will already have broad powers under clause 13 (5) (b) to make referrals to other persons or bodies, including advocacy services where that is appropriate. The Government also opposes The Greens amendment No. 16, as it appears to lack clarity. Advocates are necessarily independent of the commissioner but by their very nature would represent the interests of the person for whom they are advocating. The Government submits that the amendment as sought is unnecessary and in many respects ambiguous. The Government opposes the amendments.

The Hon. PENNY SHARPE (17:21): Labor supports The Greens amendments Nos 1 and 16. We do not believe that they are substantial. They clarify matters in relation to the commissioner being able to refer matters to non-government advocacy organisations. In relation to the functions of official community visitors, we believe that saying that they are independent is fine.

The CHAIR (The Hon. Trevor Khan): Ms Abigail Boyd has moved The Greens amendments Nos 1 and 16 appearing on sheet c2019-009A. The question is that the amendments be agreed to.

The Committee divided.

Ayes21
 Noes18
 Majority.....3

AYES

Banasiak, Mr M
 Buttigieg, Mr M
 Faehrmann, Ms C
 (teller)
 Hurst, Ms E
 Moriarty, Ms T

Borsak, Mr R
 D'Adam, Mr A
 Field, Mr J
 Jackson, Ms R
 Moselmane, Mr S

Boyd, Ms A
 Donnelly, Mr G
 Graham, Mr J
 Mookhey, Mr D
 Pearson, Mr M

AYES

Primrose, Mr P
Sharpe, Ms P

Searle, Mr A
Shoebridge, Mr D
(teller)

Secord, Mr W
Veitch, Mr M

NOES

Ajaka, Mr
Cusack, Ms C
Franklin, Mr B

Amato, Mr L
Fang, Mr W (teller)
Latham, Mr M

Blair, Mr
Farlow, Mr S
Maclaren-Jones, Mrs
(teller)
Mason-Cox, Mr M
Roberts, Mr R
Ward, Mrs N

Mallard, Mr S
Mitchell, Mrs
Taylor, Mrs

Martin, Mr T
Nile, Revd Mr
Tudehope, Mr D

PAIRS

Houssos, Mrs C

Harwin, Mr D

Amendments agreed to.

Ms ABIGAIL BOYD (17:30): By leave: I move The Greens amendments Nos 2 and 3 on sheet c2019-009A in globo:

No. 2 Commissioner's functions

Page 6, clause 12 (1) (e), lines 18 and 19. Omit "regarding matters in relation to which the Commissioner may conduct investigations". Insert instead "relating to the protection and promotion of the rights of adults with disability and older adults or the abuse, neglect or exploitation of adults with disability or older adults".

No. 3 Commissioner's functions

Page 6, clause 12 (1). Insert after line 25:

- (h) to monitor, assess and report on the New South Wales implementation of the National Disability Strategy (NDS).

In relation to The Greens amendment No. 2, it is unclear in the bill as to whether the commissioner can proactively initiate inquiries into systemic issues without restraint. At the moment the inquiries the commissioner may conduct are limited to the "matters in relation to which the commissioner may conduct investigations". The commissioner may conduct investigations into allegations as set out in clause 12 (1) (b), which talks about "an investigation into an allegation of abuse, neglect or exploitation". This amendment seeks to broaden that so that the commissioner has the ability to decide proactively and unrelated to any investigations to inquire into systemic issues.

Amendment No. 3 ensures that the commissioner looks at the implementation of the National Disability Strategy. I draw honourable members' attention to the typographical error. Instead of "NDIS" it should be "NDS". The National Disability Strategy runs from 2010 to 2020. As the time is almost up, it would seem a lost opportunity for the commissioner not to take advantage of its new powers in monitoring, assessing and reporting on the implementation of that national strategy within New South Wales.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (17:33): The Government opposes the two amendments which have been moved by Ms Abigail Boyd on behalf of The Greens. The Government considers that amendment No. 2 will significantly increase the remit of the types of inquiries that the commissioner will undertake as it could include inquiries unrelated to abuse, exploitation or neglect of adults with a disability or older adults. That is specifically the import of the bill. To seek to expand it goes outside the remit of what is sought to be achieved.

Inquiring into any matters to do with adults with disability or older adults would be duplicative. For example, in the case of adults with disability it will significantly overlap with the work of the National Disability Insurance Commission's Quality and Safeguards Commission. It will make the commissioner less effective in providing the critical services it has been designed to do in the space of abuse, exploitation and neglect of adults with a disability and older adults if its focus is diluted across broad areas of unnecessary duplication. The import of rejecting this amendment is to keep the commissioner focused on those things that are set out in the Act and have been identified in various inquiries as needing focus. By seeking to expand that jurisdiction in the manner

which this amendment does takes away from the effectiveness of the work that we are asking the commissioner to do.

Turning to amendment No. 3, the New South Wales implementation of the National Disability Strategy [NDS] is a government-wide commitment being coordinated in New South Wales by the Department of Premier and Cabinet [DPC]. As a whole-of-government responsibility, the NDS appropriately sits with DPC, with its natural oversight of all government clusters. It would be inappropriate to assign such a function to a statutory officer who lacks that central coordinating function and unnecessarily distracts the commissioner from its focus on vulnerable adults with a disability and older adults suffering abuse, exploitation and neglect.

The New South Wales Disability Inclusion Plan and the New South Wales government agency and local government disability action plans are already in place. The requested amendment is focused only on people with disability and does not mention similar strategies for older people, that is, the New South Wales Ageing Strategy or the National Plan to Combat Elder Abuse, which is more relevant to the functions of the commissioner. The Government rejects both these amendments because they would create a serious distraction from the important work that the disability commissioner is being asked to undertake.

The Hon. PENNY SHARPE (17:36): Labor supports these two amendments. Amendment No. 2 will expand the range of matters that the commissioner may inquire into. We support the commissioner having these broad powers. We have talked about this at length during the debate so I will not go into it again. In relation to amendment No. 3, I ask The Greens to clarify whether the amendment refers to the National Disability Strategy or the National Disability Insurance Scheme as it is unclear in the amendment.

Ms ABIGAIL BOYD (17:36): Over the din of members moving from one side of the Chamber to the other, the member may not have heard my drawing attention to the fact that there had been a typographical error. The acronym should be "NDS". In response to the Government's comments, the NDIS is currently covering only approximately 10 per cent of people with a disability. We see the commissioner having a broader remit. In relation to concerns that a proactive inquiry into systemic issues would be outside the intention of the Act, I direct the Government to clause 4, "Objects and principles of Act". This clause makes it very clear that in exercising any functions under this Act the commissioner must have regard to the objects of the Act, which are limited to protecting and promoting the rights of adults with disability and older adults and to protecting them from abuse, neglect and exploitation.

The CHAIR (The Hon. Trevor Khan): Ms Abigail Boyd has moved The Greens amendments Nos 2 and 3 on sheet c2019-009A. The question is that the amendments be agreed to.

The Committee divided.

Ayes21
Noes 18
Majority.....3

AYES

Banasiak, Mr M
Buttigieg, Mr M
Faehrmann, Ms C
Hurst, Ms E
Moriarty, Ms T

Primrose, Mr P
Sharpe, Ms P

Borsak, Mr R
D'Adam, Mr A
Field, Mr J
Jackson, Ms R
Moselmane, Mr S
(teller)
Searle, Mr A
Shoebridge, Mr D

Boyd, Ms A
Donnelly, Mr G (teller)
Graham, Mr J
Mookhey, Mr D
Pearson, Mr M

Secord, Mr W
Veitch, Mr M

NOES

Ajaka, Mr
Cusack, Ms C
Franklin, Mr B

Mallard, Mr S
Mitchell, Mrs
Taylor, Mrs

Amato, Mr L
Fang, Mr W (teller)
Latham, Mr M

Martin, Mr T
Nile, Revd Mr
Tudehope, Mr D

Blair, Mr
Farlow, Mr S
Maclaren-Jones, Mrs
(teller)
Mason-Cox, Mr M
Roberts, Mr R
Ward, Mrs N

PAIRS

Houssos, Mrs C

Harwin, Mr D

Amendments agreed to.

The CHAIR (The Hon. Trevor Khan): I understand that The Greens are not moving amendment No. 4 at this point. I invite the Opposition to consider moving Opposition amendment No. 1 on sheet c2019-014A.

The Hon. DANIEL MOOKHEY (17:46): I move Opposition amendment No. 1 on sheet c2019-014A:

No. 1 **Independence of Commissioner**

Page 6, clause 12, lines 28–32. Omit all words on those lines. Insert instead:

- (3) The Commissioner is not subject to the control or direction of the Minister.

The purpose of this amendment is simple, straightforward and self-explanatory: It is to remove the commissioner from the control or direction of the Minister. On the basis of the objectives of the Act and the understanding that we are establishing a powerful new body with an important mission as well as the lack of trust felt by those who have had interactions with the department and their very strong desire that a commissioner is independent, it is right that it is reflected in the bill. This was the extensive evidence heard by the Standing Committee on Social Issues. No-one suggested that keeping the commissioner under the direction of the Minister was a sensible idea.

Much was said about the lack of trust that exists between the sector and the department for historic reasons. One of the key parts of what was said was that, in order for both the elderly and the disabled to have trust, this has to be different and there needs to be independence. We are about to charge the commissioner with the responsibility of investigating systemic abuse. It is foreseeable that the commissioner will have to investigate the department, have oversight or contact with the department and have to examine the department's responsiveness to reports of abuse and neglect. It is therefore to the benefit of the commissioner as well as to the public to have that statutory level of independence. In this way the commissioner can undertake that function without fear or favour. I commend the amendment to the House.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (17:48): The Government opposes this amendment. It is important that the commissioner is independent; we acknowledge that and the bill already ensures independence. The commissioner is appointed by the Governor for a fixed term and only the Governor can remove the commissioner. The office of the Commissioner for Ageing and Disability is a separate public service agency under the Government Sector Employment Act. As such, the commissioner can employ its own staff as the head of a public service agency, just as the Children's Guardian can.

The commissioner reports to the Minister, similar to the Children's Guardian and other statutory officers. The standard rubric has been applied to the commissioner, as it applies to other statutory bodies. Similar to heads of other public sector agencies, the Ageing and Disability Commissioner is accountable to the responsible Minister, who in turn is responsible to Parliament and the people of New South Wales to ensure the effectiveness of the office. The same governance framework applies to the Children's Guardian, the Information and Privacy Commission, and the Mental Health Commission.

Under section 9 of the Mental Health Commission Act 2012, the commission is subject to the direction and control of the responsible Minister, except in relation to the preparation and contents of any plan or report prepared by the commission. This provision seeks to highlight that while the commissioner is accountable to the Minister as a representative of the Crown, appropriately the commissioner is not subject to any intervention by the Minister in respect of investigative and reporting functions or the making of recommendations. This is clearly set out in the provision. The Government opposes the amendment.

Ms ABIGAIL BOYD (17:50): The Greens were going to propose amendments in similar terms. The Greens support Labor's amendment.

Mr JUSTIN FIELD (17:50): I understand the arguments that have been put forward by the Government. I think that is the intent in the bill and the application of the bill would play that out. But I do not understand how making that clearer through the amendment offered by Labor undermines the intention of the Government. It is now explicit with regard to those key functions that the Minister has spoken about. For those reasons, I support the amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. Daniel Mookhey has moved Opposition amendment No. 1 on sheet c2019-014A. The question is the amendment be agreed to.

The Committee divided.

Ayes21
 Noes18
 Majority.....3

AYES

Banasiak, Mr M
 Buttigieg, Mr M
 Faehrmann, Ms C
 Hurst, Ms E
 Moriarty, Ms T

Primrose, Mr P
 Sharpe, Ms P

Borsak, Mr R
 D'Adam, Mr A
 Field, Mr J
 Jackson, Ms R
 Moselmane, Mr S
 (teller)
 Searle, Mr A
 Shoebridge, Mr D

Boyd, Ms A
 Donnelly, Mr G (teller)
 Graham, Mr J
 Mookhey, Mr D
 Pearson, Mr M

Secord, Mr W
 Veitch, Mr M

NOES

Ajaka, Mr
 Cusack, Ms C
 Franklin, Mr B

Mallard, Mr S
 Mitchell, Mrs
 Taylor, Mrs

Amato, Mr L
 Fang, Mr W (teller)
 Latham, Mr M

Martin, Mr T
 Nile, Revd Mr
 Tudehope, Mr D

Blair, Mr
 Farlow, Mr S
 Maclaren-Jones, Mrs
 (teller)
 Mason-Cox, Mr M
 Roberts, Mr R
 Ward, Mrs N

PAIRS

Houssos, Mrs C

Harwin, Mr D

Amendment agreed to.

The Hon. SARAH MITCHELL: I move:

That the Chair do now leave the chair, report progress and seek leave to sit again at a later hour of the sitting.

Motion agreed to.

Adoption of Report

The Hon. SARAH MITCHELL: I move:

That the report be adopted.

Motion agreed to.

The PRESIDENT: According to sessional order, further consideration of the bill is set down as an order of the day for a later hour of the sitting.

According to the resolution of the House of Wednesday 29 May 2019, proceedings are now interrupted, but not so as to interrupt a member speaking, to enable the Hon. Rose Jackson to make her first speech without any question before the Chair.

Members

INAUGURAL SPEECH

The PRESIDENT: I remind honourable members that this is the member's first speech and she should be given all due consideration. Before the honourable member starts, I welcome into my gallery members of the Hon. Rose Jackson's family, including her husband, Sam Crosby, their children, Oscar and Charlotte, her father, Mr Martin Butler, her mother-in-law, Mrs Bronwyn Crosby, and her brother, Joe. I also welcome into the public gallery the Hon. Chris Bowen, member for McMahon in the Australian Parliament. I welcome you all in the House this evening for the member's first speech.

The Hon. ROSE JACKSON (18:01): The land we are on is called Eora. The first people here were the Gadigal. In 1909 this Parliament passed the Aborigines Protection Act, which gave legal force to the Aborigines Welfare Board and its wide-ranging control over the lives of Aboriginal people. In doing so, it introduced one of

the deepest sources of our national shame by codifying the board's power to remove Aboriginal children from their families. I acknowledge the Gadigal today in this place not as a mere hat tip or commonplace convention but in solemn acknowledgement that the laws that gave the New South Wales Government power to steal the children of Aboriginal families, to take the babies from their mummies, were laws that were made in this very room, in this Parliament House, by our predecessors. The lives and resilience of the Gadigal should serve to inspire and humble us. They should stand as a profound warning: What we do here matters.

Having said that, I am aware of how disconnected ordinary people are from politics, from government. Their apathy and cynicism is a disaster to someone like me, who believes politics is essential to building a better world. I do not submit to the idea that politics is immaterial or irrelevant. I do accept, however, that we have to do things differently. So much of that alienation of people from politics we have brought on ourselves. The funny language that we use here—going on about "this place" and "the other place", "honourable this" and "mister that"—so much of the work of people in politics is circumscribed and aloof. I do not reject tradition, but I do not subscribe to it at the expense of engaging with the community. We should think through the traditions of this place, those that serve a purpose and those that are unnecessary and confusing.

The digital revolution has profoundly changed how much information and interaction community members have with political leaders. That so few people seem particularly interested in interacting with us is deeply sobering. The answer is not as simple as #legislativecouncil or live tweeting debates. Turning apathy into enthusiasm, converting cynicism into hope, is not going to be done with one speech, one motion or one Act of Parliament. We have to do a lot of things differently for a long time. This is the job of all of us. As much I can, I will do my bit. I will work with pretty much anyone who shares that enthusiasm and that hope. I am not pretending we can get on all of the time, but we do need dedication, dogged determination, to find common ground. It is going to take consistent engagement by determined people to show up, listen, be honest, talk with no bullshit or spin, make fewer promises and keep more of them.

I want to define my service to the people of New South Wales by three principles: fragility, fearlessness and fraternity. When I speak of fragility I do not mean weakness. I mean vulnerability and openness. Saul Alinsky said, "The human spirit glows from that inner light of doubt about whether we are right. Those who believe with complete certainty they know the answer are dark inside and darken the outside world with cruelty and injustice." I reject dogma; I embrace doubt. More and more, when politicians make laws for people, we are asking them to show us their true selves—at inquiries and committees, with personal testimony, individual experience. If politicians cannot be open to each other, we live closed, narrow lives. I do not want to live like that and I do not want to legislate like that. Which is just as well, because I have already been publicly humiliated on the front page of a national newspaper. I have already publicly humiliated myself on live national TV. I swear, I get things wrong, I stuff things up. None of these things define me, but I do not deny them. These experiences explain who I am as much as any university degree or childhood anecdote.

One of the reasons I can look at the positive side of my many failings is because of my wonderful friends who have been a source of what strength I have. My treasured bestie, Jo Haylen, and life coach, Garth Williams: thank you for the lifetime of memories and so many more to come. My partner in fighting crime, George Simon, and his beautiful wife, Mary: George, you saw me at my lowest and you said to me, "You have 15 minutes to pull it together," you gave me a hug and I did. The National Organisation of Labor Students crew: Tamsin Lloyd, Daniel Mookhey—except you were in Student Unity; shame!—Angus McFarland, Dan Doran, Asren Pugh, Tim and Ben Chapman and Joy Kyriacou. NOLS presidents forever. Prue Car, Katie Ford and Peter Bentley, Chris Gambian and Kate Lee, Amit Singh and Rowena O'Neill: thanks for all the chats and the wines.

Thank you to my husband, Sam Crosby—he is not here yet. Sydney trains—let's fix them! I know what hard work looks like because of you. We are such a wonderful team. You are such a wonderful father. Our beloved children, Charlotte and Oscar, are most precious to me. They are my corner pieces. The puzzle of life and love and loss is manageable because I have them. Thanks also to Sam's family—Michael and Bronwyn, Huw, Ted and Nerida—without whom we would be slovenly unfed human bin-fires. Thank you to my dad, Martin, and my brother, Joe. I know what selflessness looks like because of you. You give so much of yourselves to others. I have sand and salt water in my veins from our endless summers in Bondi. Our family is smaller now, a tight unit, but unbreakable.

To be fragile, to have doubt, to embrace uncertainty and still to be effective, you must be fearless. Hesitation can hold you back, but fearlessness allows you to proceed even when you are unsure. Fearlessness is not being foolhardy or pretending you are not scared. It means that you know something is scary but you believe it is important enough to do it anyway. My mum taught me to be fearless. Facing fear, not running from it. She faced down prime ministers and war lords, she reported from the front lines of wars in Somalia, Iraq and East Timor. Here they are! I thanked you already. Thank you!

My mum took her diagnosis of Parkinson's disease in her stride, documenting the extreme pain and vulnerability of her disease in a way that gave dignity to so many. She died as she lived: Refusing to submit, exploring the world, fearless in the face of failing limbs, debilitating panic attacks and constant pain. I have carried my mum out of a public toilet because she was too paralysed by panic to move. I have crouched on all fours over a newborn baby, trying to breastfeed a mastitis out of an aching boob while on a teleconference.

I have been the only voice in a room putting a contrary view. This does not make me special or any better or worse than anyone else in Parliament or the community. I do not ask for sympathy because my mum died or I have struggled to balance working and being a parent, or because I had to chart my own path as a young woman through the NSW Labor machine. I am not looking for pity or judgement. I am just seeking an honest connection. These things are part of who I am. I put them on the record because the thing I do fear is that in this Parliament I will lose touch with myself. You see it happen. Over time good people become disconnected from the communities who have supported them. The rot of apathy sets in, our rough edges and characters are rounded out by concession and convention.

I call on all those who have supported me into this Parliament to hold me to account. Central among those are the union movement. Thank you Mel Gatfield and United Voice, my union. At United Voice I worked with cleaners from migrant backgrounds who emptied and bins and cleaned the toilets in places like Parliament House. I worked with early childhood educators who love and cultivate our children—my children. I have worked with home carers who wash and care for our elderly and disabled. These wonderful people—mainly women—are generally paid \$18, \$19 or \$20 an hour. We do not value the work of these people even closely commensurate with their actual importance to society, or even roughly equivalent to their dignity or self-worth. How do they win fair pay? How do they secure safe workplaces? Who stands up for them when they have been sacked because they are pregnant? Who believes them when a colleague bullies or harasses them?

Unions do all those things. They do those—and more—every day. They are a source of individual comfort, collective power and social good. They promote economic growth. Even the International Monetary Fund, which is hardly some organisation captured by left-wing group-think, has recognised the direct correlation between union strength and economic growth. I thank Melissa Donnelly and the CPSU, Natalie Lang and the ASU, Rebecca Reilly and the FSU, Steve Murphy and the AMWU, Grahame Kelly and Shane Thompson from the miners, Patricia Fernandez from the Australian Meat Industry Employees Union, and Rita Mallia and the CFMMEU. In the spirit of fraternity, I thank Dan and Misha from the AWU, Tony and the team at the TWU, Bob Nanva and Mark Morey. You have supported me. I am enthusiastic about the opportunity to support you.

Fraternity is more than a great virtue. It is a great method. When you want to serve in the interests of the great mass of the people, then you know we are stronger together. It is as simple as that. You are a stalwart from a right-wing Labor union who wants to see good secure jobs for the future—give me your hand, brother. You are a left-wing feminist sister who wants to dismantle the patriarchy so women can get equal pay—sign me up. You are a Catholic from the suburbs concerned about loneliness, social isolation and the fracturing of community connections—I am right there with you. You are a mum from the north shore who cannot find or afford decent child care—I hear you. You are a dad from the shire, sick of sitting in traffic or on an overcrowded train—over here, buddy. You are from farming communities who care about the climate emergency that is devastating our rivers and livelihoods or you are regional parents who are angry and distressed that your gay son is being bullied at school and nothing is being done—how can we help? You are city workers who care about your kids owning their own home and healthy farmland to grow our food—how can we find a way?

I will work with pretty much anyone who has enthusiasm and hope. My days as an active participant in organisational contest within NSW Labor are over, thankfully. But I will always be a leftie. When you are in the Left you are in the Left all the way from your first failed student protest to your last dying day. I do thank my friends in the NSW Labor Party office. I learnt so much there about who I am, about what I stand for and about how to conduct myself. I particularly want to thank Dom Ofner and his lovely partner, Phoebe. Dom kept me mostly sane in the madhouse. Or maybe we were the mad ones? And I thank Mark Boyd, as well as Georgia Kriz, Zack Solomon and the delightful and loyal Oliver Plunkett. I also have to thank Tim Gartrell, who honestly is probably my favourite person in NSW Labor—and that of course is saying something because my husband is also in NSW Labor. But Tim you are generous, classy and kind-hearted, and I wish you and Anthony all the very best taking on the Tories in Canberra.

Meredith Burgmann, who is a former President of this Council, showed me the awesome power of women's leadership and not giving a crap about what people think about you. She took a chance on an overly enthusiastic law student and set me on my way. Verity Firth, Carmel Tebbutt, Tanya Plibersek, Jenny McAllister and Linda Burney have steered me. Not all labels sit comfortably upon me. Feminist is one I proudly embrace. I am a feminist because if I have worked as hard, been as smart, contributed as much as any bloke, the fact that I am a woman should not hold me back. In Labor, we are getting there. Young women in NSW Labor know that

if you are good enough, you will get a go. They see it in so many inspiring sisters that Labor puts forward. In society, not so much.

Our society is still patriarchal. Men continue to enjoy advantage and preferment not because they are better or even necessarily any good at all, but because they are men. What a load of rubbish. Patriarchy, it's time to get in the bin. Labor titans like Bruce Childs, John Faulkner, Anthony Albanese, Damian O'Connor, Luke Foley and especially my colleague John Graham taught me about resilience, fortitude and the power of being principled. Thanks also to Chris Bowen and John Watkins whose wisdom has been, and remains, invaluable.

I have spoken of fearlessness and fraternity, of generating enthusiasm and building hope. Doing this requires us to break the cycle of apathy, low expectations and disappointment. I want to step up when others are stepping back. I want to offer support for people and issues even when what they are asking for is difficult, or big, or out of fashion. I want to help the real quiet Australians, the people no-one is interested in talking to who are living lives no-one is interested in talking about. I want to be a voice for prisoners, for drug users, for the unemployed, for the long-term homeless, for the poor—the desperately poor.

It seems it has become politically acceptable to talk about people who have lots of things and fear losing some of them, but not about people who have nothing—who have nothing to lose. Talking about a more equal society is not mistaken or foolish. I do not want rich people to be poor. I do not want some grey levelling of everyone. I am not interested in pretending that we can just pull a few policy levers and make everyone's material circumstances identical. But I am also not particularly worried that this is about to happen. I also do not want poor people to be poor and to live in poverty and in the real actual world this is where we have work to do. When the State has so much money. "Quarter of a trillion dollars", they say over and over again. I am reminded that, yes, we are so well off and yet, despite that, so many live difficult and desperate lives. This is not something I would be boasting about. A more equal society is a better society, a safer society, a happier society, a healthier society. A more equal society is the core of Labor's mission. It is the core of my mission. I will not give up on this aspiration.

I have other aspirations for a better world. Climate change is an emergency that demands our immediate attention. Its impact will be catastrophic. So much of the effective global action on climate change has been initiated at the State or local level. Why can't New South Wales be a global leader in taking action on climate change—the global leader again? I say "again" because of course we were the first jurisdiction in the world to enact an emissions trading scheme. We should set a renewable energy target in this State. The Government should fund and build renewable energy infrastructure. These things should happen urgently. Also remember that it was this Parliament that first trialled the medically supervised injecting centre. We should be world leaders in this area again. Marijuana should be legal. You cannot believe alcohol and cigarettes should be legal and not marijuana. There is no evidence to suggest it is more dangerous or addictive than those other substances.

Unless the Government's next step in its wowsar war on fun—following its highly successful assault on Sydney's nightlife and international reputation—is the criminalisation of cigarettes and alcohol then we should listen to the evidence that is overwhelming and legalise marijuana in New South Wales. We should also trial pill testing. Young people are dying. If we can help prevent these deaths we should listen to the experts and the evidence and establish a medically supervised trial of pill testing for the 2019-2020 summer festival season. Abortion should be legal. Every day women, their families and their doctors are making the difficult decision to terminate a pregnancy. Criminalising abortion does not stop abortion: It just makes abortions less safe and stigmatises women and their bodies. That has to change.

Mr President, through you, I want to address my Labor mates. My colleagues sitting here in the Council, my friends watching in the gallery, my comrades organising in a workplace tonight—everyone who supported me, everyone who got me here: The uncertainty NSW Labor people face in 2019 is scary because we feel like we do not have a stable and settled understanding of what has gone wrong. We need to embrace this groundlessness. We need to see the incredible beauty and opportunity in moments of political chaos. We do win elections and when we do we move the place forward faster than our opponents can drag it back when they get in. That is why this country is worth loving and living in. That is what we do. I do not know what the future holds. I am a deeply rational person. I do not believe anyone or anything knows what the future holds. Will Labor win again? Will our ideas win again? When will this happen? How do we make this happen? How do we make this happen soon?

I will not stand here and pretend to know everything that has gone wrong and articulate a detailed roadmap to a better place. There is no clever plan, no crafty trick, no strategic masterstroke. Even if I could, I am not sure I would lay out such a masterplan. I am a bit over believing in heroes and messiahs. I am sick of people who think they know everything and waste our time by telling it to us, at great length and with great importance, only for it to be wrong, again. The only chance we have got, the best hope we have, is each other, our team, our tribe, our best collective selves—not in an insular or exclusive way. No, I cast this in the broadest possible terms, but it is a collective effort.

Yes, we are vulnerable, yes, we feel fear, but no, we are never alone as we struggle to grasp our best selves. We push into the darkness together and through it see the light. The Carthaginian General Hannibal declared, "We will either find a way, or make one." This is true. We will find a way back to government, to a better society, to a more equal society. If we try and we find none presently exists, we will make a new one. We will do these things together. Labor is not just a cause for power. Labor is a force for change. We must not wait for another moment; the moment is now. Enough talk. Let's begin.

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

Committees

PRIVILEGES COMMITTEE

Chair and Deputy Chair

The PRESIDENT: I inform the House that at a meeting held this day the following members have been nominated as chair and deputy chair of the committee:

Chair: Mr Peter Primrose.

Deputy Chair: Reverend Fred Nile.

PUBLIC ACCOUNTABILITY COMMITTEE

Chair and Deputy Chair

The PRESIDENT: I inform the House that at a meeting held this day the following members have been nominated as chair and deputy chair of the committee:

Chair: Mr David Shoebridge.

Deputy Chair: Mr Robert Borsak.

PUBLIC WORKS COMMITTEE

Chair and Deputy Chair

The PRESIDENT: I inform the House that at a meeting held this day the following members have been nominated as chair and deputy chair of the committee:

Chair: Mr Daniel Mookhey.

Deputy Chair: Mr Mark Banasiak.

PORTFOLIO COMMITTEE NO. 2 - HEALTH

Chair and Deputy Chair

The PRESIDENT: I inform the House that at a meeting held this day the following members have been nominated as chair and deputy chair of the committee:

Chair: Mr Greg Donnelly.

Deputy Chair: Ms Cate Faehrmann.

PORTFOLIO COMMITTEE NO. 4 - INDUSTRY

Chair and Deputy Chair

The PRESIDENT: I inform the House that at a meeting held this day the following members have been nominated as chair and deputy chair of the committee:

Chair: Mr Mark Banasiak.

Deputy Chair: Ms Emma Hurst.

PORTFOLIO COMMITTEE NO. 5 - LEGAL AFFAIRS

Chair and Deputy Chair

The PRESIDENT: I inform the House that at a meeting held this day the following members have been nominated as chair and deputy chair of the committee:

Chair: Mr Robert Borsak.

Deputy Chair: Mr David Shoebridge.

PORTFOLIO COMMITTEE NO. 6 - TRANSPORT AND CUSTOMER SERVICE**Chair and Deputy Chair**

The PRESIDENT: I inform the House that at a meeting held this day the following members have been nominated as chair and deputy chair of the committee:

Chair: Ms Abigail Boyd.
Deputy Chair: Mr Mark Banasiak.

*Documents***CHILD DEATH REVIEW TEAM****Reports**

The PRESIDENT: According to the Community Services (Complaints, Reviews and Monitoring) Act 1993, I table the report of the NSW Child Death Review Team entitled *The role of child restraints and seatbelts and passenger deaths of children aged 0-12 years in NSW*, dated 5 June 2019. Under the Act the report has been authorised to be made public.

The Hon. SARAH MITCHELL: I move:

That the report be printed.

Motion agreed to.

*Business of the House***NOTICES OF MOTIONS**

Reverend the Hon. FRED NILE: By leave: Pursuant to Standing Order 71, I give notice of a motion relating to the Mining Amendment (Compensation for Cancellation of Exploration Licence) Bill 2019.

*Bills***AGEING AND DISABILITY COMMISSIONER BILL 2019****In Committee**

Consideration resumed from an earlier hour.

The CHAIR (The Hon. Trevor Khan): The Committee will now consider The Greens amendment Nos 5 and 6 on sheet c2019-009A.

Ms ABIGAIL BOYD (20:04): By leave: I move The Greens amendments Nos 5 and 6 on sheet c2019-009A in globo:

No. 5 Reports

Page 6, clause 13 (1), lines 34–36. Omit all words on those lines. Insert instead:

- (1) A person may make a report to the Commissioner about the following:
 - (a) an adult with disability or older adult if the person has reasonable grounds to believe the adult is subject to, or at risk of, abuse, neglect or exploitation,
 - (b) circumstances that the person has reasonable grounds to believe will result in the abuse, neglect or exploitation of an adult with disability or older adult.

No. 6 Reports

Page 7, clause 13 (9), lines 20 and 21. Omit all words on those lines. Insert instead:

- (9) The Commissioner may conduct an investigation of a report that the Commissioner has referred to another person or body under subsection (8), including in consultation with the person or body, if the Commissioner is of the opinion that conducting an investigation may be necessary to protect an adult with disability or older adult from abuse, neglect or exploitation.

Amendment No. 5 seeks to clarify that people can report about systemic or workplace issues—particularly pre-emptively—rather than needing to report about specific persons. This is to make sure this is not a lost opportunity to ensure the most effective commissioner possible. Amendment No. 6 seeks to clarify that the commissioner does not give up all responsibility for a matter when it refers it to another person or body, but instead can work together with that other body to ensure that a person with disability or an older adult is protected.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (20:05): The Government opposes both amendments. In respect of amendment No. 5, the Government says this is unnecessary

and overly complicates the provision. It is already adequately provided for in the current drafting. To report someone who is at risk of abuse, neglect or exploitation is about reporting the circumstances that the person is in and how those circumstances lead to placing the person at risk of harm. The provision does not add clarity to the reporting of abuse, neglect and exploitation but has the potential to increase the scope of reports and therefore potentially overwhelm the resources of the commissioner to deal with reports effectively. The Government opposes amendment No. 6 as it defeats the intention of the clause, which is to minimise duplication and prevent forum shopping. That intent of the clause as it stands is to reduce the opportunity for duplicating the roles of various agencies that deal with abuse. For these reasons the Government opposes the amendments.

The Hon. PENNY SHARPE (20:06): The Opposition supports these amendments. We believe that they assist in strengthening the powers of the commission and for that reason we support them.

Ms ABIGAIL BOYD (20:07): In response to the Hon. Damien Tudehope, in relation to clause 13 (1), this was a point that I specifically asked the department personnel who drafted the legislation. They said that although the intention was for this to be the case, they could not actually work through the clauses in a way that would ensure that it could be the case. In relation to proposed clause 13 (9), it states very specifically that if in the opinion of the commissioner conducting an investigation it is still necessary for them in order to protect an adult with a disability or an older adult from abuse, neglect or exploitation—again, it is very clearly ensuring that the commissioner cannot give up the work that they are responsible for rather than seeking to replicate other responsibilities.

The CHAIR (The Hon. Trevor Khan): Ms Abigail Boyd has moved The Greens amendments Nos 5 and 6 appearing on sheet c2019-009A. The question is that the amendments be agreed to.

Amendments agreed to.

Ms ABIGAIL BOYD (20:09): By leave: I move The Greens amendments Nos 7, 8 and 13 on sheet c2019-009A in globo:

No. 7 Reports

Page 7, clause 13 (10) (a), line 25. Insert "despite having been provided with the appropriate support for the purposes of making such a decision" after "consent".

No. 8 Reports

Page 7, clause 13 (10) (b), line 26. Omit all words on the line. Insert instead:

- (b) it is not necessary to obtain consent due to the seriousness of the allegation or the risk to the personal safety of the adult, or

No. 13 Search warrants

Page 9, clause 17 (3), line 43. Insert "(in circumstances where the adult has been provided with the appropriate support for the purposes of making such a decision)" after "concerned".

All the amendments relate to the concept of consent. The intent of amendments Nos 7 and 13 is to make very clear that before seeking consent of the person all appropriate support must be given for the purpose of making a decision. If we are to assume someone has consented when they have not indicated consent, we need to have made sure that the appropriate decision-making supports had been put in place first. The same applies to amendment No. 13, which is intended to ensure that decision-making supports are provided in the context of an adult being able to give consent in circumstances in which they might otherwise be precluded from doing so.

Last Friday a number of submissions were made to the inquiry expressing concern about the drafting of the bill, particularly around the concept of serious allegations. The purpose of The Greens amendment No. 8 is to clarify the circumstances in which it is not necessary to obtain the consent of the person involved.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (20:11): The Government opposes The Greens amendments. I will first deal with amendments Nos 7 and 13, which is the order in which Ms Abigail Boyd dealt with them. In respect of amendment No. 7, guidelines will be in place to support individuals to exercise choice and control consistent with the objects and principles of the bill. The commissioner will have skilled staff who are trained in providing support to people with disability to make decisions. The proposed amendment assumes that all people will be able to be supported to make decisions, but there are circumstances in which a person will not have the capacity, even with those supports, to make a decision.

The bill adequately provides clarity because the threshold strikes an appropriate balance between individual rights and a response to risk of serious abuse, neglect and exploitation. Adults with disability and older adults have the right to exercise choice and control in the pursuit of their goals as well as the planning and delivery of their supports and services. The bill requires the commissioner to have regard to the wishes of the affected adult if the commissioner, after preliminary inquiries, forms the view on reasonable grounds that a vulnerable adult was

withholding consent because they were fearful, or because they did not feel able to speak freely, or were afraid of negative repercussions, or were being unduly influenced, and the commissioner considered their safety and welfare to be seriously at risk. The commissioner is empowered to take action despite the absence of consent.

In respect of amendment No. 13, the Government's view is that medical practitioners are well versed in assessing a person's capacity to consent to medical treatment that includes an examination. The Government opposes amendment No. 8 because the proposed amendment is unnecessary. It is implicit in the current wording of clause 13 (10) (b) that assessment of risk to the personal safety of the person with disability or an older adult is an inherent part of any assessment of the seriousness of the allegation.

The Hon. PENNY SHARPE (20:14): The inquiry dealt with the issue of consent. We all understand that the issue of consent and supported decision-making in these circumstances is complex. The stakeholders told the inquiry that they are in resolute agreement that consent is a fraught and complicated subject and that more work needs to be done to refine the bill. Labor does not believe that the amendments fully address the concerns raised in the inquiry conducted by the Standing Committee on Social Issues. However, the Opposition recognises that this effort is made in good faith to address the concerns that have been raised. While Labor will support the amendments, we urge the new commissioner to consult relevant stakeholders about the issue of consent and make any recommendations to Parliament that the commissioner considers necessary to improve the Act. That really deals with amendments Nos 7 and 8.

The Hon. Matthew Mason-Cox: Why don't you make an amendment to the amendment?

The Hon. PENNY SHARPE: I hear what the Hon. Matthew Mason-Cox is suggesting. I just think that there is a real issue here that people are trying to grapple with, which is the issue of consent and autonomy. Part of the rushed manner in which we are dealing with this bill means that we really have not had sufficient time to fully form it. As I said, Labor thinks The Greens have had a reasonable go at it. I think more work needs to be done.

The Hon. Matthew Mason-Cox: The commissioner can.

The Hon. PENNY SHARPE: I think the commissioner will have the time and resources to work through it. I think there needs to be a lot more discussion with stakeholders. It is a difficult area that we need to get right. We believe that these amendments are fine and Labor will support them, but there is more work to do on the consent issue.

Mr DAVID SHOEBRIDGE (20:15): I listened carefully to the Government's contribution, particularly the reason that the Government will not support The Greens amendment No. 7, which simply is intended to insert into the bill a clear obligation to provide assistance and support so that there is informed consent. Even though I hear the Government opposing it on the basis that potentially it is unnecessary and some guidelines may produce that outcome at the end of the day, I think all members are of the view that there should be some form of express provision requiring that appropriate support is provided for the purpose of giving consent.

The Hon. Damien Tudehope: The Government will give an indication by not voting against the amendments.

The CHAIR (The Hon. Trevor Khan): We will not be having conversations across the table because it is too difficult for Hansard to pick up and may create more confusion than there needs to be.

Mr DAVID SHOEBRIDGE: The point of difference seems to be that The Greens amendment has been moved on the presumption that informed consent is so important it should be in the Act and not in guidelines, but the Government thinks it should be in the guidelines. That is the point of difference and that is why The Greens are moving the amendments to have it in the Act. If there are other circumstances that require further consideration, the regulation-making power can address that.

The CHAIR (The Hon. Trevor Khan): Ms Abigail Boyd has moved The Greens amendments Nos 7, 8 and 13 on sheet c2019-009A. The question is that the amendments be agreed to.

Amendments agreed to.

The Hon. PENNY SHARPE (20:17): By leave: I move Opposition amendments Nos 1 and 2 on sheet c2019-012 in globo:

No. 1 **Referral of criminal matters**

Page 7, clause 13. Insert after line 19:

- (9) If the Commissioner is of the opinion that a report, or part of a report, may provide evidence of the commission of a criminal offence, the Commissioner must refer the report, or the part of the report, to the Commissioner of Police or the Director of Public Prosecutions.

No. 2 **Annual report**

Page 14, clause 24. Insert after line 9:

- (3) An annual report by the Commissioner must include information about the number of referrals made by the Commissioner under section 13 and the outcome of each referral.

These two amendments do the following things. The purpose of Opposition amendment No. 1 is to provide an express power for the commissioner to make referrals to the NSW Police Force and the Director of Public Prosecutions. This addresses an anomaly in the bill, which provides an express power for the commissioner to refer some matters to some bodies but not others. As it stands, the bill provides an explicit power to refer matters for investigation to the Health Care Complaints Commission, the Aged Care Quality and Safety Commission and the NDIS Quality and Safeguards Commission. However, the bill does not provide any explicit powers to refer matters to the NSW Police Force. Stakeholders who appeared before the Standing Committee on Social Issues supported this inclusion and this express request. I have been asked questions by the Animal Justice Party in relation to reporting. The moving of this amendment is about understanding what is going on with the number of complaints that we are seeing.

With respect to Opposition amendment No. 2, the annual report must contain information about the number of referrals made by the commissioner under section 13 and the outcome of each referral. Given that in 2016 over 1,000 complaints were made but the Ombudsman reported on only 18 prosecutions, I understand the Government has had some concerns that this will be a very lengthy process. We do not believe that will be the case. With the reporting we are seeking information to see how the commissioner is going, how many complaints have been made, how many went to prosecution and how many were dismissed. It is about tracking the information. I do not consider asking for a report on all 1,000 complaints to be an onerous task. It is about having the information in the annual report. Indeed, I would suggest that most annual reports we deal with do this already; it is not unusual. We think it is important to have it in the annual report so we can get the data.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (20:20): The Government opposes Opposition amendment No. 1. The commissioner has power under clause 13 (5) (b) to refer a report or part of a report to another person or body. This clause is very broad and it includes referring a matter to the NSW Police Force or the Director of Public Prosecutions, where appropriate. The power is not confined. The commissioner may also refer matters to other persons or bodies that may have an interest or a role to play in managing a situation as the commissioner considers appropriate. This wide power also enables the commissioner to refer matters to appropriate bodies, including the NSW Police Force and the Director of Public Prosecutions, when the commissioner believes a matter should be referred for criminal investigation and possibly prosecution.

It is also important to note that, like us all, the commissioner has a general obligation under section 316 of the Crimes Act to report serious indictable offences to appropriate law enforcement agencies. To ensure full compliance with such obligations, there will be clear and robust guidelines and policies in place to assist the commissioner and his or her staff about what matters are to be referred to the police. The commissioner will work collaboratively with the NSW Police Force, and in particular with the six new elder and disability abuse prevention officers who have been deployed across local area commands. Every police area command or police district across the State will receive one aged crime prevention officer over the next four years.

The initial six to be rolled out are going to Port Macquarie, Liverpool in the South West Metropolitan Region, Queanbeyan in the Monaro Police District in southern New South Wales, North Shore in the North West Metropolitan Region, Dubbo in the Orana Mid-Western Police District and the new South Sydney Police Area Command, which is in Botany-Redfern. Their primary responsibility is the prevention, disruption and response to the exploitation, abuse and neglect of vulnerable people in the ageing, disability and homeless sectors. They will engage with stakeholders in their individual communities. Protocols will be agreed between the commissioner and the Commissioner of Police about these arrangements to ensure timely and effective collaboration between the agencies.

The Government opposes Opposition amendment No. 2 on the basis that it is unnecessary and impractical. The commissioner is required to prepare and provide to the Presiding Officer of each House of Parliament annual reports that include a report on the commissioner's activities, the activities of the official community visitors during the relevant year and the commissioner's recommendations, if any, for administrative action or changes in the State's laws. Such a report will entail reporting on the number of reports it receives and how the commissioner has dealt with such reports, including the number of reports it has referred to other agencies.

However, it would be impractical for the commissioner to report on the outcomes of matters that are referred to other agencies. The time and resources that would be required to be expended pursuing these outcomes would divert the commissioner's resources and detract from time spent on his or her core functions of conducting investigations and providing support to vulnerable adults and their families. The commissioner is also to prepare

a special report on any matter requested by the Minister, which the commissioner may provide to the presiding officer of each House of Parliament. The Government opposes the amendments.

The Hon. DANIEL MOOKHEY (20:24): In response to the position of the Government, evidence was adduced about this during the Committee on Social Issues inquiry. Stakeholders were asked whether they thought that the establishment of, effectively, a positive duty on the part of the commissioner to make references would be welcome. They did. I accept that the Minister says that this intention is already reflected in the Government's legislation. This bill is just another example that if the Government agrees with a position then we should write it into the law.

The Government makes an argument based on clause 13 (5) (b) and (c) so I point to clause 13 (8) in which it establishes a positive duty on the part of the commissioner to make reports to the Health Care Complaints Commission under the Health Care Complaints Act, the Commissioner for Aged Care Quality and Safety Commission under the Aged Care Quality and Safety Commission Act of the Commonwealth, and the Commission of the NDIS Quality and Safeguards Commission under the National Disability Insurance Scheme Act of the Commonwealth. If the Government is true with its position—that is, the commissioner can refer it to whoever it wants—the Government need not write those into law. However, it has written them into law. All we want is a requirement to report it to the Director of Public Prosecutions and the police as well.

It is no different to the positive duty established by the Government in respect to those three separate bodies. Part of the reason why this is of a positive benefit to the law is it effectively means that the commissioner will know that they have to collect evidence in a manner which is consistent with the Evidence Act so police can act on it. That is the reason why it is important to write that into law and why the Opposition wants to write it into the law. The commissioner will know from the point of inception that when procedures are established they should be such that referrals to the Director of Public Prosecutions and the police can be acted upon.

The CHAIR (The Hon. Trevor Khan): The Hon. Penny Sharpe has moved Opposition amendments Nos 1 and 2 on sheet c2019-012. The question is that the amendments be agreed to.

The Committee divided.

Ayes22

Noes19

Majority.....3

AYES

Banasiak, Mr M
Buttigieg, Mr M
Faehrmann, Ms C
Houssos, Mrs C
Mookhey, Mr D

Borsak, Mr R
D'Adam, Mr A
Field, Mr J
Hurst, Ms E
Moriarty, Ms T

Boyd, Ms A
Donnelly, Mr G (teller)
Graham, Mr J
Jackson, Ms R
Moselmane, Mr S
(teller)
Searle, Mr A
Shoebridge, Mr D

Pearson, Mr M
Secord, Mr W
Veitch, Mr M

Primrose, Mr P
Sharpe, Ms P

NOES

Ajaka, Mr
Cusack, Ms C
Franklin, Mr B
Maclaren-Jones, Mrs
(teller)
Mason-Cox, Mr M
Roberts, Mr R
Ward, Mrs N

Amato, Mr L
Fang, Mr W (teller)
Harwin, Mr D
Mallard, Mr S
Mitchell, Mrs
Taylor, Mrs

Blair, Mr
Farlow, Mr S
Latham, Mr M
Martin, Mr T
Nile, Revd Mr
Tudehope, Mr D

Amendments agreed to.

Ms ABIGAIL BOYD (20:36): By leave: I move The Greens amendments Nos 9 to 11 on sheet c2019-009A in globo.

No. 9 **Information exchange**

Page 7, clause 14. Insert after line 36:

- (2) A relevant agency may provide relevant information to the Commissioner for the purposes of enabling or assisting the Commissioner's exercise of its functions.

No. 10 **Information exchange**

Page 7, clause 14 (3), lines 41 and 42. Omit "that may be provided under this section, and to which an information sharing arrangement may relate". Insert instead "or a relevant agency that may be provided under this section".

No. 11 **Meetings**

Page 8, clause 16 (1) (a), line 39. Insert "and answer any questions" after "notice".

Amendments Nos 9 and 10 relate to the exchange of information between the commissioner and a relevant agency. On Friday, during our inquiry, it became clear that although the commissioner was able to provide information—

The CHAIR (The Hon. Trevor Khan): I call the Hon. Catherine Cusack to order for the first time.

Ms ABIGAIL BOYD: It became clear that the commissioner could provide information to a relevant agency and could also enter into an information sharing arrangement with a relevant agency but that a relevant agency could not proactively provide information to the commissioner. Amendments Nos 9 and 10 seek to correct that situation. Amendment No. 11 requires a simple and minor amendment to ensure witnesses are required to answer questions.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (20:37): The Government opposes amendments Nos 9, 10 and 11 proposed by The Greens. Amendment No. 9 is opposed as it is unnecessary because clause 14 (2) provides for the commissioner to enter into information sharing arrangements with another agency for the purpose of sharing or exchanging information that is held by the commissioner or the agency. The clause also contemplates a two-way flow of information. Clause 14 (4) provides that the information is authorised to be shared between them under such arrangement, subject to the qualification specified in clause 14 (4) that the information has to be reasonably necessary to assist in the exercise of the commissioner's functions or the functions of the relevant agency.

The Government opposes The Greens amendment No. 10 on the basis that the intention of this provision is to enable the commissioner, when referring a matter to another person or body, to be authorised to provide certain information to that person or body to assist them to provide a service to the subject person. The proposed change in wording subverts the intention of the provision and is therefore opposed.

With regard to amendment No. 11, the commissioner is not a law enforcement agency nor a quasi-judicial body. The power to require answers or statements is a significant power and one which requires appropriate safeguards to be in place. I note that not even the police can require a person to make a statement without advising the person of their rights. However, I note that a requirement to answer questions is included in the search warrant powers. If the commissioner considers a matter so serious that a search warrant is obtained for the purposes of conducting an investigation, in executing the search warrant a person may be required to answer questions and heavy penalties apply under the Law Enforcement (Powers and Responsibilities) Act. The Government opposes the amendments.

The Hon. PENNY SHARPE (20:39): Labor supports The Greens amendments Nos 9, 10 and 11 on sheet c2019-009A. These are not major amendments; they are essentially differences in the way the bill has been drafted. They are not particularly problematic. I hear what the Government says in relation to why they should be opposed but I think the amendments provide clarity. We often discuss in this place what is put in the bill and what is put in the regulation powers. The Greens are trying to be absolutely clear about the intent of the bill. For that reason Labor supports the amendments.

The CHAIR (The Hon. Trevor Khan): Ms Abigail Boyd has moved The Greens amendments Nos 9, 10 and 11 on sheet c2019-009A. The question is that the amendments be agreed to.

Amendments agreed to.

The Hon. DANIEL MOOKHEY (20:41): By leave: I move Opposition amendments Nos 1 and 2 on sheet c2019-013 in globo:

No. 1 **Public inquiries**

Page 8, Division 2 of Part 3, line 35. Insert "and public inquiries" after "Investigations".

No. 2 **Public inquiries**

Page 10. Insert after line 13:

19 Public inquiries

- (1) For the purposes of an investigation of a report, the Commissioner may conduct a public inquiry, if the Commissioner is of the opinion that a public inquiry is in the public interest, having regard to:
 - (a) the seriousness of the allegation of abuse, neglect or exploitation, and
 - (b) the wishes of any person with disability or older adult to whom the report relates, and
 - (c) the privacy of the persons who will be affected by a public inquiry.
- (2) For the purpose of conducting a public inquiry under this section, the Commissioner has the functions, protections and immunities conferred on a commissioner by Division 1 of Part 2 of the *Royal Commissions Act 1923*.
- (3) The provisions of the *Royal Commissions Act 1923* (except section 13 and Division 2 of Part 2) apply, with necessary modifications, to a public inquiry and to any witness or person summoned by or appearing before the public inquiry or providing material to the inquiry, but section 11 (2) of that Act shall have effect subject to subsection (4).
- (4) Nothing in this section requires any person to give any statement of information, answer any question or disclose any document if the person can claim privilege not to do so.
- (5) A witness summoned by or appearing before the Commissioner is to be paid such amount as the Commissioner determines, but not exceeding the amount that would be payable to a witness that is a Crown witness subpoenaed by the Crown to give evidence.
- (6) For the purpose of conducting a public inquiry under this section, the Commissioner is not bound by the rules of evidence and may be informed on any matter in issue at the public inquiry in such manner as the Commissioner considers appropriate.
- (7) The Commissioner may give directions as to the procedure to be followed at or in connection with the inquiry.
- (8) The Commissioner may appoint an Australian legal practitioner to assist the Commissioner for the purposes of an inquiry held by the Commissioner and the Australian legal practitioner may appear before the inquiry.
- (9) In this section:

disclosure of a document includes the provision of copies of the document, the granting of access to the document or the disclosure of the contents of the document.

document includes a part of a document.

privilege means privilege based on a claim by a person that evidence or other information about a matter or document:

 - (a) might tend to incriminate the person or make the person liable to any forfeiture or penalty, or
 - (b) could not be required to be adduced in proceedings before a New South Wales court by reason of the operation of Part 3.10 (Privileges) of Chapter 3 of the *Evidence Act 1995*.

The purpose of these amendments is to allow the Ageing and Disability Commissioner to hold public inquiries.

The CHAIR (The Hon. Trevor Khan): I call the Hon. Walt Secord to order for the second time. The member will remain silent.

The Hon. DANIEL MOOKHEY: Clause 12 (1) (e) provides that one of the commissioner's functions is to inquire into and report on systemic issues regarding matters in relation to which the commissioner may conduct investigations. While the bill provides that one of the commissioner's powers is to inquire into and report on systemic issues, it does not provide an express power to hold an inquiry. The power to hold a public inquiry is generally expressed in legislation. In the last term of Parliament, the Government was forced to enact the Charitable Fundraising Amendment (Inquiries) Act 2017 to provide such a power after it emerged that an inquiry it had established into the RSL lacked the power to hold public hearings. Indeed, it is worth repeating comments made by the member for Hornsby in the other place during the second reading debate on the Charitable Fundraising Amendment (Inquiries) Bill. On 3 August 2017 he said:

There is truth in the old saying that sunlight is the best disinfectant. By holding a public inquiry transparency is assured and the public has greater visibility of the conduct of the inquiry and confidence that no stone will be left unturned.

I have to say I never thought I would quote the member for Hornsby on anything but there you have it. How things have changed. This matter was ventilated extensively during the inquiry on Friday and it drew widespread support from a variety of stakeholders at the inquiry. Perhaps most eloquently Kathryn Greiner told the committee:

I think the commissioner should have the opportunity to have public hearings because we all know that the issue of abuse dissolves when the light of day is shone on it. So transparency and clarity would be very much part of their role. I think the capacity to hold public hearings would be a very important part of [the] role.

In moving this amendment not only have I found myself in agreement with the member for Hornsby but I also find myself in agreement with the Hon. Kathryn Greiner. I commend the amendment to the House.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (20:44): The Government opposes the amendments.

Mr David Shoebridge: Unnecessary.

The Hon. DAMIEN TUDEHOPE: It probably is a bit more substantive than unnecessary. The commissioner's main function is to support individuals and families and provide them with timely and appropriate assistance to ensure the safety and welfare of older adults or adults with disability. It is inappropriate to give the commissioner a power to conduct a public inquiry for the purposes of investigating a report about an individual and to have royal commission-type powers. The Government submits that such a power would deter reporting of individual cases. It breaches privacy, detracts from supporting families and duplicates the function of other bodies.

It is unnecessary as systemic issues can be picked up by the commissioner and investigated and reported to the Parliament. The commissioner can also make recommendations. If after a review of its operations there was evidence that such a function would be appropriate it would be reconsidered then. I have a caution about one of the issues relating to the manner in which public inquiries are conducted by the Independent Commission Against Corruption. The bill does not countenance circumstances where potentially innocent people are subjected to a public inquiry and reputations are damaged by it.

Mr David Shoebridge: Close all the criminal courts.

The Hon. DAMIEN TUDEHOPE: The bill gives the commissioner a specific power to inquire into systemic issues arising from the commissioner's investigations and, as part of its inquiry, prepare a report to Parliament on such issues. Those can be public inquiries. The Minister may also ask the commissioner to undertake an inquiry into any matter relating to the abuse, neglect or exploitation of adults with disability or older adults and make recommendations. The Government opposes the amendments. I do not advocate closing criminal courts.

Mr DAVID SHOEBRIDGE (20:46): I am glad to hear that clarification. The Greens support the amendments. I could be wrong but I thought I heard the Minister say that the existing inquiry power already includes a power to hold public hearings.

The Hon. Damien Tudehope: No, it is only in respect of a systemic abuse that is identified.

Mr DAVID SHOEBRIDGE: It is only in respect of a systemic abuse that is identified. The Greens firmly believe that the commissioner should have the power to hold public inquiries. A series of stakeholders—the Hon. Daniel Mookhey identified two—indicated how useful public inquiries can be in driving change in a sector. There have been probably one or two occasions of public inquiries going beyond what we would be comfortable with. I can point to a couple of deeply partisan royal commissions at different times. The Cole royal commission sticks in mind as having gone well beyond anything reasonable and was deeply partisan.

I have a firm belief that the commissioner, who will be chosen by the Coalition Government, will be a person of integrity and will not be minded to undertake a deeply partisan political inquiry. The amendments do not require any commissioner to hold a public inquiry; they give a capacity to the commissioner to hold a public inquiry. This is not the case of putting in place a partisan royal commission or some similar attack machine but about giving someone who will hopefully be a person of stature and gravitas the power to hold a public inquiry if he or she thinks that is appropriate. Given the support of the stakeholders, I cannot understand why the Government does not want to grant that option to a commissioner who will be chosen by the government of the day.

The CHAIR (The Hon. Trevor Khan): The Hon. Daniel Mookhey has moved Opposition amendments Nos 1 and 2 on sheet c2019-013. The question is that the amendments be agreed to.

Amendments agreed to.

Ms ABIGAIL BOYD (20:49): By leave: I move The Greens amendments Nos 12, 25 and 26 on sheet c2019-009A in globo:

No. 12 **Penalties**

Page 9, clause 16 (2), line 7. Omit "50". Insert instead "100".

No. 25 **Penalties**

Page 15, clause 29, line 41. Omit "50". Insert instead "100".

No. 26 **Penalties**

Page 16, clause 30, line 4. Omit "50". Insert instead "100".

All of these amendments seek to increase the penalties from 50 penalty units to 100 penalty units. The reason for this amendment is based on the compelling submissions that we heard at the inquiry from a number of stakeholders who viewed 50 penalty units as being an amount so small that a rational business decision could be made that it was better to pay the penalty than to comply with the commissioner's instructions. The Greens understand that the Opposition is also seeking to increase these penalties by including imprisonment for 12 months. We believe that that could have an impact beyond what we would think of as being fair in all circumstances. This is The Greens attempt to increase the penalty without imposing a prison sentence.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (20:51): Unsurprisingly, the Government opposes those amendments. In each case the proposal is for a higher financial penalty. The Government says that the penalty sought to be imposed by this amendment is higher than comparable provisions regarding false or misleading conduct in other Acts. For example, a similar provision in the Guardianship Act provides for a financial penalty of five penalty units. A penalty unit of 50 penalty points, currently standing at \$5,500 is not insubstantial. Further, more serious cases where a person has provided misleading or false statements to the commissioner can be referred to the police for criminal investigation under section 307B of the Crimes Act. This provides for a penalty of 200 penalty units and/or imprisonment for two years.

In respect of amendment No. 25, I refer to the same provision in the Guardianship Act. The Government submits that a penalty of 50 penalty points is not insubstantial. In respect of amendment No. 26, the Government believes that the penalty is consistent with the penalties applying across the statute books for comparable offences, including the Law Enforcement Conduct Commission Act and the Independent Commission Against Corruption Act. A penalty unit of 50 penalty points currently standing at \$5,500 is not insubstantial.

The CHAIR (The Hon. Trevor Khan): Does the Hon. Penny Sharpe want to move the Labor amendments now or put them separately?

The Hon. PENNY SHARPE (20:53): I will respond to The Greens amendments. The discussion is pretty straightforward. The Greens wish to double the penalty in terms of financial cost. Labor also believes these matters are serious and could warrant a prison sentence. Labor will support The Greens amendments but my colleague will foreshadow Labor's amendments.

The CHAIR (The Hon. Trevor Khan): I will put the question on these amendments and then we will move on.

Mr DAVID SHOEBRIDGE (20:53): This is a red-letter day. The Greens have moved to increase penalty units in a bill and the Coalition Government has said no. This is the first time I can recall where this has happened.

The CHAIR (The Hon. Trevor Khan): I will not tolerate comments from the President's gallery. If I continue to hear them, I will clear the President's gallery, irrespective of who is there. This is not a second reading debate. Members are indicating why an amendment should or should not be supported. This is rather like the test of direct relevance that I know that the Minister rankles at because it reduces hyperbole. This is not the time for hyperbole. If members have something to say as to why the amendment should be supported, they should say so.

Mr DAVID SHOEBRIDGE: The rationale put forward by my colleague Ms Abigail Boyd is that when it comes to for-profit providers in the sector—of which there are a significant number—those for-profit providers may see a clear corporate advantage in simply copping a \$5,500 fine rather than complying with the directions of the commissioner. The answer to that argument is not found in the provisions of the Guardianship Act or the Law Enforcement Conduct Commission Act, with all due respect to the propositions put by the Government.

The reason for this amendment and why it is supported by stakeholders who gave evidence to the inquiry is that unless the penalty is serious, for-profit providers will just cop a fine rather than comply with a direction, particularly if the direction requires them to provide documents or evidence that may be deeply embarrassing to their corporate venture. That is the rationale upon which it is put forward. I am not being critical of the Minister making the proposition, but it would have been interesting to see that proposition met by the Government's contribution in Opposition.

The CHAIR (The Hon. Trevor Khan): Ms Abigail Boyd has moved The Greens amendments Nos 12, 25 and 26 on sheet c2019-009A. The question is that the amendments be agreed to.

Amendments agreed to.

The Hon. DANIEL MOOKHEY (20:56): By leave: I move Opposition amendments Nos 1 to 3 on sheet c2019-003G in globo:

No. 1 Penalty for failing to comply with direction of Commissioner

Page 9, clause 16 (2), line 7. Insert "or imprisonment for 12 months, or both" after "50 penalty units".

No. 2 Penalty for disclosure of information

Page 15, clause 29, line 41. Insert "or imprisonment for 12 months, or both" after "50 penalty units".

No. 3 Penalty for obstructing Commissioner

Page 16, clause 30, line 4. Insert "or imprisonment for 12 months, or both" after "50 penalty units".

The purpose of those amendments is to ensure that a maximum penalty of 12 months' imprisonment is available for all offence provisions under the bill. Currently the bill contains four offences. Clause 16 prohibits a person from failing to comply with a notice of production, clause 23 prohibits retribution against a person who makes a complaint to an official community visitor, clause 29 prohibits the unlawful disclosure of information and clause 30 prohibits a person obstructing the commissioner from carrying out investigations or other functions. Hitherto, each of those offences had a maximum monetary penalty of 50 penalty units. It is now doubled to 100 penalty units. However, only clause 23, which protects people who made a complaint to an official community visitor, contains a maximum penalty which could include a term of imprisonment. Labor believes that there should be a maximum penalty of 12 months' imprisonment for all offences provided in the bill.

In his contribution on the earlier set of amendments, the Minister made the point about aligning various penalty provisions in this Act and other Acts, including the Independent Commission Against Corruption Act. If the Government is to be true to that principle—that is, that the same offences in same laws should have the same penalties—then the Government ought to support the amendments. The ICAC Act contains a penalty provision of 12 months' imprisonment for obstructing an ICAC investigation. In the Royal Commissions Act, a person who destroys documents or things required by a royal commission shall be liable for imprisonment not exceeding two years. There is a penalty provision of seven years for attempting to hinder a criminal investigation. We have chosen 12 months because this is much more aligned with the ICAC provisions. The Minister said in his previous contribution that the Government welcomes consistency between both Acts. Thus I look forward to the Minister's enthusiastic support of our amendments.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (20:58): It is not often that this side of the House seeks not to impose prison sentences. In respect of the Opposition's amendments I rely on the same submissions I made about the amendments moved by Ms Abigail Boyd.

Mr DAVID SHOEBRIDGE (20:59): It is with great enthusiasm that The Greens join with the Government in opposing these amendments. We oppose these amendments because these powers are as yet untested. The commission has extensive powers. Ms Abigail Boyd made the case clearly about the need for additional civil penalties to address this. I will be clear: The Greens are not in the habit of inserting additional penalties of imprisonment unless a very clear case is articulated. Despite the argument that there is a parallel with the Independent Commission Against Corruption Act, we are creating a new commissioner with a raft of untested powers. We have not yet seen how those powers will be exercised. At this stage we are not persuaded that simply by a reference to one provision in the Independent Commission Against Corruption Act the appropriate penalty should include imprisonment. If we find there is a wall of corporate defiance or any significant corporate defiance to the exercise of the commissioner's powers, I am sure we will be happy to revisit that. At this stage The Greens are not persuaded that there should be a penalty of imprisonment.

The CHAIR (The Hon. Trevor Khan): The Hon. Daniel Mookhey has moved Opposition amendments Nos 1 to 3 on sheet c2019-003G. The question is that the amendments be agreed to.

Amendments negatived.

The Hon. DANIEL MOOKHEY (21:02): I move Opposition amendment No. 1 on sheet c2019-017A:

No. 1 Provision of documents to Commissioner

Page 9, clause 16 (3) lines 8–11. Omit all words on those lines.

The effect of this amendment would be to remove lines 8 to 11 in clause 16 which provide the ability for the department to avoid complying with notices to produce by way of the Government Information (Public Access) Act. I draw the attention of the Committee to division 2. Division 2 has some strong powers. It provides that:

... the Commissioner may, by notice in writing, require any person:

- (a) to attend a meeting at a time or place specified in the notice, or
- (b) to produce, at a time and place specified in the notice, to the Commissioner any document or thing described in the notice that is in the custody or under the control of the person and that, in the opinion of the Commissioner, is relevant to the investigation.

Broadly speaking, certainly in law, these two provisions are akin to the powers of the royal commission. They are powerful and they provide the commissioner with the unfettered ability to direct that to the extent which they see fit for the purposes of their office. It is a powerful provision. It is the case that that power at some point in time will need to be directed at the department. In the disability and aged care space the department is a major player. Up until quite recently the department was a direct provider of care. The department remains a direct provider of care by way of group homes through Ageing, Disability and Home Care until at least 2020. The department lets a lot of contracts to third parties and is at the head of the contract chain. Under that contract chain there are many information disclosure requirements of people who hold those contracts performing work for the Department of Family and Community Services [FACS]. A lot of information would be centralised at FACS. Indeed, to the extent to which there is any independent evidence of systemic abuse, it will be held by FACS, amongst many others.

It is absolutely the case that it will be relevant at some point to the commissioner's inquiry, particularly if it is inquiring into systemic abuse. But it is the case that if this provision remains in the Act, every time the commissioner wishes to exercise that power against the department, the department will have to navigate the Government Information (Public Access) Act [GIPA] Act. Anyone in this House or elsewhere who has navigated the GIPA Act knows that it is not an easy thing to do—it can take months. I have matters that are still subject to the GIPA Act that are three years old. The scope of litigation that is available to public sector agencies under the GIPA Act is large. Whilst, of course, we are not here to debate the GIPA Act, it is telling that this bill includes this provision and that the only people who can access this exemption is the department.

This looks like an example of the department slipping something into law, hoping no-one will notice it. This was noticed in the social issues committee inquiry and we ventilated that issue. We asked the department to provide what exactly the policy rationale was for them to be the only people to have an exemption to what otherwise would be royal commission powers. The department was not able to adduce any reason; it simply confirmed our interpretation that if this provision remains in the bill the GIPA Act will apply and every time the commissioner asks the department for a document the department will have to go through the GIPA process.

Our point is simple: the commissioner should have power. Family and Community Services is a major player. It is not above the law and it deserves to be investigated as well. FACS does not deserve special treatment when every other person in the disability and aged care sector is going to be subject to royal commission powers. There is no compelling reason for FACS to be exempt.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (21:06): The Government opposes the amendment. As it stands, the provision is consistent with the public sector obligations under the Government Information (Public Access) Act. The Government acknowledges that in some circumstances there are strong public interest considerations against disclosure. The provision should be read in the context of the division of the bill. Collaboration and cooperation between the public sector agencies and the commissioner are prompted and facilitated under the bill. The commissioner will establish a number of information-sharing protocols and arrangements with key government agencies including, for example, under clause 14 (2).

The Ministry of Health and the NSW Police Force will facilitate collaboration and cooperation between them. If, however, this becomes an operational issue for the commissioner, the commissioner will be able to report the issue and escalate as appropriate, including at a ministerial level. Additionally, there will be a comprehensive evaluation of the new office of the Ageing and Disability Commissioner after three years of its operation. This evaluation will assess whether the Act is meeting its policy objectives and will assess the effectiveness of the provisions in achieving those objectives and identify areas for legislative policy and operational improvement.

Mr DAVID SHOEBRIDGE (21:07): The Greens support the amendment moved by the Opposition and, in fact, are grateful to the Opposition for picking it up and the sector for noting what could be politely described as an unintentional overreach in the drafting of the bill. By removing this section we will remove the close to blanket secrecy provisions that an agency can throw over any request. It would be tempting to go into detail about schedule 1 of the Government Information (Public Access) Act [GIPA Act] because it has clause after clause of exemptions. For example, the GIPA Act's definition of Cabinet-in-confidence documents is so broad that if there was a potential at some point for a document to go towards the Cabinet—

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge is starting to stray.

Mr DAVID SHOEBRIDGE: —then it is covered by the definition of Cabinet-in-confidence in schedule 1 of the GIPA Act. I will say, no doubt to provide a vast amount of comfort to the Government, that by removing this provision and getting rid of the extraordinary breadth of exemptions that would be found particularly in schedule 1 of the GIPA Act, the Parliament is not evincing an intention to remove those other common law privileges and protections that would ordinarily apply. If there is a valid case that can be made for

Crown immunity, make the case out. The Greens believe you cannot rely upon what most players who are active in the area would say is a gross overreach by reference to the Government Information (Public Access) Act provisions.

The Hon. PENNY SHARPE (21:09): I listened carefully to the Minister's contribution and I have to say he got the hospital pass on that one. Anyone who has wrangled with the Government Information (Public Access) Act knows that there are plenty of protections, particularly in relation to public interest disclosure, that departments rely upon every day on every application that any member tries. This is an overreach in terms of the bill. The current law deals with this matter. The Government Information (Public Access) Act could have handled the issues that are there. I commend the amendment to the House.

The CHAIR (The Hon. Trevor Khan): The Hon. Daniel Mookhey has moved Opposition amendment No. 1 on sheet c2019-017A. The question is that the amendment be agreed to.

Amendment negatived.

Ms ABIGAIL BOYD (21:10): By leave: I move The Greens amendments Nos 14, 15 and 17 on sheet c2019-009A in globo:

No. 14 Visitable service

Page 11, clause 19, line 16. Insert "or older adult" after "disability".

No. 15 Appointment of Official Community Visitors

Page 11, clause 20 (1), lines 24 and 35. Insert "or older adults" after "disability".

No. 17 Protection against retribution

Page 13, clause 23 (3) (e), line 18. Omit "community".

Amendments Nos 14 and 15 are concerned with ensuring that the official Community Visitors Scheme applies to older adults as well as adults with a disability. The Greens are grateful to the Government for including the community visitors officially within the bill. This is a valuable part of the bill. From the inquiry, and inquiries I have made separately, there does not seem to be a good reason that older adults are not included within the Community Visitors Scheme. Both amendments simply seek to achieve that, and to ensure that in circumstances where there are visitable services older adults who are not also an adult with a disability are included in the scheme. Amendment No. 17 seeks to correct what The Greens believe is a typographical error. It currently states that, "community services should not be withheld as a form of retribution." Surely no services should be withheld as a form of retribution.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (21:12): The Government opposes the amendments. In respect of amendments Nos 14 and 15, the official community visitors do not currently visit aged-care services, which are a Commonwealth Government responsibility. Aged-care homes are accredited and monitored by the Aged Care Quality and Safety Commission. Official community visitors may not have jurisdiction to enter. Consultation has not occurred with the Commonwealth, which regulates aged-care services. This provision would potentially be in breach of any jurisdiction that official community visitors have.

In respect of amendment No. 17, clause 23 provides protections for persons who make or propose to make a complaint to an official community visitor by making it an offence to take detrimental action against such a person. Detrimental action includes action that may involve prejudice in the provision of a community service. This provision is similar to section 47 of the Community Services (Complaints, Reviews and Monitoring) Act 1993. The effect of this proposed amendment is to broaden the concept of service to cover all types of services, rather than limiting it to community service—which is not defined, but would take its ordinary meaning. As it is an offence provision it is appropriate that it be delineated appropriately and not too wide. The Government does not support the amendments.

The Hon. PENNY SHARPE (21:15): Labor is going to support The Greens amendments. However, I think there is an issue with official community visitors visiting accommodation services where an older adult is in full-time care. We support the amendments, but the commissioner is going to have to come to some understanding and conduct further negotiation in relation to access to some of those premises. I think the intent of the amendments is fine—trying to capture some areas that are not currently picked up—but there is an issue around the community visits. We will not oppose the amendments but we have heard what the Government has said and agree some further work is needed.

The CHAIR (The Hon. Trevor Khan): Ms Abigail Boyd has moved The Greens amendments Nos 14, 15 and 17 on sheet c2019-009A. The question is that the amendments be agreed to.

The Committee divided.

Ayes22
 Noes19
 Majority.....3

AYES

Banasiak, Mr M
 Buttigieg, Mr M
 Faehrmann, Ms C
 Houssos, Mrs C
 Mookhey, Mr D

Borsak, Mr R
 D'Adam, Mr A
 Field, Mr J
 Hurst, Ms E
 Moriarty, Ms T

Boyd, Ms A
 Donnelly, Mr G (teller)
 Graham, Mr J
 Jackson, Ms R
 Moselmane, Mr S
 (teller)
 Searle, Mr A
 Shoebridge, Mr D

Pearson, Mr M
 Secord, Mr W
 Veitch, Mr M

Primrose, Mr P
 Sharpe, Ms P

NOES

Ajaka, Mr
 Cusack, Ms C
 Franklin, Mr B
 Maclaren-Jones, Mrs
 (teller)
 Mason-Cox, Mr M
 Roberts, Mr R
 Ward, Mrs N

Amato, Mr L
 Fang, Mr W (teller)
 Harwin, Mr D
 Mallard, Mr S

Mitchell, Mrs
 Taylor, Mrs

Blair, Mr
 Farlow, Mr S
 Latham, Mr M
 Martin, Mr T

Nile, Revd Mr
 Tudehope, Mr D

Amendments agreed to.

Ms ABIGAIL BOYD (21:24): By leave: I move The Greens amendments Nos 18 and 19 on sheet c2019-009A in globo:

No. 18 Annual reports

Page 14, clause 24, lines 10–12. Omit all words on those lines. Insert instead:

- (3) An annual report prepared under subsection (1) must include the following:
- (a) any recommendations for administrative action or changes in the laws of the State that the Commissioner considers necessary,
 - (b) information on the number of reports made to, and actioned by, the Commissioner, and the number of referrals made elsewhere and to whom,
 - (c) the number of investigations held under section 13 (10) where consent was not given, including as a percentage of total investigations held,
 - (d) if a Board member has been removed under section 27 (9) during the reporting period, the reasons for removing the member.

No. 19 Special reports

Page 14, clause 25 (3), line 21. Omit "may". Insert instead "must".

In amendment No. 18 The Greens are seeking to increase the transparency and accountability of the commissioner and to reduce any potential for interference by the Minister. We have set out a number of additional items that we would like to see covered in the annual report by the commissioner so we have information readily available to assess how well the commission is going. Amendment No. 19 makes it clear that if a report is provided by the commissioner to the Minister it must be made available to the Parliament. It is not optional whether it is made available to the Parliament.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (21:26): The Government opposes each of the amendments moved by The Greens. Amendment No. 18 unnecessarily and inappropriately prescribes reporting to be done by the commissioner. The commission will report on its core functions and governance as required under the rules and legislation that guide annual reports. The commissioner will therefore publish numbers on reports received and investigations made and the make-up of the advisory board as appropriate. As far as reporting on recommendations for administrative action or law change, the commissioner

should be allowed independence and not be mandated to include recommendations that may not be relevant or appropriate at the time of annual reporting.

In respect of The Greens amendment No. 19 the Government says that the commissioner should be allowed independence and discretion as to whether a special report provided to the Minister is appropriate for the floor of Parliament. It is entirely foreseeable that a special report may be requested by the Minister about a sensitive individual case. For the privacy and dignity of the people involved, it would not be appropriate to be compelled to lay that out on the floor of Parliament. Of course, nothing takes away from the powers ordinarily available to Parliament to request any information from the commissioner. The Government opposes the amendments.

The Hon. PENNY SHARPE (21:27): The Opposition will not oppose the amendments.

The CHAIR (The Hon. Trevor Khan): Ms Abigail Boyd has moved The Greens amendments Nos 18 and 19 on sheet c2019-009A. The question is that the amendments be agreed to.

Amendments agreed to.

The Hon. MARK BANASIAK (21:29): I move Shooters, Fishers and Farmers Party amendment No. 1 on sheet c2019-010 with a slight change, which I have shared with both sides of the House:

No. 1 **Mandatory reporting**

Page 15. Insert after line 1:

27 Mandatory reporting

- (1) This section applies to a person who holds a management position in an organisation the duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, residential services or law enforcement, wholly or partly, to adults with disability or older adults.
- (2) If a person to whom this section applies has reasonable grounds to believe an adult with disability or older adult is subject to serious abuse, neglect or exploitation, and those grounds arise during the course of or from the person's work, it is the duty of the person to make a report, as soon as practicable, to the Commissioner under section 13.

I will quickly elaborate. What we are moving here is: on page 15 after line 1 under "Mandatory reporting" subparagraph (a) of the amendment has been deleted. We now have two clauses that read:

- (1) This sections applies to a person who holds a management position in an organisation the duties of which include direct responsibility for, or direct supervision of, the provision of health care, welfare, education, residential services or law enforcement, wholly or partly, to adults with disability or older adults.
- (2) If a person to whom this section applies has reasonable grounds to believe an adult with disability or older adult is subject to serious abuse, neglect or exploitation, and those grounds arise during the course of or from the person's work, it is the duty of the person to make a report, as soon as practicable, to the Commissioner under section 13.

The CHAIR (The Hon. Trevor Khan): I am not being critical, but amendments that are being moved, unless the error is essentially in the nature of a typographical error, should be in writing. Apart from anything else, the Clerks have to understand what is going on as well.

The Hon. Catherine Cusack: Chair, is he able to seek leave to amend?

The CHAIR (The Hon. Trevor Khan): If you will allow me to look after it at this stage. The Clerks are clear, so if the Clerks are clear all is going well.

The Hon. MARK BANASIAK: We believe this amendment is very important. We do not see the bill in its current form dealing well enough with reporting. At best any reference to reporting is vague and at very worst it is absent. The amendment seeks to bring the legislation into line consistent with how we deal with mandatory reporting for other people whom we deem to be vulnerable; that is, children. We see this as an important amendment. We believe it gives the commissioner the power and the tools needed to prosecute, and deal with the most serious and heinous examples of abuse of elderly people or people with a disability. I urge all members to support the amendment. I am sure Minister Tudehope will disagree. I look forward to hearing the Government's objections to the amendment.

The CHAIR (The Hon. Trevor Khan): Before I call on the Minister to deal with the substance of it, is the Minister clear on what the amendment now is?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (21:31): I was a bit perplexed by the prosecution part of the submission, which was just made then. There is no submission in relation to prosecution.

The Hon. Mark Banasiak: Let me clarify. What I mean by "prosecution" is deal with that report or act on that report.

The Hon. DAMIEN TUDEHOPE: The Government opposes the amended amendment moved to the legislation by the Shooters, Fishers and Farmers Party. The amendment is a modified copy of the mandatory reporting provision in child protection legislation and not all of these mandatory reporters are necessarily the appropriate professionals to prescribe as mandatory reporters for this cohort. I appreciate that the intention of mandatory reporting provisions is to bring cases of abuse to light. However, there is a fine balance to be struck between respecting an adult's right to make choices for themselves, even when those choices may not be ones that we would make, and refusing to undergo medical treatment contrary to a doctor's advice. Respect for the agency and autonomy of a person applies to all adults—older adults and adults with a disability. Mandatory reporting provisions are not appropriate in this area.

However, a key part of the communication strategy is to raise community awareness about these issues so they can identify concerns and to raise awareness of the commissioner. From our child protection experience we have learned that broad mandatory reporting provisions have the potential to overwhelm and frustrate the system. The findings of the Wood child protection inquiry highlight this point. From examining and analysing qualitative and quantitative child protection data, the inquiry concluded that around 30 per cent of all child protection reports by mandatory reporters did not warrant any State intervention. We do not want the commissioner to be so overwhelmed by reports that the commission is unable to meaningfully discharge its duties in a timely manner. No consultation with affected individuals and groups has occurred in relation to this issue, and it would be unreasonable to expect them to comply with the legislation as of 1 July. The Government opposes the amendment.

Mr DAVID SHOEBRIDGE (21:34): The Greens support the amended amendment coming from the Shooters, Fishers and Farmers Party. We are grateful that they have brought this amendment to the Committee. This is a serious issue and in no way will I trivialise the Minister's contribution, which I listened to carefully. On much of what he said we agree. Having a mandatory reporting system that simply mirrored what happens in child protection would have set the commissioner up to fail. The quantity of the reports coming in would have overwhelmed any new statutory office. That is why The Greens would not have supported the amendment as initially drafted. I am grateful for the Shooters, Fishers and Farmers Party consulting with different members and seeking to significantly narrow the scope of the mandatory reporting provisions being considered.

There is a series of significant limitations on the mandatory reporting in this amended provision that gets the balance right. This mandatory reporting will apply only to a person who holds a management position in one of those organisations, the duties of which include direct responsibility for or direct supervision of the provision of health care, welfare, education, residential services or law enforcement, wholly or partly, to adults with disability or older adults. It is only to the management. Again, I commend the Shooters, Fishers and Farmers Party for bringing this amendment, because it shows that they actually listened to representations from stakeholders. I accept it was not sector-wide representation; this amendment came from representations from stakeholders in the sector who wanted some form of mandatory reporting.

The other limitation on this mandatory reporting, or constraint on it, is, instead of being the very broad compass that we see in child protection, where it is based upon suspicion and risk, with these amendments the abuse that will have to be reported is that now identified in the amended subsection (2), which says that if a person to whom this section applies has reasonable grounds to believe—as opposed to suspect; and belief is a significantly higher test than suspect and this drafting then picks up the equivalent test in Victorian child protection legislation, which, as the Minister would know, has a narrower compass and is based upon belief rather than suspect—that an adult with disability or older person is subject to serious abuse, neglect or exploitation, and those grounds arise during the course of or from the person's work, it is the duty of the person to make a report, as soon as practicable, to the commissioner under section 13.

There is no reference to risk. It is where a person has reasonable grounds to believe that an adult with disability or an older adult is subject to serious abuse, neglect or exploitation where that person is in management and where their work is related to the care of people with disability or the elderly—those are the circumstances in which a report will be made. I think we could all agree that if you have someone in a position of management who has a reasonable belief that a person with a disability or an elderly person in their care is subject to serious abuse, neglect or exploitation then, of course, that should be reported to the commissioner.

The Hon. MARK PEARSON (21:38): The Animal Justice Party has decided to support this amendment as amended. We agree with The Greens that the way this amendment has been refined and narrowed makes it much more acceptable. The concern that has been pointed out to us is that a person who is a manager of, say, a caravan park or a boarding house may have to comply with mandatory reporting to the commissioner. The concern is that the mandatory reporting provision would be too broad and, just like child protection, there would be so many voluminous reports that it would become absolutely too onerous for the commissioner, and the commissioner would not be able to deal with.

The Shooters, Fishers and Farmers Party has narrowed it down and removed "or at risk of" and put instead "to suspect but believes", so much stronger evidence is before the person who is the manager. It is clear that in clause 27 (1) (b) the management position includes "direct responsibility for, or direct supervision of, the provision of health care, welfare, education, residential services or law enforcement" et cetera. We believe that this narrows it down enough to actually protect the commissioner from being overwhelmed by unnecessary reports, so the Animal Justice Party will support this amendment.

Mr JUSTIN FIELD (21:40): I did not support the original amendment. I still have concerns with this amendment. I think the net is still extraordinarily wide. The sorts of entities and organisations that may deliver education to older people in our community is really broad. It could be a TAFE; it could be a University of the Third Age. It could be a number of community organisations that deliver education or welfare. It is a very broad net. Managers may consider themselves to be directly responsible, whether or not they are personally delivering the service. Do we create a situation now where a manager is forced by way of this Act to implement a policy in the organisation to now require mandatory reporting of the person delivering that service to them so they can meet their compliance obligations with the Act? This is still extraordinarily broad and I am uncertain how it would apply in a range of diverse situations.

It is probably clearer for people with a disability than for older people. That list—health care, welfare, education and residential services—is so extraordinarily broad as to cover nearly everything that older people engage with in their life. How managers in those services choose to comply or feel they have to comply with this law is extraordinarily uncertain. In reality what will happen is that the commissioner will recognise where they are likely to see references coming from in the community and engage proactively with those services to inform people working in that sector through professional development, engagement with the union or whatever of the commissioner's role and how they can engage with the commissioner in a way that protects older people and people with disabilities. I will not support the amendment but I understand where it has come from.

The Hon. DANIEL MOOKHEY (21:42): The Opposition will support the refined amendment. It has been significantly tightened as to whom the mandatory reporting obligation will be applied. I note that there are effectively three restrictions on it. It is a person who is in a management position. In that management position they have to have "direct responsibility for, or direct supervision of, the health care, welfare, education, residential services", so it is not ancillary contact; it is direct. Points have also been made about new clause 2. The "at risk" part is now removed and the test has been raised to "believe". It is a limited right in that sense. In that sense it is dissimilar to what is in the child protection legislation, which is much broader. There is a case to be made for a mandatory reporting regime in the disabled and aged care sectors in particular. It is the case that we are currently waiting for the Commonwealth royal commission to complete its work in that respect.

The evidence being adduced about not just some of the abuse that takes place but also the inability of some of this to be reported is compelling evidence for why there is a need for a limited form of a mandatory reporting scheme. Insofar as the restrictions are there, it is much tighter than the original suggestion. Of course the Opposition will want to see how this works in practice. It will want to see how the sector responds and reacts. Given that it would be the first time a mandatory reporting application is applied in New South Wales to these two areas, we of course want to partner with the sector and stakeholders to ensure that it is not too onerous—that it is direct, relevant and effective. Ultimately the effect of these types of regimes has to be judged on their practical consequences. The Opposition will pay close attention to how many reports are coming in, whether or not it is overwhelming the commissioner, whether or not it is effective in delivering change and whether or not it is effective in delivering organisational change for the many organisations that choose to be subject to it.

The Hon. MICK VEITCH (21:44): I come to this amendment with a degree of trepidation. Initially I want to acknowledge the work that has been done this evening to get this amendment to where it is now. I support the mandatory reporting regime, acknowledging that it needs some improvements. However, as someone who has fostered a whole heap of children with disabilities in my life and as someone who managed a disability service for quite a long time, I think about the day-to-day application of this regime and my concerns are several. If we pass this legislation tonight there will managers in disability services in regional New South Wales who in the morning will wake up and find out that they are now under a mandatory reporting regime. I would have appreciated a transition period for those service providers, perhaps.

In regional New South Wales some of these not-for-profit organisations are strapped. The National Disability Insurance Scheme did not deliver the manna from heaven that some thought it would. I appreciate we have changed the wording to elevate this above the workers in the system, because some of those workers would be lucky to have a Certificate III level qualification and mandatory reporting would spook them no end. I am glad that we have elevated this to manager level. In some of the disability services in regional New South Wales the managers themselves are probably at Certificate IV level—trade qualification level—and have never had to operate under a mandatory reporting regime. They will need time to work out how they can put these arrangements into their day-to-day practices and structures. There is a fair degree of work for people with disabilities and their advocacy groups because this is not going to be straightforward.

Not only should there have been a transition period but there also should have been consideration given to a statutory review of this provision at some time down the track, because we do not want to put in place something that is well intentioned but provides unintended consequences. I am reminded of circumstances in my former role and keep thinking how this would have played out. A statutory review period of some sort would have been good. Having said that—and I know this cannot be done as I have explored this matter with the Clerks—I would have liked to have referred this amendment to a committee to look in much more detail at mandatory reporting in this context. The Clerks have clarified that there may be some issues with that and it cannot be done but I want to make it clear that I did not want to stop the progression of the bill.

A series of committees have been set up this week. Maybe one of those committees will look at mandatory reporting and what it means in the context of this important piece of legislation. I will support this amendment but I have hesitation and trepidation about what we will achieve. This amendment is well intentioned. I would have liked to have had more time to work through it with the Hon. Mark Banasiak, but this happens when bills are rushed through at a faster pace than we would like. I would have liked to explore this matter with a number of service providers in the field to see in practical terms what it will mean in their day-to-day operations. It is important to put those things on record at this time. There should have been a transition period and a statutory review and I hold concerns about what the day-to-day operation of this will mean to a number of service providers right across the State.

Mr DAVID SHOEBRIDGE (21:48): I appreciate the Hon. Mick Veitch's contribution. It is important to put on record that a transition period will be required while small community-based providers are brought up to speed on what the provision means for the operation of reporting. Clause 33 (3) has a very clear regulation-making power, of which the Government would be aware, that provides:

The regulations may also contain provisions of a savings or transitional nature consequent on the enactment of this Act or any Act that amends this Act.

In the regulations I would expect not only that there would be a transitioning in of the mandatory reporting provisions but also some content about what the mandatory reporting would look like. There is also the capacity to refine that and to have a measured transition through the operation of the regulations. Ordinarily one would expect a mandatory reporting regime to be supported by specific provisions in the regulations. Indeed, I urge the sector and the Government to sit down and talk about an appropriate set of transitional provisions in the regulations. We must ensure that small providers, who are often already struggling with minimal resources to get the basic services out, feel supported in the transition to mandatory reporting.

The Hon. WES FANG (21:50): Mr David Shoebridge said that we would need a transition period for smaller providers, particularly the rural and regional small providers the Hon. Mick Veitch identified. If it is passed, this amendment will require mandatory reporting in three weeks with no transition period—absolutely none. I want to clarify that point.

The CHAIR (The Hon. Trevor Khan): This is a significant amendment. I will not discourage members from making a contribution.

The Hon. PENNY SHARPE (21:51): I want to clarify the issues raised by the Hon. Wes Fang. Within the bill it is possible—and quite common—for the Government to proclaim sections of it at different times. The Hon. Wes Fang's comment implied there is some sort of clock on this that needs to start on 1 July. That is simply not correct. The Government has the ability to hold back pieces of legislation and to proclaim them when they are ready to go. I also point to the issue raised by Mr David Shoebridge about regulation-making powers. We all understand that there is a complexity to this and a desire to get it right. No-one is demanding that the Government has this done by 1 July. The Hon. Mark Banasiak has moved an important amendment, which we have worked through tonight. People do not need to panic; the clock is not on. If we pass the amendment the Government is absolutely able to deal with it. The Opposition wants the Government to work through this. We realise that it has been done quickly and we have not had a lot of time. As the Hon. Mick Veitch said, the amendment is well

intentioned but the issue is complicated. However, the bill is structured in such a way that we can deal with all of those matters.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (21:53): There is general acknowledgement that the inclusion of this amendment in the bill will impose significant obligations on a whole raft of providers who currently do not have those obligations. I accept what the Hon. Mick Veitch has said about the people who could potentially be caught by this mandatory reporting provision and would not know about it. He suggested that there would be a transition period. Of course, there is a further option to not proceed with this amendment until the commissioner has had an opportunity to examine whether it is required.

If, while conducting his or her obligations under the Act, the commissioner formed a view that this sort of mandatory reporting is needed, then that would be the appropriate time to report that Parliament should amend the Act to make reporting mandatory. It seems making businesses subject to this mandatory reporting provision without any consultation about its impact is being done with undue haste. My submission is that we ought to give the bill and the commissioner the benefit of starting work in relation to this Act and if, in those circumstances, it is necessary that a mandatory reporting regime be introduced, then the commissioner can ask for it by way of submission in a report.

The Hon. MARK PEARSON (21:54): It is scaremongering to say that managers, healthcare providers, transporters or service providers to people with disabilities and ageing people would not welcome this capacity and this avenue to report. I worked in that field and I remember the directive that came to mental health nurses and team leaders that we had to report abuse. We welcomed it. We were surprised; it was new and unexpected. But I cannot see how any reasonable manager or carer, et cetera, listed in this particular amendment would not welcome this avenue to report abuse to vulnerable people.

The Hon. MARK BANASIAK (21:55): I thank the Hon. Damien Tudehope for his comments. But with mandatory reporting that already exists in other areas—particularly with children in education, health and law enforcement—there are already proven mechanisms at ground level that work and that can be directly translated to support those people in making the necessary adjustments to their daily practice.

Mr David Shoebridge: By the very same organisations

The Hon. MARK BANASIAK: By the very same organisations. For example, in education there is an online decision tree and teachers at the very basic level are required to make that mandatory report by themselves. They take themselves through that decision tree quite capably, so there is no reason they would not be able to do that when translated to a different circumstance. The mechanisms are there to support this; it is just a matter of implementing those mechanisms. I appreciate the member's arguments but I honestly cannot agree with them.

Mr JUSTIN FIELD (21:57): I will pick up on a couple of issues that were raised by the Hon. Mick Veitch. The transition arrangements point is well made. But when combined with what the Minister put forward about enabling the commissioner to look at how this might be well applied, what we are doing tonight is setting that framework. We are not actually creating the space for the most appropriate regime to be recommended and put forward. I know there is some urgency tonight regarding the establishment of the commission, which we have heard in the second reading debate. We understand that. But there is now a clear consensus within this Chamber that there is no urgency to establish this particular provision tonight.

It could be a simple power: There is the capacity under the bill to establish a mandatory reporting requirement, but not quite as explicitly. I accept what the Hon. Mark Banasiak said about the regime that exists within education. As it relates to children, the education system is very clear. As it relates to older people, the education system is not clear. That could relate to a heap of different services where people have not had anything to do with that sort of reporting requirement. I note what was said by the Hon. Mark Pearson with regard to the experience that he had with the requirement to report abuse. But this talks about being "at risk of". When you are dealing with competent people—

The Hon. Mark Banasiak: No, we have taken that out.

Mr JUSTIN FIELD: That provision has been removed? I apologise; I will not continue with that point. But I recognise the concern of members in this Chamber that it does not need to be done in this way tonight. We can create the commission but we can look at this issue in the light of day at another time.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (21:59): I appreciate Mr Justin Field's submission. The commissioner will have the opportunity of making a report to Parliament about this. The Hon. Penny Sharpe suggested a mandatory review of the Act itself within a period. If during that time the commissioner or affected organisations were convinced about the mandatory reporting provision then that would be the appropriate time to do it. It appears to me we are acting with undue haste about very important

legislation when most members in the Chamber are uncomfortable with where it is going. I urge members not to support the amendment and to side with the Government in rejecting the mandatory reporting provisions as currently drafted by the Shooters, Fishers and Farmers Party.

The CHAIR (The Hon. Trevor Khan): According to sessional order, proceedings are interrupted to permit the Minister to move the adjournment motion if desired.

The Hon. SARAH MITCHELL: I move:

That the Chair do now leave the chair, report progress and seek leave to sit again at a later hour of the sitting.

Motion agreed to.

Adoption of Report

The Hon. SARAH MITCHELL: I move:

That the report be adopted.

Motion agreed to.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): According to sessional order, further consideration of the bill is set down as an order of the day for a later hour of the sitting.

Adjournment Debate

ADJOURNMENT

The Hon. SARAH MITCHELL: I move:

That this House do now adjourn.

TRIBUTE TO SPRENT DABWIDO

The Hon. MICK VEITCH (22:01): I note the recent death in Armidale in country New South Wales of Sprent Dabwido, a former President of Nauru. His life and his death in our State are important and warrant mention in this Parliament. Born in 1972 in Nauru, he died at 46 years of age after a life as a schoolboy in Australia, a champion weightlifter, a father, a husband, a member of Parliament, a President and later as someone persecuted by his own Government. The persecution eventually cost him his life. It has been reported widely that he died from a highly treatable cancer after the Nauru Government failed to ensure proper medical treatment for him. Sprent Dabwido was elected to the Nauru Parliament in 2004 on an anti-corruption platform. After he became President in 2011, his strong advocacy on climate change paved the way for others.

In 2013 Mr Dabwido lost power to the current President, Baron Waqa. Events in Nauru since the ascension to power of the new regime have been, in my view, quite simply appalling and they have culminated, tragically, in Mr Dabwido's unnecessary death. The events include the expulsion in 2014 of the then Resident Magistrate, New South Wales lawyer Peter Law, for making decisions that displeased the justice Minister, David Adeang. For this, Law was simply bundled onto a plane and sent to Brisbane—an illegal act that did away with one of the most fundamental democratic principles of judicial independence. Soon after that came the banning from the country of the then Chief Justice, eminent Victorian Queen's Counsel Geoffrey Eames. He, too, had displeased the justice Minister by issuing an injunction to restrain the deportation of Mr Law.

Soon after that, five MPs—the majority of the parliamentary Opposition and representatives of a third of the island's population—were suspended from Parliament indefinitely on the motion of the justice Minister. That included Mr Dabwido. Their crime was to have criticised in the foreign media the destruction of an independent judiciary. The MPs remained suspended until the next election years later. Let down by the courts and determined to uphold the rule of law, Mr Dabwido led a protest march on Parliament in June 2015. It was the day of the national budget and the protesters demanded that members of Parliament be allowed in to vote. The police intervened, relying on a law passed by the Waqa Government banning associations of three or more people.

The protests turned violent and there were scores of arrests, including that of Mr Dabwido. The people who were arrested were charged with riot and they have become known as the Nauru 19. The Nauru Government eventually agreed, after the Nauru 19 challenged the independence of the newly appointed judges, to appoint an independent retired Australian judge to hear their case. That judge is eminent retired South Australian Chief Judge Geoffrey Muecke. Last year he threw out all charges and granted a permanent stay of proceedings to Mr Dabwido and the Nauru 19. Justice Muecke found that the Nauru 19 had been persecuted and that the justice Minister had ordered that they not be given legal aid, attempted to influence the case through Parliament, mounted outrageous attacks and threats on the legal team, and approached the matter with a presumption of guilt.

The judge found that, even more outrageously, the Waqa Government had placed the accused on an employment blacklist, preventing them from working on the island. I am disturbed to read reports alleging that the Australian Government has collaborated to enforce this black list. The learned judge found that no fair trial was possible in the circumstances. However, other even more sinister and disturbing things were occurring in the background to the case. In 2016 Mr Dabwido had two heart attacks and was granted a relaxation of bail to allow urgent medical treatment overseas. The justice Minister immediately cancelled his passport. In April 2018 Mr Dabwido was diagnosed with cancer—a nasopharyngeal tumour, not treatable in Nauru. He applied for an urgent medical evacuation. Months of inaction followed—time that allowed the tumour to grow.

The Nauru Government declined to act on the application simply because of who he was and what he stood for. In September Mr Dabwido fled Nauru, with limited resources. He sought asylum in Australia and was eligible for Medicare. He commenced treatment under the care of eminent Prince of Wales Professor Robert Smee. Tragically, it was too late. An eminently treatable cancer had become untreatable. Sprent Dabwido died on 7 May in Armidale, choking to death on a nasopharyngeal tumour. A small country like Nauru was blessed to have had a leader of the quality and principles of Sprent Dabwido, a man who literally died for what he believed in. His tragic death in Australia should not go unnoticed. It is a warning bell of a political sickness afoot in one of our nearest neighbours. Sprent Dabwido found his peace in regional New South Wales and his wife and family remain in Armidale.

PUBLIC TRANSPORT

The Hon. SHAYNE MALLARD (22:06): I commend transport Minister the Hon. Andrew Constance for concluding the difficult settlement with the builders of the city east light rail project and ending the uncertainty around that long-anticipated and exciting new public transport service. As a member of the upper House committee that inquired into the light rail project, I am fully across the complexity of it and the disputes involved. As a former City of Sydney councillor for more than 12 years, I also know firsthand how difficult it is to develop any property in the city, let alone retrofit a major piece of complex modern engineering into our crowded and frankly piecemeal planned and mapped city.

I recall it was common practice for the City of Sydney to allow significant contingencies for unforeseen costs associated with building infrastructure such as footpaths, roads, malls, parks, swimming pools and libraries in the city environment. Yes, the city wound up with cost overrun disputes in court on a number of occasions—usually settled through dispute resolution negotiations. Whilst it is regrettable that the Government has been forced to settle this dispute at some cost to the taxpayers of New South Wales, it should be remembered that it pales against the \$400 million that members opposite wasted as compensation for the cancelled and botched CBD metro project.

Let me put all this in context. I stand here as a proud member of a government that has the economy and the State finances running so well it can invest a record amount in infrastructure in New South Wales—all without a dollar of debt. It is the envy of Australia. The New South Wales Government's investment in infrastructure is unmatched, with \$87 billion to be invested over the next four years, which is on top of \$110 billion that has already been delivered since the Government was elected in 2011. When it comes to infrastructure, this Government is getting on with the job. We have delivered unprecedented improvements to transport infrastructure including five stages of the metro project, three stages of light rail projects, missing motorway links such as the NorthConnex, another harbour crossing and the mighty WestConnex project. This Government has invested \$1.5 billion in more trains and services and has added over 30,000 new weekly train, bus, ferry and light rail public transport services in the State.

The Government has also delivered other rail infrastructure, ranging in scale from the South West Rail Link to the Wynyard Walk. Other public transport infrastructure commitments delivered include the Opal card; the popular B-Line bus service; 47 train station upgrades, with 10 more underway including upgrades at Central and Redfern stations; 6,000 additional commuter carparks, with another 8,000 under construction; new state-of-the-art intercity trains for Wollongong, Newcastle and the Blue Mountains—the latter replacing 40-year-old V set trains; and a new XPT train fleet for country passengers, including a huge maintenance centre in Dubbo, creating long-term local jobs for the region.

Let me now turn to the most exciting project: the metro rail. Eight years after the commitment to deliver the metro, with hard work, discipline and focus that project is now a reality. Stage one, running from Rouse Hill to Chatswood, opened last month. It was delivered ahead of time and an incredible \$1 billion under budget. On the first Monday morning peak hour of operations the line saw a staggering 21,000 passengers and numbers continue to grow daily. The vision of the Premier when she was the Minister for Transport was to provide the metro to the people of New South Wales, despite many objections. Stage two of the metro, the City and Southwest Line, which is planned to open by 2024, will extend through to Bankstown and hopefully to Liverpool in the

future. The next stage, the Sydney Metro West from the CBD to Parramatta, is expected to be completed just a few years after that.

The Government is in the process of delivering light rail projects in the CBD and South East and at Newcastle and Parramatta. The first stage of the CBD and South East Light Rail project, running from Circular Quay to Randwick, is scheduled to open in December, while the Randwick to Kingsford branch is scheduled to open in March next year. There is absolutely no doubt that it will be a huge public transport success. The Newcastle Light Rail was opened by the Premier and Minister for Transport and Roads in February. It was delivered on time and on budget. With more than 250,000 passengers in just the first few months of operation and with that number continuing to grow, this project is defying the critics, including those opposite, who said it was a white elephant.

The light rail is part of the New South Wales Government's commitment to revitalising Newcastle by delivering more than \$650 million of investment, encouraging growth in the city and helping Newcastle to thrive into the future. A true renaissance is underway. Work on the Parramatta Light Rail will begin this year, including construction works, road network upgrades, new bridges, active transport links, urban design and changes to the bus network. Operations are expected to begin in 2023. This will be an expected infrastructure investment of \$2.46 billion into a project that will further cement Parramatta as the capital of western Sydney and anchor development.

The Berejiklian Government is delivering on a vision for transport reform in New South Wales of real long-term strategic investment in public transport in balance with all other transport priorities. It is no longer roads or public transport; it is now a balanced partnership. We can have it all. As I outlined in the opening of this contribution, these projects are not without difficulties or controversy to be cynically exploited by those opposite. But the net gain is a huge advancement for the State and people of New South Wales. This new-century vision for transport would make Bradfield proud. In March the people of New South Wales gave our vision a big tick. They endorsed our hard work and gave us the authority to get on with the job. History will judge this Government in a positive light. [*Time expired.*]

TRIBUTE TO ROBERT JAMES LEE HAWKE, AC, A FORMER PRIME MINISTER OF AUSTRALIA

The Hon. COURTNEY HOUSSOS (22:11): On 16 May we lost a great Australian, perhaps one of our most iconic Labor heroes, the Hon. Robert J. Hawke, AC. He was the first Prime Minister I ever knew, coming to office just a month after I was born in 1983. Despite my parents' more conservative leanings, I vividly remember my mum telling me to come and watch the television on the night that Keating beat Hawke on his second challenge and telling me what a historic moment I was witnessing. It was lost on my nine-year-old self.

After joining the Labor Party I read more about Hawkie while searching for answers in those dark Howard years. I still firmly believe he showed us the key to success for a Labor government: A central focus on improving the lives of working people while being unafraid of approaching the problem in innovative ways; a broad policy agenda that was clearly explained to the Australian public, not by talking down to them; and a strong and well-rounded Cabinet with a range of voices. He stood up to racism. While the tension in his relationship with his incredible Treasurer, the Hon. Paul Keating, was well documented, that unique partnership formed the foundation of one of, if not the greatest, Labor governments.

The Hawke-Keating Government implemented the accord, Medicare and superannuation. It dramatically increased education outcomes. It introduced wide ranging and numerous reforms which opened up our financial systems and a large number of programs that genuinely addressed social disadvantage and poverty. Just one of these would have been enough to seal that Government's place in history but all of this and more shows just how historic the Hawke-Keating Government and its central political partnership was for our country and for our movement. On a global scale the Hawke-Keating Government provided the model that was built upon by other Labor and centre-left governments around the world. Bill Clinton of the United States of America and Tony Blair of the United Kingdom [UK] both paid tribute to Bob Hawke upon his passing. In 2010 I visited the UK and was told the story of how Tony Blair and Gordon Brown travelled to Australia in the early 1990s to discover the secrets of this moderate, yet innovative Labor Government down under.

Perhaps his greatest love was for the Australian people—and they adored him back. It was a love that continued for decades after he left office. Several years ago I was at the Sydney Cricket Ground watching a cricket test. We spotted Hawkie sitting as a guest of the trust, sipping on a middie. He looked quite flat, not quite melancholy, and it clearly was not a result of what was going on in the cricket. It was a short time later we heard a roar come from the bay seats in front of the old hill. We soon found out it was for Hawkie, infamously sculling a beer amongst the crowd. He looked positively jubilant. Few of the cheering mob around him would have been old enough to vote for him—some would not even have been born when he was Prime Minister. But they continued to have a genuine affection for the man who epitomised so many values we hold dear as Australians.

Bob Hawke exhibited so many of the aspects of leadership we talk about today. He was collaborative and sought to find consensus, even amongst the most diverse interests. He was innovative, yet kept a laser focus on the "basics" of government. He adapted to the communications medium of the day—indeed, John Howard noted after his passing that he had mastered the art of the television interview. But most of all, he was authentic. There is so much talk about the need for authenticity in modern politics. Hawkie could not have been a greater example. His love of a drink—or perhaps one too many—was well known. His daughter struggled with drugs, showing that every family has its problems. He shed a tear—even against the advice of his own staff—showing how he responded not only as Prime Minister but also as a human being to his own hardships and the tragedy of others. He found a way of communicating his shortcomings to the public, and they loved him for it.

Bob Hawke was undoubtedly a Labor hero, not only because he spent his life serving our broader movement and our great party but also because he achieved lasting change for Australians, especially working people. Vale Robert J. Hawke. It is too simplistic to list his legacy as a series of policy achievements, impressive as they are. I hope he knows that he will continue to inspire so many of us for the rest of our lives.

DOLPHINS IN CAPTIVITY

The Hon. EMMA HURST (22:16): Dolphins are intelligent marine mammals with highly developed cognitive abilities, problem-solving skills and language capabilities, as well as complex social networks and intergenerational relationships. They are often described as the dogs of the sea. In the wild their natural life is to roam their unlimited marine environment. They may travel over 100 kilometres in a day and seek opportunities for wave surfing, deep diving or sprint swimming—all of which are impossible in captivity. I recall as a child one of my favourite places to visit was Sea World because I was drawn to their beauty, their friendly nature and their playfulness. I was intrigued by them and inspired by them. I did not know that dolphins suffer in captivity. Like most children, if I had, I would have refused to visit.

Dolphins in captivity are often left to suffer in small, barren and chlorinated pools. They suffer stress, behavioural abnormalities, high mortality rates and breeding problems. Fifty-two per cent of bottlenose dolphins born in captivity do not survive past one year. Those that do survive can live for around 50 years. That means that the dolphins I saw as a child are still in the same small chlorine pools, doing the same meaningless and demeaning tricks to "entertain" ill-informed tourists. They are still pulling 12-hour shifts without breaks, dealing with blaring music and loud tourists, and still performing highly unnatural behaviours taught to them through food deprivation training techniques. The good news is that the acceptability of keeping dolphins in captivity for entertainment is declining.

In 1985 Victoria introduced legislation to prohibit the keeping of dolphins and whales in captivity, and the ban continues today. Australian Federal laws prohibit the capture of dolphins from the wild, and more than 30 years ago an Australian Senate report recommended that dolphin captivity be phased out. So what are we waiting for? Chile, Costa Rica and Croatia have all banned the keeping of these marine animals in captivity. In 2013 India banned the keeping of captive dolphins for public entertainment. Brazil, Luxembourg and Norway have highly restrictive standards that make it nearly impossible to keep dolphins in captivity, and the last dolphinarium in the United Kingdom closed more than 20 years ago.

A bill is currently passing through the Canadian Parliament to prohibit the breeding of dolphins and whales in captivity. Jane Goodall, who was invited to testify before the Canadian Senate committee, said aquarium breeding programs are not defensible by science and that the phasing out of such programs is the natural progression of humankind. There are two operators who exhibit dolphins in Australia, Dolphin Marine Conservation Park—formerly Dolphin Marine Magic—in New South Wales and Sea World in Queensland. Sea World continues breeding highly intelligent dolphins in artificial pools so that they can make money from dolphin entertainment. There are currently more than 30 dolphins at Sea World, most of which were born and bred there. The only reason dolphins are being bred and kept in captivity in Australia is to perpetuate their supply for entertainment.

In contrast, in 2018 Dolphin Marine Magic, based in Coffs Harbour, announced a partnership with Action for Dolphins and World Animal Protection to undertake a feasibility study to relocate their five resident dolphins to a sea pen sanctuary. In March they announced that they would cease captive breeding. In line with other countries such as Canada we must enact laws preventing the breeding of dolphins in captivity to ensure that these dolphins really are the last born into captivity. The dolphins that are currently kept in captivity in Australian dolphinariums should be allowed a happier future. Most of the dolphins that are living in pools have never seen the wild and cannot be released. These dolphins could live for many decades, and I hope that one day they will be able to retire to a sanctuary. With government funding to construct a sea sanctuary it is possible to transition captive dolphins to large sea pens and ensure these dolphins have a proper retirement. It is time to act.

COMMUNITY LEGAL CENTRES

The Hon. NATALIE WARD (22:21): Tonight I speak about the importance of community legal centres in New South Wales. The Community Legal Centre [CLC] program is funded by the New South Wales Government, the Commonwealth Government and the Public Purpose Fund. Funding for the CLC program allows community legal centres to continue their life-changing work of supporting some of the most disadvantaged people in the New South Wales community when they are at their most vulnerable. A record amount of more than \$40 million will be invested in the community legal sector over the next three years. This includes \$15.6 million in additional funding from the New South Wales Government, which will support community legal centres to provide 55,000 vulnerable members of the community with the free legal help they need. This is a State funding boost of more than 85 per cent since 2015-16. The increased funding will support disadvantaged people right across the State.

The Berejiklian Government is providing these centres with greater security by committing to a three-year funding cycle. Community legal centres, such as the one in south-west Sydney, will be able to plan for the future, and their clients can be assured that the legal support they need will still be there. The Government is already allocating more than \$6.5 million to fund specialised projects that address critical gaps in our legal system, including a new advice clinic for culturally and linguistically diverse women experiencing domestic and family violence at Canley Heights; a specialised service to support people suffering health-related legal issues, including an Aboriginal and Torres Strait Islander program, at Prince of Wales Hospital; a new law clinic and mediation service for seniors and their carers in the Hunter and on the Central Coast; a joint partnership between inner city, Kingsford, Marrickville and Redfern community legal centres to help migrant workers; and South West Sydney Legal Centre's specialised services at Fairfield and Bankstown to help disadvantaged women who have experienced domestic and family violence.

Funding for the CLC program comes in part from the interest in the Government's revolutionary future fund. From 2019-20 New South Wales community legal centres will receive more than \$14.2 million per annum from State and the Public Purpose Fund funding, including from the future fund, which includes discretionary payments from the Public Purpose Fund. Adopting the recommendations of the review of community legal centre services, and with agreement from the Public Purpose Fund trustees, a new application-based model for both State and Public Purpose Fund funding to community legal centres has been implemented, with a three-year funding cycle to commence in the 2019-20 financial year.

The process for delivering this record increase in funding was rigorous. I can assure members opposite, who are very interested in the processes for deciding these things, that this was a rigorous process. It followed a threatened cut in Federal funding in 2017 when the Hon. Mark Speakman, SC, MP, provided a \$6 million rescue package to the sector and asked Alan Cameron, AO, to conduct a review of CLC funding. This review was vital and long overdue in impacting on the year-to-year uncertainty of ad hoc funding models in the legal assistance sector. The new application-based model recommended by the Cameron review has been implemented to ensure that funding is better used to improve access to justice for those who need it most.

In addition, the New South Wales Government has committed an additional \$5.2 million towards community legal centres over the next three years. In awarding this record investment, the Attorney General relied on the advice of an expert independent panel. The panel looked closely at the funding application from CLCs and asked where is the most legal need, where are the critical service gaps, and how can we best deliver free legal services for disadvantaged people right across the State?

The Attorney General accepted nearly all of the panel's recommendations with the exception of one. Following a request from Executive Director of Community Legal Centres NSW, Tim Leach, the Attorney General decided that no centre providing free legal services to vulnerable members of the community should fall below their 2016-17 funding levels. That is when the New South Wales Government stepped in to provide its one-off investment. We now have a model that targets the areas of greatest legal need across the State. Over the next three years those CLCs will have their funding either maintained or boosted compared with 2016-17 levels. I commend the Attorney General's work to the House and thank him for his genuine commitment to access to justice in New South Wales.

PEOPLE'S REPUBLIC OF CHINA

Mr JUSTIN FIELD (22:26): The modern economic and military rise of the Chinese State, controlled entirely by the Communist Party of China, is the biggest single geopolitical shift, so far, of the twenty-first century. It is happening in our region and it is happening right now. This week the complexity of what that might mean for Australia has been on clear display. Earlier this week Prime Minister Morrison was in the Solomon Islands. He talked about the increasing economic and political influence of China in the South Pacific. During this visit the

United States of America called on Australia to pressure countries in the region to continue to recognise Taiwan. The Prime Minister rejected that request from our closest ally.

This week is the thirtieth anniversary of the Tiananmen Square massacre and the Chinese Defence Minister described the Chinese Government's actions in crushing the pro-democracy student protests as the "correct" response and cited the country's "stability" since then as evidence. Mention of those events on the Chinese mainland is almost entirely suppressed. Despite the 1989 decision of the Hawke Government to offer permanent residency to more than 40,000 Chinese students who were in Australia at the time of the massacre, many of whom stayed, there has been little acknowledgement by the Australian Government of the anniversary of the Tiananmen Square massacre or criticism of the Chinese Defence Minister's statements about what happened.

This event coincided with navy vessels of the Chinese People's Liberation Army entering Sydney Harbour for a four-day stopover. The Australian public was not notified of the visit until the last possible moment. According to the Prime Minister, the trip was part of a planned visit of the Chinese vessels returning from anti-smuggling operations in the Middle East. You do not have to have a great handle on geography to realise Sydney is not in any way on the direct path from the Middle East to China, but the legitimate doubt about the Prime Minister's justification is not the biggest concern.

It is fair to assume that the secrecy around the visit was requested by the Chinese Government. On the thirtieth anniversary of the Tiananmen Square massacre it is almost certain that the Chinese Government did not want protests on the arrival of their vessels. Consider for a moment what has happened. The Communist Party of China has been successful in suppressing discussion of the events of 1989 on the Chinese mainland for 30 years. If the Australian Government acted either on the request of the Chinese State or on an assumption of what the Chinese Government would have liked, effectively the Communist Party of China has now been successful in suppressing at least some criticism of them by both Australians and non-Australians in Australia.

Of course, all of this has a deeper and growing context. Last week there was an incident in the South China Sea between likely Chinese maritime militia and our own navy. There is an escalating trade war between China and the US. China is now threatening to withhold exports of rare earths, of which Australia is the second-largest exporter in the world.

The ongoing Huawei 5G debate has dragged in all of our closest allies and relates directly to the established intelligence sharing relationships that Australia is involved in and relies on. There is ongoing debate about foreign interference—in particular, how some prominent political figures in major parties in this country have been linked to money and soft influence by those clearly acting on behalf of and in the interests of the Communist Party of China.

Last year I hosted the launch of Clive Hamilton's book *Silent Invasion* in this place. The book examines the efforts of the Communist Party of China to influence the political and civil institutions in this country. The title is unnecessarily inflammatory but it is a compelling read. The event was primarily attended by Australians of Chinese heritage and Tibetan activists. One of the people who co-hosted the event with me was an Australian citizen of Chinese heritage who was subsequently refused entry to China and detained temporarily at an airport before being deported back to this country—an event he puts down to his involvement in that launch.

The reaction of some to my involvement in that event was to publicly call me racist. However, the book speaks for itself. This reaction was an effort to shut down debate. We are now censoring ourselves, including in our own parliaments. The rise of the modern Chinese State is the biggest geopolitical shift of a generation. It has risks, challenges and opportunities. However, what should not be at risk is free speech, transparency and openness of government and our fundamental democratic principles. Thankfully we have a free and independent media that actively covered many of the events of this week and in the past, including speaking to many Chinese-Australians about their experiences and views on the anniversary. I recognise that those views are mixed, but the implications here are serious.

I do not have the answers to these questions, but there are questions to be asked. Are Australians well enough informed to have a robust public debate about the rise of the Chinese State and what that might mean for Australia, the region and the world? Do the major political parties in Australia have a clear policy or framework for responding to this massive geopolitical shift? If the answer is no, that needs to change.

The PRESIDENT: The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 22:31 until Thursday 6 June 2019 at 10:00.