New South Wales

Legislative Council

PARLIAMENTARY DEBATES
(HANSARD)

Fifty-Seventh Parliament
First Session

Tuesday, 17 September 2019

Authorised by the Parliament of New South Wales

TABLE OF CONTENTS

TABLE OF CONTENTS—*continuing*

TABLE OF CONTENTS—*continuing*

TABLE OF CONTENTS—*continuing*

LEGISLATIVE COUNCIL

Tuesday, 17 September 2019

The PRESIDENT (The Hon. John George Ajaka) took the chair at 14:30.

The PRESIDENT read the prayers and acknowledged the Gadigal clan of the Eora nation and its Elders and thanked them for their custodianship of this land.

Bills

LAKE MACQUARIE SMELTER SITE (PERPETUAL CARE OF LAND) BILL 2019

Assent

The PRESIDENT: I report receipt of a message from the Governor notifying Her Excellency's assent to the bill.

Announcements

DEATH OF THE HON. JOHN CYRIL JAMES MATTHEWS

The PRESIDENT (14:32): I announce the death on 19 August 2019 of the Hon. John Cyril James Matthews, aged 91 years, a member of this House from 1981 to 1991. On behalf of the House, I have extended to his family the deep sympathy of the Legislative Council in the loss sustained.

Members and officers of the House stood in their places as a mark of respect.

Motions

ELLEN KIRKWOOD

The Hon. JOHN GRAHAM (14:34): I move:

1. That this House notes that:
   (a) in the 2019 Art Music Awards, the winner of the New South Wales State Award in the category of Excellence in Jazz was Ellen Kirkwood;
   (b) Ellen Kirkwood's groundbreaking one-hour suite [A] part was recorded in 2018 and featured at two of Australia's most popular international jazz festivals; and
   (c) Ellen Kirkwood has also made an ongoing contribution to addressing gender inequity in Australian jazz.
2. That this House congratulates APRA AMCOS and the Australian Music Centre for hosting the awards.

Motion agreed to.

JUSTICE FOR FIRST NATIONS PEOPLE

Mr DAVID SHOEBRIDGE (14:35): I seek leave to amend private members' business item No. 206 outside the order of precedence standing in my name for today by omitting paragraph 1 (c) and inserting instead:

(c) those present included family members and supporters of those whose lives were taken.

Leave granted.

Mr DAVID SHOEBRIDGE: Accordingly, I move:

1. That this House notes that:
   (a) on 21 August 2019 the families of First Nations people whose family members have been killed and are still awaiting justice rallied and marched from Town Hall to Parliament House;
   (b) these families are calling for justice and truth which is years and sometimes decades overdue; and
   (c) those present included family members and supporters of those whose lives were taken.
2. That this House acknowledges:
   (a) the tragic and disproportionate loss of life experienced by First Nations people in prison, police custody and through violence in the community;
   (b) the many grieving families still looking for justice and answers about what happened to their loved ones; and

(c) the right of families to be given the truth about the circumstances surrounding the death of their family members and for those responsible to be brought to justice.

3. That this House calls on the Government to work closely with affected families and communities in their pursuit of justice.

Motion agreed to.

Documents

TABLED PAPERS NOT ORDERED TO BE PRINTED

The Hon. SCOTT FARLOW: According to standing order, I table a list of all papers tabled since 7 August 2019 and not ordered to be printed.

TABLING OF PAPERS

The Hon. SCOTT FARLOW: I table the following papers:

1. Statutory and Other Offices Remuneration Act 1975—Reports and determinations under section 13:

   Public Officer Holders Group: Annual Determination, dated 27 August 2019;

   Court and Related Officers Group: Annual Determination, dated 27 August 2019; and

   Judges and Magistrates Group: Annual Determination, dated 27 August 2019.

2. Statutory and Other Offices Remuneration Act 1975—Reports and determinations under section 24O:

   Public Service Senior Executives: Annual Determination, dated 27 August 2019; and

   Chief and Senior Executive Service: Annual Determination, dated 27 August 2019.

3. Report of the Office of the National Rail Safety Regulator entitled *Implementation of the NSW Government's response to the Final Report of the Special Commission of Inquiry into the Waterfall Rail Accident—Reporting period April 2018 - March 2019: Report 39*.

I move:

That the reports be printed.

Motion agreed to.

Committees

LEGISLATION REVIEW COMMITTEE

Reports

The Hon. TREVOR KHAN: I table the report of the Legislation Review Committee entitled *Legislation Review Digest No. 4/57*, dated 17 September 2019. I move:

That the report be printed.

Motion agreed to.

SELECTION OF BILLS COMMITTEE

Reports

The Hon. NATASHA MACLAREN-JONES: I table report No. 23 of the Selection of Bills Committee, dated 17 September 2019. I move:

That the report be printed.

Motion agreed to.

The Hon. NATASHA MACLAREN-JONES: According to paragraph 4 (1) of the resolution establishing the Selection of Bills Committee, I move:

1. That the following bills not be referred to a standing committee for inquiry and report this day:

   (a) Children's Guardians Bill 2019;

   (b) Justice Legislation Amendment Bill 2019; and

   (c) Petroleum (Onshore) Amendment (Coal Seam Gas Moratorium) Bill 2019.

Motion agreed to.

Documents

LAW ENFORCEMENT CONDUCT COMMISSION

Reports

The CLERK: According to the Law Enforcement (Powers and Responsibilities) Act 2002, I announce receipt of the report of the Inspector of the Law Enforcement Conduct Commission entitled *Report under section 242(3) of the Law Enforcement (Powers and Responsibilities) Act 2002 for the period ending 28 May 2019 – Covert Search Warrants*, dated August 2019. Under the standing order, the report has been authorised to be printed.

AUDITOR-GENERAL

Reports

The CLERK: According to the Public Finance and Audit Act 1983, I announce receipt of a Performance Audit Report of the Auditor-General entitled *Mental Health Service Planning for Aboriginal People in NSW*, dated August 2019, received out of session and authorised to be printed on 29 August 2019.

Committees

REGULATION COMMITTEE

Reports

The CLERK: According to standing order I announce receipt of report No. 4 of the Regulation Committee entitled *Liquor Amendment (Music Festivals) Regulation 2019 and Gaming and Liquor Administration Amendment (Music Festivals) Regulation 2019*, dated August 2019, together with transcripts of evidence, tabled documents, submissions, correspondence and answers to questions taken on notice and to supplementary questions, received out of session and authorised to be printed August 2019.

The Hon. MICK VEITCH (14:38): I move:

That the House take note of the report.

Debate adjourned.

The PRESIDENT: According to paragraph 3 (2) (c) of the resolution establishing the Regulation Committee, the notices of motions relating to the disallowance of the Liquor Amendment (Music Festivals) Regulation 2019 and Gaming and Liquor Administration Amendment (Music Festivals) Regulation 2019 will now be listed as items of business of the House for today.

STANDING COMMITTEE ON LAW AND JUSTICE

Reports

The CLERK: According to standing order, I announce receipt of report No. 71 of the Standing Committee on Law and Justice entitled *Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2019*, dated 30 August 2019, together with transcripts of evidence, submissions, correspondence and answers to questions taken on notice and supplementary questions. Under the standing order, the report has been authorised to be printed.

The Hon. NIALL BLAIR (14:40): I move:

That the House take note of the report.

I will not take up too much time of the House, but it would be remiss of me to not make some comments as chair in relation to the Crimes (Appeal and Review) Amendment (Double Jeopardy) Bill 2019, which the Standing Committee on Law and Justice inquired into. The bill was introduced by Mr David Shoebridge. This is another piece of the unsolved puzzle that the families of the Bowraville children have been suffering for some time. I place on record my thanks to my fellow committee members, Deputy Chair the Hon. Greg Donnelly, Mr David Shoebridge, Mr Rod Roberts, the Hon. Natalie Ward, the Hon. Trevor Khan, the Hon. Wes Fang and the Hon. Anthony D'Adam.

I acknowledge the way in which all committee members approached this inquiry. I also make a special mention of the secretariat. It was a sensitive and complex issue to reopen. At the start of this inquiry we made the decision to first go to Bowraville and meet with the families to explain what the committee was going to do—what the inquiry would involve but, just as importantly, what it would not involve. This is building upon the last report that was done by the Standing Committee of Law and Justice, which was chaired by the Hon. David Clarke.

That committee had gone to great lengths to earn the respect and trust of the families and we felt that it was important that we build upon that trust.

Everyone who participated in this inquiry—those who gave submissions, those who provided evidence on the day, the committee members, the families and the police—hoped that we could find that silver bullet or something that had been missed. Everyone hoped to provide some closure and comfort to the families, to enable us to get a legislative improvement, through the double jeopardy bill, and to give them the justice that they seek. Unfortunately, that was not to be the case.

This is a complex area of criminal law. This is something that, when looking at it on behalf of this committee, we cannot just have one situation or one case in mind—we have to think about the possible ramifications that this may have on other matters. We looked at what has happened in other jurisdictions, particularly in England and Scotland. We received a lot of legal opinion from a number of different participants in the inquiry.

The committee has recommended that the bill that was presented to the House should not be supported in its current form. The committee has looked at the pros and cons and some of the alternative ways that this issue may be dealt with. The committee has looked at some of the evidence on the pros and cons for whoever else wants to take up this matter. Whether it is an Attorney General, the Government, a private member or someone else, they now have information available in this committee report that should tease out some of the outstanding issues to hopefully try to get some improvements in this area.

Finally, as chair, once again I acknowledge the resolve of the families, who have not given up hope in the system. They have not given up hope—in one case of finding their missing loved one because one body has not been found—and, importantly, they have not given up hope in finding some justice. This was a sensitive matter that was conducted with the utmost respect and that respect continued until the tabling of the report. Once again, as a committee we thought it was prudent that we should meet with the family once the report was tabled, look them in the eye and explain not only the evidence but also our recommendations face to face. They deserve that in the very least. As chair, I was proud to represent the Standing Committee on Law and Justice and all of us who participated in the committee, to show the families that we did our utmost. I hope that we continue to build upon that trust that has been earned between the families and the committee.

I look forward to someone in the future taking up that report and looking at those recommendations. I look forward to hopefully some change in this area. No doubt committee members will make a contribution to debate when this report next comes before the House. We all look forward to, hopefully, justice for the family. Unfortunately, with the passage of time, with many witnesses getting old or in some cases passing away, that comfort and some of that justice may not be found before it is needed or wanted.

I may not get another chance to contribute to this debate so I once again thank the secretariat for their wonderful contribution and outstanding report. I especially thank Merrin Thompson for the work that she has done. I also thank Johnny Ferguson, one of the attendants, who came with us to Bowraville, back to some of his mother's or grandmother's country. We thank him for his great work as well.

Debate adjourned.

STANDING COMMITTEE ON SOCIAL ISSUES

Government Response

The CLERK: According to standing order, I announce receipt of the Government's response to report No. 52 of the Standing Committee on Social Issues entitled *Gay and Transgender hate crimes between 1970 and 2010: Interim report*, tabled on 26 February 2019, received out of session and authorised to be printed on 29 August 2019.

Documents

CBD AND SOUTH EAST LIGHT RAIL PROJECT

Return to Order

The CLERK: According to the resolution of the House of 8 August 2019, I table documents relating to an order for papers regarding the CBD and South East Light Rail, received on 22 August 2019 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

Claim of Privilege

The CLERK: I table a return identifying documents received on 22 August 2019 which are considered to be privileged and should not be made public or tabled. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

Further Return to Order

The CLERK: I table additional documents relating to an order for papers regarding the CBD and South East Light Rail, received on 29 August 2019 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

Further Claim of Privilege

The CLERK: I table a return identifying additional documents received on 29 August 2019 which are considered to be privileged and should not be made public or tabled. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

NSW LAND AND HOUSING CORPORATION CONTRACTS

Claim of Privilege

The CLERK: According to the resolution of the House of 8 August 2019, I table a return identifying documents received on 29 August 2019 which are considered to be privileged and should not be made public or tabled. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

TRANSPORT CLUSTER RESTRUCTURE

Return to Order

The CLERK: According to the resolution of the House of 8 August 2019, I table documents relating to an order for papers regarding the restructure of the transport cluster, received on 29 August 2019 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

Claim of Privilege

The CLERK: I table a return identifying documents received on 29 August 2019 which are considered to be privileged and should not be made public or tabled. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

LANDCOM

Return to Order

The CLERK: According to the resolution of the House of 8 August 2019, I table documents relating to an order for papers regarding the recruitment of the CEO of Landcom, received on 29 August 2019 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

Claim of Privilege

The CLERK: I table a return identifying documents received on 29 August 2019 which are considered to be privileged and should not be made public or tabled. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

Further Return to Order

The CLERK: I table additional documents relating to an order for papers regarding the recruitment of the CEO of Landcom, received on 5 September 2019 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

Further Claim of Privilege

The CLERK: I table a return identifying additional documents received on 5 September 2019 which are considered to be privileged and should not be made public or tabled. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

PARKES HOSPITAL AND LACHLAN HEALTH SERVICE

Return to Order

The CLERK: According to the resolution of the House of 8 August 2019, I table documents relating to an order for papers regarding the recruitment of medical practitioners at Parkes hospital and Lachlan Health Service, received on 29 August 2019 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

Claim of Privilege

The CLERK: I table a return identifying documents received on 29 August 2019 which are considered to be privileged and should not be made public or tabled. I advise that pursuant to standing orders that the documents are available for inspection by members of the Legislative Council only.

PLANTATION FORESTS PRIVATISATION

Return to Order

The CLERK: According to the resolution of the House of 8 August 2019, I table documents relating to an order for papers regarding the privatisation of plantation forests, received on 29 August 2019 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

Claim of Privilege

The CLERK: I table a return identifying documents received on 29 August 2019 which are considered to be privileged and should not be made public or tabled. I advise that pursuant to standing orders that the documents are available for inspection by members of the Legislative Council only.

OPAL TOWER DEVELOPMENT

Claim of Privilege

The CLERK: According to the resolution of the House of 22 August 2019, I table a return identifying privileged documents received on 29 August 2019 which are considered to be privileged and should not be made public or tabled. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

FIREARMS REGISTRY

Return to Order

The CLERK: According to the resolution of the House of 22 August 2019, I table documents relating to an order for papers regarding the NSW Firearms Registry, received on 5 September 2019 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

Claim of Privilege

The CLERK: I table a return identifying documents received on 5 September 2019 which are considered to be privileged and should not be made public or tabled. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

URBAN PLANNING AND POPULATION DENSITY

Return to Order

The CLERK: According to the resolution of the House of 8 August 2019, I table documents relating to an order for papers regarding urban planning and population density, received on 12 September 2019 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

Claim of Privilege

The CLERK: I table a return identifying documents received on 12 September 2019 which are considered to be privileged and should not be made public or tabled. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

MIGRATION INTAKE

Return to Order

The CLERK: According to the resolution of the House of 8 August 2019, I table documents relating to an order for papers regarding the migration intake for New South Wales, received on 12 September 2019 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents,

Claim of Privilege

The CLERK: I table a return identifying documents received on 12 September 2019 which are considered to be privileged and should not be made public or tabled. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

LANDCOM

Report of Independent Legal Arbiter

The CLERK: I announce the receipt of a report of the Independent Legal Arbiter, the Hon. Keith Mason, AC, QC, dated 13 September 2019, on the disputed claim of privilege on Landcom documents. Mr Mason has titled his report *Part 1: Treasury return of papers*. The report is available for inspection by members of the Legislative Council only.

Petitions

PETITIONS RECEIVED

Reproductive Health Care Reform Legislation

Petition requesting that the House oppose the Reproductive Health Care Reform Bill 2019 in its current form, received from **Reverend the Hon. Fred Nile**.

Reproductive Health Care Reform Legislation

Petition requesting that the House unanimously oppose the Reproductive Health Care Reform Bill 2019 on the basis that it will result in an increase in late term abortions and does not provide protections for women who may be coerced into having the procedure, received from **the Hon. Natasha Maclaren-Jones**.

Reproductive Health Care Reform Legislation

Petition requesting that the House oppose the Reproductive Health Care Reform Bill 2019 or take steps to repeal the bill in the event that it passes, received from **Reverend the Hon. Fred Nile**. [*During the giving of notices of motions*]

Notices

PRESENTATION

The Hon. Niall Blair: Point of order: Mr President, it was a bit hard to hear but I ask that you review the wording, particularly the first sentence, of the Hon. Mark Latham's notice of motion because it may be casting an aspersion or questioning a decision of this House.

The PRESIDENT: I will review it with the Clerk during my break. I will leave the notice of motion with the Clerk and confer with him later. I will report back to the House.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. JOHN GRAHAM: I move:

That business of the House notices of motions Nos 2 and 3 be postponed until Tuesday 24 September 2019.

Motion agreed to.

The Hon. EMMA HURST: I move:

That business of the House notice of motion No.1 be postponed until Tuesday 24 September 2019.

Motion agreed to.

Committees

PORTFOLIO COMMITTEE NO. 2 - HEALTH

Deputy Chair

The PRESIDENT: I inform the House that on 26 August 2019 the Hon. Emma Hurst was elected as Deputy Chair of Portfolio Committee No. 2 - Health, in the place of Ms Cate Faehrmann.

Announcements

ORAL HISTORY PROJECT

The PRESIDENT (15:15): As members are aware an ongoing initiative for the Legislative Council is its oral history project. The project seeks to record and share aspects of a number of milestones in the Council's history, as told by the people who have shaped its evolution as a house of review. This evening the monograph encapsulating the fourth stage of the project will be launched: *At Cross-purposes? Governments and the Crossbench in the NSW Legislative Council 1988-2011* by Dr David Clune. The special guest speaker will be Adjunct Professor Antony Green. Present for the launch will be a number of former colleagues, including the leaders of the Government and Opposition and crossbench members interviewed for the monograph. Members wishing to attend should contact the office of the Clerk if they have not already done so. All members will receive a copy of Dr Clune's excellent monograph.

Bills

REPRODUCTIVE HEALTH CARE REFORM BILL 2019

In Committee

The TEMPORARY CHAIR (The Hon. Shayne Mallard): We are dealing with the Reproductive Health Care Reform Bill 2019. The Clerks are handing out sets of amendments. There are 32 amendments, 12 of which arrived in the last hour or so. A running sheet, time stamped 3.00 p.m., is being handed out. It is the latest running sheet. We are considering a highly complicated set of amendments. We will take our time and proceed cautiously to ensure that we are dealing with the amendments appropriately and in order. If any member does not understand what is going on, please raise a question so that we can clarify it.

There being no objection, the Committee will deal with the bill as a whole. We will consider the amendments in order except where leave is sought. The first amendment before the Committee is amendment No. 1 on sheet c2019-124C. It proposes to change the name of the bill.

The Hon. TAYLOR MARTIN (15:21): I move amendment No. 1 on sheet c2019-124C:

No. 1 **Name of Act**

Page 2, proposed section 1, line 4. Omit all words on that line. Insert instead "This Act is the *Abortion Law Reform Act 2019*.".

The amendment will ensure that the title of the proposed Act accurately reflects its substance. That distinction is important because the term "reproductive health care" is a broad term that incorporates the complete physical, mental and social wellbeing of males and females and includes a range of health procedures and treatments to support females and males who are of an age where rearing a child is a possibility. Reproductive health care includes fertility treatments, IVF, contraception and conception assistance and, of course, childbirth itself. Along with others aspects of reproductive health care, those aspects are not part of the bill being debated today.

I propose we call a spade a spade. The bill is about abortion, and only abortion, and that is what we should call the proposed Act. The bill should be amended so that the title of the proposed Act reflects the substance of the bill. We should call the proposed Act the Abortion Law Reform Act 2019. I commend the amendment to the House.

The Hon. TREVOR KHAN (15:22): I do not oppose the amendment. The bill is and was always intended to be an abortion law reform bill.

Reverend the Hon. Fred Nile: I cannot hear you.

The Hon. TREVOR KHAN: I cannot do anything about that. The microphone is on. I doubt that all the amendments that come before the House will be dealt with this quickly. I would encourage all members to support it so that we can move on.

Ms ABIGAIL BOYD (15:23): On behalf of The Greens, I oppose the amendment. Members will move a number of amendments that are designed, first and foremost, to send the bill back to the lower House.

The proposed amendment is unnecessary and made in bad faith. The Greens oppose the amendment on those grounds. We are talking about a person's right to choose their own reproductive health care without interference from those with controlling viewpoints about what a person can do in their own interests.

Reverend the Hon. FRED NILE (15:24): I support the proposed amendment to change the title of the proposed Act to the Abortion Law Reform Act 2019. As the Hon. Taylor Martin said, the current title is misleading. The bill deals with abortion only, not reproductive health care which covers childbirth, infertility treatment et cetera. The title of the proposed Act should reflect the substance of the bill.

The Hon. PENNY SHARPE (15:24): I am not overly exercised by the proposed amendment. I do not oppose calling the proposed Act the Abortion Law Reform Act 2019. Let us be honest about what we are trying to do. We are trying to remove abortion from the Crimes Act 1900. We are trying to codify current arrangements and ensure that it is clear that abortion is part of reproductive health care and that it is provided legally and safely in New South Wales. I do not oppose the amendment.

The Hon. SCOTT FARLOW (15:25): I support the amendment moved by the Hon. Taylor Martin and commend members who support the amendment. I want to pick up on the point made by Ms Abigail Boyd of The Greens. The amendment is not proposed in bad faith. The amendment is intended to capture the intent of the bill. The bill is fairly narrow and deals with one area of reproductive health, and that is abortion. It does not cover any other areas of reproductive health. Quite rightly, the proposed Act should be named for what it is—the Abortion Law Reform Act 2019.

The Hon. GREG DONNELLY (15:25): I place on record my support for the proposed amendment. Picking up on the point of the Hon. Taylor Martin, the amendment is not proposed as an exercise of bad faith, nor is it part of some game plan to return the bill to the other place in an amended form to lengthen what is otherwise going to be a long debate.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! Members will cease interjecting. I ask Mr David Shoebridge to desist. The Hon. Taylor Martin should not call out across the Chamber. I will not hesitate to call members to order. Members will be heard in silence.

The Hon. GREG DONNELLY: I put on record my support for the amendment. All honourable members in this House are acutely aware of the challenges associated with the debate before us that will take many hours today and into the evening, and perhaps into tomorrow and tomorrow evening. It is important to be respectful by taking on face value attempts to deal with matters brought before the House.

Honourable members were deliberately provided with three weeks work to engage with members within their own parties and across parties on amendments to the bill. The consideration of amendments arises from that process. To suggest that it is just an exercise of bad faith is unfair. I have suggested to members that it is important that we respect what is going to be some difficult discussion around what might be some highly contested areas. We should accept the bill for what it is and support the amendment.

The Hon. MATTHEW MASON-COX (15:27): I support the amendment moved by the Hon. Taylor Martin. Whilst this is the first amendment of many, encapsulating the intent of the bill in the name of the proposed Act sends an important signal. The name of the proposed Act is the Reproductive Health Care Reform Act. It is oxymoronic to juxtapose "reproductive health" and "abortion". The reality is that the bill deals with terminations and abortion law reform. Very obviously, the essence of the amendment reflects that and is an appropriate response.

In relation to the allegations of bad faith, a lot of discussion about the bill and amendments has taken place in a very short time. A lot of bad faith was evident in the process that was applied. It is now time for this Chamber to reflect upon what has happened to try to achieve a better balance in the bill. The proposed amendment is an important start to that process. I would urge members to consider the proposed amendment carefully to ensure that the bill is appropriately named to reflect the amendments it seeks to achieve.

Mr DAVID SHOEBRIDGE (15:29): I reiterate the concerns that my colleague Ms Abigail Boyd raised about this amendment being unnecessary and in bad faith. The bill has not been weeks or months in the making but years in the making. The bill as presented—

The Hon. Trevor Khan: Point of order: My point of order is that the obligation is on all members to speak to the amendment. We are going to have a very long night tonight and potentially tomorrow. This is not an opportunity for a second reading debate. The member is entitled to speak as to why this amendment should be dealt with or not. It is not a discussion about the bill. We should not be having a history lesson in abortion law.

The Hon. Don Harwin: To the point of order: To accuse a mover of an amendment of bad faith is a reflection on that member and is disorderly at all times.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I also felt that Mr David Shoebridge was reflecting on another member. I ask you not to reflect upon members and their motivations for moving amendments. It is a timely reminder that members need to speak specifically to the amendments or we will be here for three months. I ask you to return to the amendment.

Mr DAVID SHOEBRIDGE: This amendment will make no change to the substantive elements of the bill. It is grossly unnecessary. Adopting this amendment from the very outset will require the matter to be sent back to the other place and it could mean potentially weeks and weeks of further delay in finally removing abortion from the Crimes Act. That delay and uncertainty are sufficient reasons to oppose the amendment. The Greens strongly oppose the amendment.

The Hon. ROBERT BORSAK (15:31): The Shooters, Fishers and Farmers Party supports the amendment. The name of the bill has irked me from the beginning. It is a tactic that the Government is using to try to sweep it under the rug, if not under the Legislative Council.

Mr David Shoebridge: Penny Sharpe is moving the bill.

The Hon. ROBERT BORSAK: I am talking about the bill. No-one would blink at a healthcare reform bill but an abortion law reform bill would really create waves. It is underhanded and misleading to call it anything else other than an abortion bill. The bill deals with only abortion. It does not encompass all of the reproductive health care and, therefore, should not reflect it in this title. The amendment properly reflects the actual purpose of the bill and changes it to its true title.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Taylor Martin has moved amendment No. 1 on sheet c2019-124C. The question is that the amendment be agreed to.

The Committee divided.

Ayes 33
Noes 7
Majority.....26

AYES

Ajaka, Mr	Amato, Mr L	Banasiak, Mr M
Blair, Mr	Borsak, Mr R	Buttigieg, Mr M
Donnelly, Mr G	Fang, Mr W	Farlow, Mr S
Franklin, Mr B	Graham, Mr J	Harwin, Mr D
Houssos, Mrs C	Jackson, Ms R	Khan, Mr T
Latham, Mr M	Maclaren-Jones, Mrs (teller)	Martin, Mr T
Mason-Cox, Mr M	Mitchell, Mrs	Mookhey, Mr D
Moriarty, Ms T	Moselmane, Mr S	Nile, Revd Mr
Primrose, Mr P	Roberts, Mr R	Searle, Mr A
Secord, Mr W	Sharpe, Ms P	Taylor, Mrs
Tudehope, Mr D	Veitch, Mr M (teller)	Ward, Mrs N

NOES

Boyd, Ms A	D'Adam, Mr A (teller)	Faehrmann, Ms C
Field, Mr J	Hurst, Ms E	Pearson, Mr M
Shoebridge, Mr D (teller)		

Amendment agreed to.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The second amendment we are dealing with is on sheet c2019-104A, which deals with "commencement".

The Hon. COURTNEY HOUSSOS (15:42): I move amendment No. 1 on sheet c2019-104A:

No. 1 **Commencement**

Page 2, proposed section 2, line 6. Omit all words on that line. Insert instead—

This Act commences on a day or days to be appointed by proclamation.

I anticipate that the debate will be lengthy, so I will keep my remarks to the point. The amendment will delay the bill coming into effect until it is proclaimed, allowing time until the administrative arrangements or delegated legislation is in place to allow the statute to operate. Much of the focus of the debate has been on removing abortion from the Crimes Act, but just as importantly the bill will set the legal framework within which abortions are undertaken in New South Wales.

It will be the first time that a statutory regime will regulate abortion in New South Wales. Existing practices have developed over many decades as a result of a number of common law decisions. However, those will be voided by the passing of the bill. There must be an appropriate period for transition, allowing time for the regulations and associated policies by the Government and those operating within the sector to be developed. The amendment will not delay women accessing abortions, as many members outlined during the second reading debate—they are currently accessible and legal at common law. However once the legislation passes, it will replace all existing laws, regulations and guidelines that have developed as a result of this decision, including the current 2014 New South Wales health guidelines that govern pregnancy terminations in this State.

In the other place an amendment was moved that will only allow abortions to be conducted after 22 weeks in public hospitals or facilities approved by the Secretary of Health, and provides for guidelines for the performance of terminations at such facilities. There may indeed be further amendments in this place that also require time to implement. It is only appropriate that time be given to draft those provisions before the law comes into force. I have consistently argued that a proper process should be undertaken when legislating an issue as complex and difficult as this. The amendment will seek for that to occur between the passing of the bill and it coming into effect. I commend the amendment to the House.

The Hon. PENNY SHARPE (15:45): I oppose the amendment. The bill has had extensive debate. It has had more time in debate than I suspect we will spend on any bill in this entire Parliament and, indeed, the Parliament before us. The reality is that everything is in place for the bill to do what it aims to do, which is to make it lawful for women to have abortions without the threat of jail. The regulation-making powers do not require extra time. There are guidelines in place and it is wrong for the Hon. Courtney Houssos to suggest that the professional guidelines somehow go nowhere. Those professional guidelines are in place. They are not dealt with under law and they clearly set out the way in which terminations take place. That is the way that they will go ahead. This is another delaying tactic to try to stop women from being able to make these decisions free from the threat of jail. I oppose the amendment.

Ms ABIGAIL BOYD (15:46): On behalf of The Greens I oppose the amendment. We have been waiting over 100 years for this law to be corrected and we believe that the Act should come into force on the date of assent and that further harm caused to women and other people seeking abortions should be avoided.

Reverend the Hon. FRED NILE (15:47): I support the amendment. It will change the commencement of the bill from a royal assent to a day or days to be appointed by proclamation. That will allow time for regulations to be made, new policy directives to be issued and an education program to be established to ensure all health practitioners understand the new legal provisions. It is a very practical amendment and those who seriously support the propositions of the bill should support the amendment.

The Hon. MATTHEW MASON-COX (15:48): I wish to clarify a couple of things. It is very clear that in New South Wales abortion is legal, it is safe and it is abundant. The Crimes Act clearly constitutes what is an unlawful abortion. There is a very clear test in *R v Wald* and *CES v Superclinics (Australia) Pty Limited*.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): You need to focus on the amendment, Mr Mason-Cox.

The Hon. MATTHEW MASON-COX: After my short preamble I am now coming to the amendment. It is very clear on the face of the bill that necessary regulations and guidelines need to be made. I acknowledge the well-worn route of parliamentary practice. The very wise and very common manner in which bills are passed by this place and the other place is that a bill becomes an Act upon proclamation for very good reasons. The Hon. Courtney Houssos has articulated those reasons. I will go to each of the regulations that need to be made.

As we can see, the member opposite disputes that. Part 2, section 6 (5) (c), states that ancillary services means "another treatment or service prescribed by the regulations". If we go further we will see that in relation to the approval of health facilities for terminations after 22 weeks, section 12 states:

> The Secretary of the Ministry of Health may approve a hospital, or other facility the Secretary considers appropriate, as a facility at which terminations may be performed on persons who are more than 22 weeks pregnant.

Part 4, section 13 (1) states:

> The Secretary of the Ministry of Health may issue guidelines about the performance of terminations at approved health facilities.

Section 17 deals with regulations and states:

> The Governor may make regulations, not inconsistent with this Act, for or with respect to any matter that by this Act is required or permitted to be prescribed or that is necessary or convenient to be prescribed for carrying out or giving effect to this Act.

On the face of the bill a number of proposed new sections already state that regulations clearly need to be put in place. Indeed, on the basis of the amendments that have been put to this place, other provisions may or may not be passed—one does not have a crystal ball in that regard—that may well require regulations to also be put in place. I believe it is fundamental good parliamentary practice and it is a consistent position that has been taken in relation to the vast majority of bills that have come through this place that they take effect on proclamation for the reasons that the Hon. Courtney Houssos put forward and that normally regulations need to be made.

A consultation period is normally needed to ensure that such regulations are put in place. With this bill, an education program is necessary to ensure that all the parties affected—the medical practitioners, the allied health professionals and the like who would need to be across the new legal framework in the health area rather than in the crimes area—are able to come up to speed and that the doctors who are affected by the bill can have the necessary information for patients who come through the door.

So there are real reasons for this to be done. I am not saying for a moment that it should be delayed any more than is necessary, but let us get this right. Let us ensure that we put in a new health framework for abortion that informs all the people affected by it and that women get the necessary information when they go to their doctors. We will hear later on the issues about conscientious objection. I am aware of a proposed amendment ensuring that doctors are able to give out a health department telephone number for people to call. That would need to be prescribed because, again, we do not want to be too prescriptive in a bill. We need to have flexibility in regulations to ensure that we can deal with things as they change over time.

I believe the member is putting forward a very strong case based on parliamentary practice and good legislative precedent, but we should be very careful to ensure that in such a contentious area regulations are put in place that are appropriate, that discharge the obligations of the bill and that the health Minister, who has the responsibility to prescribe things, has the opportunity to do that, notwithstanding that there are already guidelines in place, as those guidelines will need to be reviewed as a result of the bill. I believe that the education program is absolutely essential to ensure that those affected by the bill have the opportunity to be across it and understand their new obligations and that we have a seamless transition to protect the women of New South Wales and all the people affected by the bill.

The Hon. GREG DONNELLY (15:53): I will say a few words to not repeat but to augment some of the comments that have already been made by honourable members who support the amendment. This is the first time in which pregnancy termination is going to be statutorily regulated in New South Wales—the first time in the history of this State. It is therefore utterly imperative that we ensure that how it is going to operate in practice is as clear and as unambiguous as possible. Up to this point we have had the issue of the common law judgements read in conjunction with the provisions within the Crimes Act to provide for a framework in which pregnancy termination takes place in New South Wales in a lawful fashion. This is different. This is a statutory framework and, as I have said to many people, this is going to regulate the practice of abortion in this State as far as one can see into the future and beyond. We should be very clear that the matter of abortion regulation in this State is not going to be returned to any time soon by this Parliament—for years and perhaps decades. We therefore need to spend time on this.

On the matter of guidelines, which will come up in further contributions, honourable members would be aware that NSW Health has a policy directive which is titled "Pregnancy - Framework for Terminations in New South Wales Public Health Organisations". I reiterate the point that came up in the parliamentary inquiry, that with respect to these guidelines—

The Hon. Penny Sharpe: Point of order: I am listening carefully to what the member is saying. It is very clear that we are dealing with a very simple amendment about when this bill is proclaimed. In addressing that amendment I do not believe we need to hear the history of the guidelines. I have listened carefully to the member but I believe we need to be careful that we do not stray beyond what the amendment deals with.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I ask the Hon. Greg Donnelly to bring his point to the amendment.

The Hon. GREG DONNELLY: I will be honest and frank about this. I am not going to get cut down like that by someone who opposes what I am saying.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! I just invited you to return to the amendment, that is all. Please continue, and do not reflect on another member.

The Hon. GREG DONNELLY: I had barely got out the name of the guidelines.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): This is only the second amendment. Let us not deteriorate tonight. I have asked the Hon. Greg Donnelly to return to the amendment. I can see where you are going and I will allow you to continue, but return to the amendment.

The Hon. GREG DONNELLY: The directive was reviewed on 2 July 2019 and we do not know what that review outcome is. But the fact of the matter is that these guidelines, which have just been reviewed, will have to be reviewed again in light of the fact that we now will have statutory regulation with respect to this bill when it is passed by the Parliament. I make that obvious point. The peak medical bodies, the Australian Medical Association and the Royal Australian and New Zealand College of Obstetricians and Gynaecologists, will have some work in front of them in communicating changes to the legislation and educating their members about what are the provisions within the legislation and what they will need to do and not do in order to meet their obligations with respect to this statutory regulation of abortion, which has not been the case up to this point.

That will take time, not an endless period of time, but it is perfectly reasonable to have a period of time to ensure those people who are directly involved in the provision of this procedure are aware of what their legal obligations are. As the Hon. Matthew Mason-Cox said, matters of regulation clearly flow from this bill and those need to be properly put together and ultimately drafted and introduced by the Government. Very clearly, the grounds and reasons for the motion by the Hon. Courtney Houssos is well founded and should be supported.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Courtney Houssos has moved amendment No. 1 on c2019-104A. The question is that the amendment be agreed to.

The Committee divided.

Ayes 15
Noes 25
Majority.....10

AYES

Amato, Mr L	Banasiak, Mr M	Borsak, Mr R
Donnelly, Mr G	Farlow, Mr S	Harwin, Mr D (teller)
Houssos, Mrs C	Latham, Mr M	Maclaren-Jones, Mrs (teller)
Martin, Mr T	Mason-Cox, Mr M	Moselmane, Mr S
Nile, Revd Mr	Roberts, Mr R	Tudehope, Mr D

NOES

Ajaka, Mr	Blair, Mr	Boyd, Ms A
Buttigieg, Mr M (teller)	D'Adam, Mr A	Faehrmann, Ms C
Fang, Mr W (teller)	Field, Mr J	Franklin, Mr B
Graham, Mr J	Hurst, Ms E	Jackson, Ms R
Khan, Mr T	Mitchell, Mrs	Mookhey, Mr D
Moriarty, Ms T	Pearson, Mr M	Primrose, Mr P
Searle, Mr A	Secord, Mr W	Sharpe, Ms P
Shoebridge, Mr D	Taylor, Mrs	Veitch, Mr M
Ward, Mrs N		

Amendment negatived.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): According to sessional order, it being 4.00 p.m., I will now leave the chair and report progress.

The PRESIDENT: The Committee of the Whole reports progress. Further consideration of business before the Committee is set down as an order of the day for a later hour.

According to sessional order, proceedings are now interrupted for questions.

Visitors

VISITORS

The PRESIDENT: I welcome into the public gallery staff from the Voting Services Unit of the NSW Electoral Commission.

Questions Without Notice

MEMBER FOR DRUMMOYNE

The Hon. ADAM SEARLE (16:06): My question is directed to the Leader of the Government and Special Minister of State. Given that the sports Minister and member for Drummoyne endorsed you as "a great tactician, strategist and intellectual" in his inaugural speech, do you still stand by him in light of his continuing stance that he is innocent of improper property dealings as a Minister and Parliamentary Secretary?

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) (16:06): Leaving aside the preamble and the implied compliment, or perhaps it was an implied backhander, the substance of the honourable member's question was whether I had formed a judgement about the Hon. John Sidoti. It is not for me to form a judgement. The Independent Commission Against Corruption, as has been made clear by the Premier in her statement, is going to consider the matter. It is for it to make a judgement. I also indicate that the Premier has answered a question about this in the Legislative Assembly and made the position entirely clear. It would be completely inappropriate for me to go any further than that.

The Hon. Walt Secord: Lock him up.

The PRESIDENT: Order! The honourable member will withdraw that statement.

The Hon. Walt Secord: Mr President, as per your instruction, I will withdraw it.

SYDNEY MODERN PROJECT

The Hon. SHAYNE MALLARD (16:08): My question is addressed to the arts Minister. Would the Minister update the House on the construction of the Sydney Modern Project?

The Hon. Walt Secord: Delayed, delayed, delayed and overrun.

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) (16:08): I will not respond to the interjections, completely wrong as they might be. It was with great pleasure that I joined the Premier this month to announce Richard Crookes Constructions as the successful tenderer of the Sydney Modern Project. I can confirm that the contract has been signed and construction will begin this year. The project will be delivered within the budget set by the Government and the deliver on our promise to the public. After a competitive tender process, we had a very positive response from the construction industry to deliver this groundbreaking project. This Government has been absolutely focused on achieving a value-for-money outcome for the people of Sydney. The innovative design of the Sydney Modern will cater for over two million people who will visit the gallery annually and visitors' spending will boost the State economy.

I acknowledge the major contribution of private individuals who have donated significant amounts of money to Sydney Modern totalling more than $100 million. Their philanthropic generosity to this project has demonstrated what an important and exciting project this is. The Government will indeed deliver a world-class, high-quality expansion of the gallery and achieve a cultural outcome for the people of New South Wales which befits an institution as important as the Art Gallery of New South Wales. To this end, Sydney Modern will serve future generations of local and international artists and visitors with new and expanded spaces for art, live performances and film, along with spaces to learn, study and participate in cultural experiences.

While Sydney Modern will offer new expanded facilities to hold more collections and exhibitions, the original building will also have increased the space available for the gallery's innovative display of Aboriginal and Torres Strait Islander art and culture. Sydney Modern is one of our most exciting infrastructure builds starting this year. I am sure I speak for the whole community as we look forward to its opening in the near future.

PUBLIC SCHOOL FUNDING

The Hon. PENNY SHARPE (16:11): My question is directed to the Minister for Education and Early Childhood Learning. What is the Government's response to community concerns that parents are being forced to fundraise to provide extra teaching staff, including for reading recovery and literacy teachers across New South Wales public schools?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:12): I thank the Hon. Penny Sharpe for her question that obviously references an article in today's newspaper that cited a parent of a child at Bronte Public School. I reiterate that schools in New South Wales are being funded at record levels with the New South Wales Government just last year increasing its Gonski funding by $6.5 billion out to 2027. I know, as many in this House know, parents and citizens associations do a wonderful job and are integral to many school communities across the State. I have had the opportunity to meet with parents and citizens representatives at several schools that I have visited and I know that they do a great job of raising funds from the community to help schools do a number of different things.

Community support of their local school is a wonderful thing, as I am sure we all agree. I can firmly say that there is no requirement for parents and citizens to raise money to go towards staff. I know that through the Gonski funding to which I referred, via our Resource Allocation Model [RAM] loading that now goes to our schools, particularly through Local Schools, Local Decisions, principals can make decisions about where they spend their allocation of funds, and schools have the funding and flexibility to hire additional staff who might operate in a range of different capacities. I have visited schools that use their Gonski money to hire very different supports ranging from speech pathologists, occupational therapists, disability support workers to additional classroom staff. There is certainly money provided to our schools to provide support that they need in terms of their staffing resources.

The Hon. PENNY SHARPE (16:13): I ask a supplementary question. Will the Minister elucidate her answer? The Minister talked about the hiring of additional staff. Will the Minister confirm that the hiring of additional staff at schools means that teachers' salaries are being covered by appropriate employment conditions and within the guidelines for employment within public schools?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:14): As I said in my earlier answer, funding is available to schools and to principals to make decisions about how they employ those extra staff using the RAM allocation in line with due process.

RENEWABLE ENERGY

Ms ABIGAIL BOYD (16:14): I direct my question to the Minister for Mental Health, Regional Youth and Women representing the Minister for Energy and Environment. Given that the 2019 Climate of the Nation report of the Australia Institute found that 78 per cent of Australians support a government plan to ensure the orderly replacement of coal-fired power with clean energy, and given that 73 per cent of Liberal Party voters and 62 per cent of voters for The Nationals want at least a gradual transition away from coal to clean energy, does the Government agree with most of its voters that coal-fired power should be completely replaced by clean energy? If so, when can we expect to see an actual plan for a jobs-rich 100 per cent renewal energy future for New South Wales?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:15): I thank Ms Abigail Boyd for her very detailed question that relates to a portfolio of a Minister in the Legislative Assembly. I will take that question on notice and seek an answer for her in due course.

HIGHER SCHOOL CERTIFICATE ENROLMENT DATA

The Hon. WES FANG (16:15): My question is addressed to the Minister for Education and Early Childhood Learning. Will the Minister update the House on this year's Higher School Certificate enrolment data?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:16): I thank the Hon. Wes Fang for his ongoing interest in the New South Wales education system. Like many members of this House know, the countdown is on for the 2019 Higher School Certificate [HSC] exam. Today we have released the 2019 HSC enrolment data which shows us that more than 75,000 students from across New South Wales are making their final preparations for exams this year with English kicking off the exams on 17 October.

Today's snapshot shows us a number of interesting things. We can see that maths has grown in popularity this year, visual arts has made its way into the 10 most popular subjects and, excitingly, primary industries has replaced entertainment in the top five of vocational education and training courses. However, English, maths and biology remain by far the most popular HSC subjects. I am also happy to report to the House that the ladies are dominating this year with 38,857 female students taking part versus 36,149 males. Japanese remains the most popular language subject, followed closely by French. Hospitality is twice as popular as any other vocational education and training course.

Some other fun facts to come out of today's data: Joshua and Emily are the most popular first names enrolled in exams this year. Nguyen and Smith are the most common surnames and there are 985 sets of twins, and 16 sets of triplets participating. I want to acknowledge some amazing stories coming out of schools ahead of

this year's exams. Incredibly a 13-year-old boy from Cranbrook is sitting the mathematics extension 2 exam this year while also studying a year 11 chemistry course. This is not his first rodeo though—he also sat for HSC exams last year as a 12-year-old. Another 13-year-old from Marsden High School will also sit HSC mathematics and mathematics extension 1. Four students from regional New South Wales are doing a new HSC science extension course virtually via Aurora College, three of whom are in Narrabri and one in Broken Hill. And believe it or not, 10 sets of twins are in year 12 at St Patricks College in Sutherland who are all taking part in this year's exams.

I am sure all of us in this Chamber remember sitting our final school examinations, feeling the same as a lot of the students are feeling today—a little bit nervous and a bit overwhelmed by the studying but also grateful for the teachers who supported them and their friends, and excited for the next chapter in life. I take this opportunity to put on record my sincere best wishes to every student right across New South Wales for the weeks ahead. I am sure I can comfortably say that all members in this House share that sentiment. It is important to acknowledge that this has been a big year for them. While it is easy to become overwhelmed they still need to make sure that they have fun, take time to do the things that they enjoy outside of school and study and remember that these exams will not determine the rest of their life. Their possibilities are endless and all they can do is their best. [*Time expired.*]

CUMBERLAND HOSPITAL AND PARRAMATTA LIGHT RAIL

Ms CATE FAEHRMANN (16:19): My question is directed to the Minister for Mental Health, Regional Youth and Women—

The PRESIDENT: Order! The Clerk will stop the clock. I will indicate when to restart it. I just want to make sure that members have finished their conversations across the Chamber. It is very rude of Ms Cate Faehrmann to interrupt them with asking a question while they are having a conversation! The Clerk will restart the clock.

Ms CATE FAEHRMANN: Thank you, Mr President. My question is directed to the Minister for Mental Health, Regional Youth and Women. The NSW Nurses and Midwives' Association recently moved a motion to ban admitting new patients to Cumberland mental health hospital because of grave concerns over plans for the Parramatta Light Rail tracks, which run directly through the grounds of the Cumberland Hospital, one of Sydney's biggest mental health hospitals. They say their calls for safety assessments have fallen on deaf ears. Services are reported to be set to run every seven minutes and staff fear for the safety of patients who are at risk of wandering in front of passing trams. Will the Minister please explain why there has not been an adequate risk assessment or genuine consultation undertaken with hospital staff to ensure the safety and wellbeing of patients remain the number one priority?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:20): I thank the honourable member for her question. There will be no reduction of health services as a result of the Parramatta Light Rail. The 40 sub-acute and non-acute mental health rehabilitation service beds affected by the light rail project will be relocated within the campus. The Parramatta Light Rail project will fund the replacement of a number of facilities. Early works for the Parramatta Light Rail started in 2019 and the network will begin operating in 2023. It will connect Westmead to Carlingford via Parramatta and the CBD with a two-way track spanning 12 kilometres. The relevant risk assessments have been done and more are planned in line with the usual processes for health service development.

The member also asked about consultation in her question. Western Sydney Local Health District has undertaken consultation regarding the Parramatta Light Rail project since 2016, providing staff and community, including unions, an opportunity to share feedback. To further strengthen this consultation process all health unions have been invited to be part of a newly established union consultation committee. Consultation with stakeholders such as staff, the community, Transport for NSW and the Nurses and Midwives' Association is ongoing through all-staff forums, focus groups, project-user groups, workshops and meetings.

The Parramatta Light Rail project will provide an important transport route that will make the thriving Westmead precinct accessible to more people. Stops are planned for Westmead Hospital, the Children's Hospital at Westmead and Cumberland Hospital. The safety and the wellbeing of patients and our staff is our highest priority. We will continue to work with patients and their families, our staff and all of our stakeholders to ensure that their issues are heard and addressed. Western Sydney Local Health District is working closely with Parramatta Light Rail on the relocation of affected services to new and refurbished facilities. The new facilities will be constructed before any relocation is carried out. The Parramatta Light Rail project will fund replacement facilities which will be constructed to the latest building standards and health facility guidelines.

Ms CATE FAEHRMANN (16:23): I ask a supplementary question. Will the Minister please elucidate her answer in relation to the risk assessment undertaken and specifically whether that risk assessment details how mental health patients will be prevented from wandering across the tram tracks?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:23): I thank the honourable member for her question. As I said in my answer, the relevant risk assessments have been done. More are planned in line with the usual processes for health service development.

SUICIDE PREVENTION

The Hon. TARA MORIARTY (16:23): My question is directed to the Minister for Mental Health, Regional Youth and Women. Given the Minister's announcement earlier this month of a new suicide prevention SMS text counselling service, what steps has the Government taken to ensure appropriate follow-up for distressed people using the Lifeline text service?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:24): I thank the honourable member for her question. This is a fantastic initiative that has been done from looking at the fact that we need to try all different areas to deal with suicide prevention, including this Lifeline program. This Government has invested a record amount in suicide prevention of $87 million over the next three years—an investment that we have never seen the likes of before, because we know what a serious issue this is.

The Hon. Walt Secord: Point of order: My point of order goes to relevance. The question was very specific. It asked what steps is the Government taking to ensure appropriate follow-up for distressed people using the SMS service.

The PRESIDENT: Yes. I indicate the question also talks about the new suicide prevention SMS text counselling services. I believe the Minister is being directly relevant in setting up some foundation but I would remind the Minister that she should proceed to being directly relevant to the remainder of the question.

The Hon. BRONNIE TAYLOR: Thank you, Mr President. As I was saying, it is a record investment into this area that we have never seen before. Within that investment is the project through Lifeline for an SMS text service. We are really excited about this new initiative. We look forward to seeing the results from it. Initial results are looking very positive. But again, as with anything, when people are ringing Lifeline there are appropriate referral processes in place that Lifeline follows. Lifeline staff are experts. They have been doing this for a number of years and they have come up with a great new innovative project and we are saying that this is a really fantastic thing. It is a great thing. We know that young people sometimes want to communicate via text message and this is just another piece of a project that we are using in our whole suite of projects that are looking at suicide prevention by Lifeline. I suggest a visit to Lifeline to see how they run their processes and what they do might be a good idea.

MENTAL HEALTH FACILITIES

The Hon. TAYLOR MARTIN (16:26): My question is addressed to the Minister for Mental Health, Regional Youth and Women. Could the Minister outline how the New South Wales Government's investment of $20 million in the 2018-19 budget for therapeutic environments is contributing to the implementation of the recommendations from the *Review of seclusion, restraint and observation of consumers with a mental illness in NSW Health facilities*?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:27): I thank the honourable member for his question. The New South Wales Government has allocated $20 million in the 2018-19 budget to improve the therapeutic environment in acute mental health units, which is part of the $700 million Statewide Mental Health Infrastructure Program—a record investment in mental health in this State. The New South Wales Government is committed to investing in world-class infrastructure and has made significant investments in mental health infrastructure since 2011.

A range of capital works is being delivered to support the future needs of mental health services and their clients. Funding of $20 million was allocated in the 2018-19 budget to begin the Statewide Mental Health Infrastructure Program at an estimated total cost of $700 million and $22 million was allocated to continue this program. The program included $20 million allocated for the therapeutic environment minor capital works established following the *Review of seclusion, restraint and observation of consumers with a mental illness in NSW Health facilities*.

These minor capital works have seen a number of improvements in the built environment in numerous mental health facilities across the State, promoting improved therapeutic interactions and engagement between staff and consumers, enabling improved trauma-informed care and personal recovery for consumers. This program had the added strength that local projects were co-designed with consumers, carers, families and clinicians.

Examples of this include the purchase of sensory modulation equipment and creation of sensory rooms at Liverpool Hospital; new exercise equipment or designated exercise areas or gym spaces, for example, at Manning Base Hospital; improving spaces where families can more comfortably visit their loved ones in hospital and have private conversations, like at The Tweed Hospital.

Sensory assessments and interventions are part of the evidence-based toolkit and to support the prevention of seclusion and restraint. Exercise is key to improving the physical health and wellbeing of our mental health consumers. It is terrific to visit the sites and see the new gyms that are there and the new exercise equipment. It is also terrific to see the consumers of these mental health facilities accessing this equipment and using it, which we know will benefit their mental health. Engagement of carers and families is a critical component in a consumers care and personal recovery. This is really a fantastic program. In the current financial year we have continued with an additional $22 million allocated towards further ongoing improvement to therapeutic environments and mental health facilities across New South Wales. I note that the Black Dog Institute has also demonstrated evidence regarding the great use of exercise in respect of the holistic approach to good mental health care. [*Time expired.*]

CROWN RESORTS INQUIRY

Mr JUSTIN FIELD (16:30): My question is directed to the Hon. Don Harwin, representing the Premier. Will the Government guarantee that Justice Bergin, in conducting her inquiry into the share sale agreement between Melco Resorts and Entertainment Limited and Consolidated Press Holdings to purchase 19.99 per cent of shares in Crown Resorts Limited and the various allegations raised in the media concerning Crown Resorts and links to organised crime and money laundering, will have access to any and all documents relevant to her inquiries? Will this include any relevant privileged or Cabinet-in-confidence documents, including those relating to the original 2012 and 2013-14 probity assessments and the license agreement signed with Crown Resorts in 2014?

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) (16:31): I have some information that may assist the honourable member. I am advised that Crown Sydney is licensed to commence operations as a restricted gaming facility from 15 November 2019. Based on current projections, Crown Sydney is likely to open in 2021. On 30 May 2019 Consolidated Press Holdings Pty Limited announced the sale of 19.99 per cent of its shares to Melco Resorts and Entertainment Limited—a Hong Kong-based casino operator. On 28 July 2019 the Nine Network's *60 Minutes* program aired a story that made a number of allegations in relation to the operation of casino junkets.

On 8 August 2019 the Independent Liquor & Gaming Authority announced that it will be conducting an inquiry under section 143 of the Casino Control Act. The inquiry will investigate the proposed sale of shares in Crown Resorts from CPH Crown Holdings Pty Limited to Melco Resorts and Entertainment Limited. The inquiry will be conducted by former Supreme Court justice, the Hon. Patricia Bergin, SC, with Ms Naomi Sharp, SC, and Mr Scott Aspinall acting as counsel assisting the inquiry. Terms of reference were issued on 14 August 2019 and are available on the authority's website.

The inquiry will take evidence in public, with the capacity to take private hearings to receive confidential information from law enforcement authorities or other sensitive information. Section 143A of the Casino Control Act gives Ms Bergin similar powers, authorities, protections and immunities to those conferred upon a commissioner under the Royal Commissions Act. The terms of reference for the inquiry give Ms Bergin the powers in section 17 (1) of the Royal Commissions Act, which states:

> A witness summoned to attend or appearing before the commission shall not be excused from answering any question or producing any document or other thing on the ground that the answer or production may criminate or tend to criminate the witness, or on the ground of privilege, or on the ground of a duty of secrecy or other restriction on disclosure, or on any other ground.

The authority is an independent statutory body and is undertaking its inquiry independent of the Government. The Government supports strong action being undertaken if there has been any impropriety to ensure casino operations remain free from criminal influence and exploitation, and to retain public confidence in casino operations. As this matter is subject to an inquiry it is not appropriate for me to make any further comment. [*Time expired.*]

BIRRONG GIRLS HIGH SCHOOL

The Hon. ANTHONY D'ADAM (16:34): My question is directed to the Minister for Education and Early Childhood Learning. Following the recent assault of a teacher at Birrong Girls High School, what steps has the Government taken to improve protection for teachers, students and the general community at the school?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:34): I thank the honourable member for his question on a serious issue. Can I say at the outset that I think it is inherent on all of us to recognise the incredible work that teachers do every day and the respect and regard in which they

should be held, not just within the wider community but also within the school community. It is incredibly distressing to hear of incidents that unfortunately happen from time to time when there are alleged acts of violence and other issues in relation to school communities. As Minister, I find that concerning. In respect of the specifics for that school, I will take that on notice to get the most up-to-date information in relation to what has happened with the investigation of that matter and any other courses of action that need to be taken.

GOVERNMENT PROCUREMENT POLICY

The Hon. LOU AMATO (16:35): My question is addressed to the Minister for Finance and Small Business. How is the New South Wales Government working to ensure small to medium and regional businesses secure more Government procurement opportunities?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:36): I thank the honourable member for his question and his obvious interest in small businesses in New South Wales. I know he was a small business owner and he comes from a background where he values the contribution of small businesses to communities. The New South Wales Government procures more than $30 billion each year in construction goods and services. We want to make it easier for small businesses to secure more of that work. The New South Wales Government spent approximately $12.5 billion with 56,000 small business suppliers in 2017-18 and approximately $9.1 billion with 46,000 small business suppliers in 2018-19.

But we can do better. We are taking steps to ensure that more small businesses and regional businesses secure more of this government spend. From 1 February 2019 the Small and Medium Enterprise and Regional Procurement Policy is providing more opportunities for local suppliers to access government work. For example, government agencies like schools or hospitals are able to purchase direct from small businesses on a credit card up to $10,000 or up to $50,000 via invoice from local business suppliers like newsagents, grocers or tradies. Where agencies are permitted to directly engage a supplier up to $250,000, they must give first consideration to purchasing from a small- or medium-sized supplier.

When an agency needs industry expertise that government does not have, it is able to directly engage a small or medium supplier on a short-term contract up to $1 million. For contracts above $3 million, all agencies are required to allocate a minimum of 10 per cent of spend to small business supplier participation. Critically, we need to make it easier for small businesses and government agencies to come together and connect on new opportunities. When I speak with businesses around the State I hear again and again that it is too hard to contract with government. Currently a small business would need to register on multiple platforms across multiple agencies, multiple times in order to have its product or services offering visibility to government buyers.

But this Government has a vision to change that through buy.nsw. We will enable suppliers and government agencies to connect with each other in a way like never before. Suppliers will be able to register, manage and update their information, and find and apply for government opportunities from a single platform. Buy.nsw is about simplifying the process. Businesses should have to tell government only once and not fill in countless forms when it comes to bidding for or securing work. There is more work to do. This Government is committed to making it easier to do business in New South Wales.

PICTON MEATWORX

The Hon. EMMA HURST (16:39): My question is directed to the Minister for Mental Health, Regional Youth and Women representing the Minister for Agriculture and Western New South Wales. In budget estimates the Minister advised that activity at Picton Meatworx processing facility had been suspended, pending the outcome of investigations by the RSPCA into alleged breaches or potential breaches of the Prevention of Cruelty to Animals Act 1979 [POCTA] and the NSW Food Authority into potential breaches of food safety regulations. Has the Picton abattoir recommenced operations? Has the RSPCA investigation been completed and, if so, are any charges being laid?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:39): I thank the honourable member for her question. The New South Wales Government takes the footage allegedly captured at the Wollondilly Abattoir very seriously. The footage is appalling and those scenes are not acceptable. The New South Wales Government is committed to safeguarding animal welfare and providing the strongest possible regulatory framework to promote responsible animal care in New South Wales.

The welfare of animals in New South Wales is protected under the Prevention of Cruelty to Animals Act 1979 and its supporting legislation, including relevant standards and guidelines. POCTA requires that no unnecessary pain be inflicted upon an animal when dealing with it for the purpose of producing food for human consumption. All abattoirs within New South Wales are required to be licensed by the NSW Food Authority and compliant with the Australian Standard for the Hygienic Production and Transportation of Meat and Meat

Products for Human Consumption. Under this standard, animals must be effectively stunned and unconscious prior to slaughter.

A further licence condition for all abattoirs within New South Wales is compliance with the Industry Animal Welfare Standards for *Livestock Processing Establishments: Preparing Meat for Human Consumption*. On 29 August 2019 animal activist organisations released footage captured by a hidden camera at the Wollondilly Abattoir. The New South Wales Department of Primary Industries [DPI] commenced an immediate investigation. The department's compliance officers and RSPCA NSW immediately conducted an inspection of the facilities that same day. The facility voluntarily suspended activities for a short time. Additional inspections were made on 30 August 2019, 2 September 2019 and 4 September 2019. On 4 September 2019 the NSW Food Authority implemented a prohibition on the processing of backfatter pigs and calves under 120 kilograms until such time as the company has effective equipment, documented systems and detailed monitoring programs in place

The prohibition will not be lifted until any new equipment, processes and systems have been reviewed and deemed acceptable. That was the suspension of activity the Minister was referring to. A determination on what other enforcement action may be implemented is still being considered. Investigations to date suggested that it is likely that the footage was recorded in January 2019. Neither the department nor RSPCA NSW was made aware of these matters until the publication of the footage, which may hamper effective investigation. Investigation into the matter by RSPCA NSW and the NSW Food authority is ongoing, including the thorough assessment of all operations and DPI has also been given remote access to monitor the facility. The investigation will determine what breaches have been committed and what enforcement actions will be implemented.

PETROL PRICES

The Hon. MICK VEITCH (16:42): My question is directed to the Minister for Finance and Small Business. Given Federal energy Minister Angus Taylor's statements yesterday that petrol prices will not increase due to the drone attacks in Saudi Arabia, will the Government give the same assurance to New South Wales families and small businesses, especially those in rural and regional New South Wales?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:43): I rely on the Hon. Angus Taylor, a man of great integrity in dealing with energy issues. He has great integrity in relation to the manner in which he deals with his landholdings. He has great integrity in relation to dealing with coal. I am more than comfortable to rely on the undertaking—

The PRESIDENT: The Clerk will stop the clock. The Minister will resume his seat. As I have indicated previously, I am trying to allow a robust question time. As I have also indicated previously, circumstances are different now because of the changes in the sessional orders that require a Minister to be directly relevant. I must listen carefully to a Minister's answer in case a point of order is taken. Continual interjections make that difficult. As much as I am enjoying them, I must listen to the Minister.

The Hon. DAMIEN TUDEHOPE: There is a significantly serious side to the question. Cost of living pressures for people in regional New South Wales and, in fact, cost of living pressures for people and families across the State, are seriously impacted by rising petrol prices. Notwithstanding that the Federal Minister has given an undertaking or made a submission—I do not necessarily want to embrace that submission—the fact is that underscoring the rising petrol prices is a problem that all governments need to be very cognisant of and that is the potential for petrol price rises to impact upon cost of living pressures.

The Government is already making significant steps in relation to compulsory third party insurance reform. It is also making significant concessions in relation to registration costs and the like. I thank the member for his question. I assure him that it is early days. I will not say that the Government will announce a policy on the run in Parliament because of a suggestion made by a member of Federal Parliament. It will need to be assessed in the context of all cost-of-living pressures that impact on regional New South Wales.

ABORIGINAL LANGUAGES ACT

The Hon. NIALL BLAIR (16:46): Mr President—

The Hon. Mick Veitch: That is how you tie your tie. That is a good tie.

The Hon. NIALL BLAIR: Double Windsor. Is there elastic behind yours? My question is addressed to the Aboriginal affairs Minister. Will the Minister update the House on the formation of the Aboriginal Languages Trust Board?

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) (16:46): I thank the honourable member for his question and the opportunity to provide an update on the Government's progress

on the Aboriginal Languages Act 2017. The Government has been working closely with communities and stakeholders through extensive consultation on the formation of the Aboriginal Languages Trust Board, as prescribed by the legislation.

The recruitment process for the Aboriginal Languages Trust Board officially commenced on 9 September 2019 and will close on 27 September 2019. The trust board will manage the affairs of the Aboriginal Languages Trust, an entity controlled by Aboriginal people to foster greater use of Aboriginal languages. The New South Wales Government will appoint a skills-based board of five to 11 members to join the board and manage the affairs of the trust board that will be tasked with bringing new life to Aboriginal languages.

Following its formation, the trust board will develop its five-year strategic plan that gives effect to the legislation and reflects the aspirations of Aboriginal people for the revitalisation and growth of their languages. The trust board will work with State and Federal agencies, non-government organisations and the philanthropic sector to coordinate investment and promote co-design and collaboration with Aboriginal communities of activities that support Aboriginal languages. That will include working with the Geographical Names Board of NSW on the use of Aboriginal languages and place names, promoting education and employment opportunities focused on languages and providing expert advice on the advancement of Aboriginal language activities. The priorities of the board will be developed over the next two years as the strategic plan is developed following the board's formation.

Aboriginal languages are central to the identity and wellbeing of Aboriginal people and are an irreplaceable part of the heritage of the whole of New South Wales. In this International Year of Indigenous Languages, I reiterate that this work has been guided at each point by the Aboriginal community. Once again I thank the Aboriginal Languages Establishment Advisory Group and other stakeholders across the State for their work over the past 16 months.

CONTENTIOUS LEGISLATION

The Hon. MARK LATHAM (16:49): My question is directed to the Leader of the Government. I draw his attention to his statement in the House on 20 June acknowledging that if the Government had followed an extensive green and white paper process it "might not have got itself into trouble on a few pieces of legislation". After controversies about greyhound racing, council amalgamations and lockout laws and in light of recent events, will the Government finally implement a deliberative and consultative green and white paper process for contentious bills, whether from private members or from the Government itself?

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) (16:50): My recollection is that the Procedure Committee has been invited to have a look at this matter. I think that is a good thing. As the honourable member knows, I had a long meeting with Professor Percy Allan who, as I understand, has reported back to him on our useful conversation. The message I got back from Professor Percy Allan was that the member was pleased with the outcome of those discussions. I think that reflects the situation. It is important and it was the right thing not to make a decision on this in June, to invite all members of the House first of all at the Procedure Committee with a discussion and then at another debate subsequently to reflect on those issues. As a result, I believe we will get a better outcome that will enable us to do our job as a House of review, which is ultimately the most important thing that we can achieve.

MATTHEW HANA

The Hon. WALT SECORD (16:51): My question without notice is directed to the Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Leader of the Government. What is the Minister's response to community concerns about the activity of a Mr Matthew Hana following an incident at the Assyrian Sports and Culture Club in Fairfield on 28 June where police officers from Strike Force Raptor were called to a political party meeting? Will the Minister assure the House that Mr Hana is not involved in assisting Government members in this Chamber?

The Hon. Scott Farlow: Point of order: The question needs to relate to the public affairs to which the Minister is connected. I cannot see it. I think it is a very long bow for the Hon. Walt Secord to be asking a question in this matter of the Minister, who has responsibilities for the public service and other portfolios.

The Hon. Walt Secord: To the point of order: I have two points: I did not refer to a specific political party—I said political activity—and I referred to Strike Force Raptor, which is a policy and a task force that this Government has announced many times and taken credit for in the public arena. The question is very much in order.

The PRESIDENT: I refer to a previous ruling firstly by the then President Burgmann and repeated by the then President Primrose and the then President Fazio. The ruling states:

> Questions may be put to Ministers relating to public affairs with which the Minister is officially connected, to proceedings pending in the House or to any matter of administration for which the Minister is responsible.

The then President Burgmann also ruled:

> Questions must relate to the conduct of public affairs within the government's responsibility which could be dealt with by legislative or administrative action.

I must say I find it very difficult to connect the question to those rulings. The question is out of order.

STUDENTS WITH DISABILITY

The Hon. TREVOR KHAN (16:54): My question is addressed to the Minister for Education and Early Childhood Learning. Will the Minister update the House on the Australian Council for Educational Leaders National Disability Summit and outline how the New South Wales Government is supporting students with disability in New South Wales?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:55): I thank the Hon. Trevor Khan for his question. Last week I had the opportunity to attend the Australian Council for Educational Leaders National Disability Summit. The annual event sees 200 teachers, school leaders and learning support staff from a mix of government, Catholic and independent schools come together from across New South Wales and interstate. Speakers included special education professors from a number of universities as well as lived-experience speakers, including Paralympian and Australian world record holder Michael Milton.

It is a great opportunity to bring together teachers, school support staff, non-school-based staff and leaders to share knowledge, experience and passion. Around 15 per cent of New South Wales public school students—more than 120,000 students—across our New South Wales schools receive adjustments or personalised learning and support. This year more than 23,970 students with confirmed disability are enrolled in 3,385 specialist support classes in mainstream and special schools. The overwhelming majority—around 97 per cent of students with disability—learn in mainstream public schools and around 80 per cent of students with disability learn in mainstream classes within mainstream schools.

The New South Wales Government provides a range of support for students with disability and additional learning needs. As well as base funding, all mainstream schools receive an additional equity loading to support students with disability and additional learning needs. The Government wants to ensure that students with disability have access to the highest quality education, regardless of whether they are enrolled in mainstream classes, specialist support classes or a school for a specific purpose. The Disability Strategy, which was released in February this year, makes a strong commitment to increasing the skills and capabilities of our public school workforce. Our goal is to increase the number of New South Wales public teachers studying a master of inclusion and special education by 50 per cent in 2022.

To make real change, we know it is not just about working with our current teachers. We also need to embed inclusive practices in education in undergraduate programs so our future teachers and leaders can have the confidence and capabilities to ensure that our students have access to a high-quality and inclusive education that meets their individual needs. We will work alongside universities to provide feedback on what our new scholars and other teachers in our system are saying could be valuable content and approaches in the undergraduate teaching courses. All of us in the education system hold a shared responsibility to ensure that all students can thrive academically and socially and have the skills to live a fulfilling and independent life. We recognise that there is always more work to do. I look forward to continuing to work with our teachers and leaders to ensure that students with disability receive the support they need to achieve their potential.

FIRE PERMITS

Reverend the Hon. FRED NILE (16:58): My question without notice is directed to the Hon. Sarah Mitchell, representing the Minister for Police and Emergency Services, the Hon. David Elliott. Is the Minister aware of any delays in the granting of fire permits by the NSW Rural Fire Service, particularly to organisations that specialise in conducting controlled burns and have already been granted hazard reduction certificates? In particular, is the Minister aware of an organisation, Fire Support NSW, that has recently had to wait two months before being able to conduct a controlled burn in the Avondale region where residential homes will be under threat of bushfires this season? Should such delays be acceptable to the emergency services and the people of New South Wales?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:58): I thank the honourable member for his question. It is timely to put on record the thanks of everyone in the Chamber

for the work that the RFS has been doing about the bushfires across our State in recent days. These are fairly horrific circumstances for many communities. The hardworking men and women of the RFS who have been on the ground day in and day out battling these blazes deserve our full support and recognition in this Chamber. I will put that on record. On behalf of all members of the House, I express our gratitude for the work they do. In terms of the specifics of the honourable member's question in relation to permits, he has asked me in my capacity representing the Minister for emergency services so I will take that part of the question on notice and come back to him.

MATTHEW HANA

The Hon. WALT SECORD (16:59): My question without notice is directed to the Minister for Education and Early Childhood Learning representing the police Minister. What is the Minister's response to community concerns about the activity of Mr Matthew Hana, following an incident at Fairfield Assyrian Sports and Culture Club on 28 June, where police officers from Strike Force Raptor were called to a political party meeting? Will the Minister assure the Parliament that he is not involved in assisting Government members in this Chamber, as featured on *A Current Affair*?

The PRESIDENT: I think the answer is an operational matter.

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (17:00): I will take the question on notice as it was asked of me representing the police Minister.

MENTAL HEALTH SERVICES

The Hon. MATTHEW MASON-COX (17:01): My question is addressed to the Minister for Mental Health, Regional Youth and Women.

The Hon. Walt Secord: The mouse that roared!

The Hon. MATTHEW MASON-COX: That would make you the elephant, of course.

[*Members interjected*.]

Will the Minister explain how the New South Wales Government is meeting its mental health reform commitment to support people who are long-stay patients in mental health hospitals transition into safe community care?

The PRESIDENT: Order! I did not hear 10 per cent of that question and I do not know how Hansard would have because of the continual interjections. I indicate to all members that interjections are disorderly at all times. I indicate also that the speaker should not encourage interjection. The Clerk will restart the clock and the member will re-ask the question with no interjections and no encouragement for interjections.

The Hon. MATTHEW MASON-COX: My question is addressed to the Minister for Mental Health, Regional Youth and Women. Will the Minister explain how the New South Wales Government is meeting its mental health reform commitment to support people who are long-stay patients in mental health hospitals transition into safe community care?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (17:02): I thank the honourable member for his question. The New South Wales Government is committed to improving access to mental health services and supports for the people of New South Wales. Hospital inpatient and community-based mental health care are important and complementary parts of the health system. Through the New South Wales mental health reforms, the Government has reaffirmed its commitment to build and strengthen community-based support, while also improving and refining inpatient care.

Transitioning people who are long-stay patients in mental health hospitals into safer community care is a key program under these reforms. No-one wants to spend any more time in a hospital than they need to. The Pathways to Community Living Initiative [PCLI] is being rolled out in two stages of service development. During stage one of the initiative $5.2 million per annum was invested to expand mental health residential aged-care partnership services to assist long-stay mental health patients with aged care needs to transition to the community. This involved non-government aged-care providers and specialist clinical mental health services in local health districts.

Successful transitions occurred for older people who would otherwise remain in hospital for the rest of their lives. They are moved closer to their family and experience normal ageing, living in the community with 24-hour support and care. Early evaluation findings of stage one, gathered from the Australian Health Services Research Institute at the University of Wollongong, indicate that the initiative is fostering system reform and transforming people's lives. Stage two of the Pathways to Community Living Initiative will build on this work

and it is a key priority under the New South Wales Government's $700 million statewide Mental Health Infrastructure Program. As part of the investment, planning is in place to deliver a program of 230 new 24-hour-a-day stepped care community-based beds in purpose-built environments.

The program will support the transition of long-stay mental health patients 18 years and over with very complex needs and their recovery in the community. Funding of $2.2 million committed in the 2017-18 budget has increased by $2.6 million in 2019-20 to $4.8 million per recurrent, to provide additional PCLI complex care clinicians in key local health districts. That will facilitate community transitions to existing services for this age group, where possible. At December 2018, 161 of the 380 cohort of long-stay patients had already been transitioned to the community—a really terrific effort by all the staff involved.

The Hon. DON HARWIN: The time for questions has expired. If honourable members have further questions I invite them to place them on notice.

[*Business interrupted*.]

Visitors

VISITORS

The PRESIDENT: On behalf of all members. I welcome to the President's gallery the Hon. John Jobling, who was a member of the Legislative Council from 1984 to 2003. He was Government Whip from 1988 to 1995 and Opposition Whip from 1995 to 2003. He is most welcome.

The Hon. DON HARWIN: My own greetings to my illustrious predecessor as Opposition Whip, the Hon. John Jobling.

Questions Without Notice

BIRRONG GIRLS HIGH SCHOOL

[*Business resumed*.]

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (17:06): Earlier today the Hon. Anthony D'Adam asked me a question in relation to an incident at Birrong Girls High School. I can inform the House that a principal was physically assaulted by a parent during a student disciplinary meeting. That is unacceptable behaviour. It was immediately reported to the police. I can advise that the school was not closed as a result of the incident. Operations were disrupted earlier in the day due to an unrelated plumbing issue. I can advise also that the parent was charged by the police and is currently on bail with an order not to go near the school or the principal. Ongoing support is being provided to the principal and to the school staff.

Questions Without Notice: Take Note

TAKE NOTE OF ANSWERS TO QUESTIONS

Mr JUSTIN FIELD: I move:

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

SOUTH COAST LAND REZONING

Mr JUSTIN FIELD (17:07): I recently received some answers to questions on notice from the New South Wales planning Minister. I was prompted to asked those questions about urban planning and development issues, on the South Coast in particular, because a number of members of the community expressed concern about the large areas of bushland and farmland that were being consumed by residential development in the region. I put on record in the House my concern, as well, about the answers that have come back. In particular, I asked the question, "Since 2010, many hectares of land have been rezoned to a residential zoning from a rural or environment zoning?" That was for the areas of the Illawarra and South Coast—all local government areas across that region. Over 1,100 hectares of bushland and farmland have been rezoned since 2010 for residential development. The epicentre for those changes in planning zones has been in the Shoalhaven.

So many of the small coastal villages across the Shoalhaven have had areas of bushland and farmland rezoned for residential development—about half of the total, 576 hectares. This is an area the equivalent of twice the size of the Sydney CBD—about five square kilometres. As members can imagine, that would have a massive impact on many of the small coastal villages across the Shoalhaven. Another question I asked was, "What area of land is currently zoned R1 or R2 where there is no approved residential development consent?" The answer I got back was that land the equivalent of about 30,000 house lots is currently zoned for R1 or R2, where there is no approved residential development consent. Many of those sites are currently bushland or farmland.

There is a ticking time bomb on the South Coast. When people in this House and when many people in the community visit their favourite holiday spots on the South Coast in the upcoming Christmas period they will be shocked by some of the areas of bushland and farmland that have been pushed for housing. I understand that there is a development pressure down there, but the volumes are huge and the impact on the natural environment and on farmland is significant. The big economic advantage of the South Coast is its beautiful natural environment and its agricultural and rural outlook. Those things are being lost. The economic value of the region in nature-based tourism and in sustaining our agricultural economy is being lost by unsustainable residential and urban development across the area. I believe it is in the interests of all members to do what they can to hold some of this in check and to ensure that we do not lose our beautiful environment for development.

MATTHEW HANA

The Hon. WALT SECORD (17:10): I make a brief contribution to the take-note debate in relation to the question I asked the Leader of the Government, representing the Minister for Police and Emergency Services, which I then reframed, repositioned and re-presented to the Minister. It is very disappointing that both members of this Government pretend to have no knowledge of the person mentioned in the question.

The Hon. Trevor Khan: Point of order—

The Hon. WALT SECORD: He is a thug and should not be in the Liberal Party.

The Hon. Don Harwin: Point of order—

The PRESIDENT: I call the Hon. Walt Secord to order. He knows better than that. When a point of order is being taken by a member, the member with the call should resume his seat and most certainly should not scream out comments.

The Hon. Don Harwin: By making the comment that the Ministers who answered the question were "pretending", the member was effectively saying that we were misleading or, in fact, lying to the House. That is a gross reflection on both the Deputy Leader of the Government and me. I invite the President to call the member to order.

The Hon. WALT SECORD: To the point of order: At no point did I use the word "lie", but it is very clear that he is a prominent member of the Liberal Party appearing in Liberal Party material and how-to-votes.

The Hon. Natasha Maclaren-Jones: Point of order—

The Hon. WALT SECORD: They cannot claim they do not know this person.

The Hon. Niall Blair: Point of order—

The PRESIDENT: The member will resume his seat. I know exactly what the point of order will be and I do not need to hear it. I indicate a number of matters. First, a member is given the call by the Chair at the discretion of the Chair; the Chair can always withdraw that call. Secondly, the member is well aware that the use of props is disorderly. To simply utilise a prop during a point of order is completely unacceptable. Thirdly, a debating point on a point of order is unacceptable and that is what the Hon. Walt Secord was doing. Fourthly, I have already ruled on a number of occasions what is permitted in relation to a take-note debate when the sessional order first came into place. I have also ruled subsequently in relation to the variation of the sessional orders.

I indicate clearly that a speaker will be in order as long as the contribution is relevant to the subject matter of the question asked and the answer given. The Hon. Walt Secord was going well beyond that sessional order. For the member to start to bring in imputations as to what he believes a Minister did or did not do is unacceptable. The member's time has expired.

CONTENTIOUS LEGISLATION

The Hon. MARK LATHAM (17:13): On a matter more dignified for the Chamber, I want to take note of the answer by the Leader of the Government to my question earlier today. I raised the question mainly out of concern that on 20 June, as a matter of policy, the Leader of the Government said that notwithstanding anything that would happen at the Procedure Committee it was the Government's position that it did not think sessional orders should ever dictate to the Government or to the Chamber the process that should be followed, and he set out a range of processes—more deliberative, more consultative.

I would like the Government to make a policy statement that on contentious bills, whether they are presented by a private member or by the Government itself, it is government policy to have an elaborate, consultative, deliberative process in place. I believe in light of recent events, and going back further to greyhound racing, council amalgamations and lockout laws, the people of New South Wales would expect the Government to have better processes. I speak on behalf of One Nation in saying that we have no beef with this Government,

other than the denial of proper process time after time. We came here to judge the merits of legislation as we found it and we continue that policy. But if the Government keeps on denying process to the point where 14,000 citizens can lodge submissions but only 100 are read at a parliamentary committee, if the Government keeps on having processes, many of them held in secret and sprung upon the Parliament at the last available moment, we will continue to have difficulties with this administration.

The Leader of the Government here is a good political friend of the Leader of the Government in the other place. I think a good political friend would be saying to the Premier, "We need a policy statement about proper process, particularly for the Legislative Council as an established House of review", and, as part of that, I think it would be political wisdom for the Premier to apologise for these denials of processes and pledge to get it right into the future. I know back in the day in Queensland Peter Beattie made an art form of the apology, the mea culpa, and it was a wonderful political virtue. I thought at one stage Beattie was making mistakes just so he could apologise for them. It is not a sin, it is not shameful in politics, it is not embarrassing to apologise and fess up to mistakes, and I think the Government should acknowledge that. I look forward to what the Procedure Committee delivers back on my green, white paper process.

Mr David Shoebridge: When did you last apologise?

The Hon. MARK LATHAM: I apologise for sitting here with you. I apologise for the indignity of having to serve here with a bunch of lunatic beings who are off with the pixies on so many issues. I go home and apologise to my family night after night that I could be contaminated by the green virus.

The Hon. Trevor Khan: Point of order—

The PRESIDENT: The honourable member will resume his seat.

The Hon. Trevor Khan: That was an unholy display. Clearly Mr David Shoebridge lost all control, not assisted by the goading threats of the Hon. Mark Latham, who is obviously demonstrating an incapacity to control himself as well.

Mr David Shoebridge: I apologise.

The PRESIDENT: I uphold the point of order. I have indicated on a number of occasions that members should not interject. The member speaking should not acknowledge the interjection and the member speaking should not encourage the interjection. The difficulty for the Chair is that one member commences an inappropriate action, which is disorderly, and then there is suddenly a ricochet effect and I am meant to suddenly rule on it. I indicate to both members that they were both being disorderly. I do not intend to call either of them to order. The member's time has expired.

BIRRONG GIRLS HIGH SCHOOL

The Hon. ANTHONY D'ADAM (17:17): I take note of the answer provided by the Hon. Sarah Mitchell to a question that I asked in relation to a very concerning incident at Birrong Girls High School. It is a serious issue that has been raised. Although this incident did not result in serious harm to the principal, of greater concern is that it could have—this principal could have been very seriously hurt. We know that teachers routinely are asked to meet with parents after hours and the question that I sought from the Minister related to the actions that the Minister had taken. The situation gives rise to an identification of a clear risk to teachers and teaching staff. It is clear that there are not adequate hazard controls in place and that is contrary to the obligations the department has to provide for a safe workplace. Clearly this issue needs to be rectified.

The PRESIDENT: That is a good example of how a take-note debate should occur. The question is that the motion be agreed to.

Motion agreed to.

Deferred Answers

VEHICLE REGISTRATION

In reply to **the Hon. ROD ROBERTS** (6 August 2019).

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)—The Minister provided the following response:

I am advised:

1. — 2. Every vehicle owner in New South Wales, whether an individual or a company, receives a paper "rego due" letter six weeks before the due date. Further, if a customer has 10 or more motor vehicles registered in New South Wales under the one name, address and customer number, they can apply for a Common Expiry

Date, where all the vehicles in the fleet will have registrations due on the same day each year. Service NSW offers an online registration check. Organisations and individuals can do a free registration check at any time online on vehicles previously or currently registered in New South Wales.

3. This is a matter for the Minister for Customer Service.

PINE PLANTATION PRIVATISATION

In reply to **Mr DAVID SHOEBRIDGE** (6 August 2019).

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

I thank the member for the question and refer you to my comments in *Hansard* of 21 August 2019.

COMMERCIAL FISHING INDUSTRY

In reply to **the Hon. MARK BANASIAK** (6 August 2019).

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

The Regulatory Impact Statement for the Fisheries Management (General) Regulation 2019 was done in June 2019. At that time there were 1,069 commercial fishing licence holders, i.e. over 1,000 commercial fishers.

The central aim of the reforms was not to reduce the number of latent shares, but to provide fishers with more secure and valuable rights by implementing share management as it was originally intended—by linking the number of shares to the level of resource access.

COMMERCIAL FISHING INDUSTRY

In reply to **the Hon. ROBERT BORSAK** (6 August 2019).

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

1) **Advice to put best bid forward in first round, but subsidy not paid until final round**

The Subsidised Share Trading Market was designed to have up to three rounds of bidding, with the possibility of closing after one or two rounds.

Multiple rounds of bidding provided an opportunity for fishers to get important feedback on whether their expectations were realistic, and adjust their bids and offers if necessary, before the market closed.

All participants were asked to submit their best bid or offer from round one, to increase the chances of bids and offers being matched and fishers receiving realistic price information.

Three rounds of bidding were needed to allow fishers to adjust their prices to levels where a large number of buyers and sellers could be matched.

2) **Who knew of how the subsidy was to be divided across the three rounds of share trading?**

The subsidy was not "divided" across the three rounds of share trading. No shares were transferred, and therefore no subsidy was paid, until the market was closed.

This was fully explained in the Market Rules document that was posted to all fishers and also published on the DPI Fisheries website.

3) **Transfers of mud crab shares prior to the share trading market**

Between 31 May 2016 (when the Minister announced the Business Adjustment Program) and 1 May 2017 (commencement of the Subsidised Share Trading Market), a total of 10,523 mud crab trapping shares were transferred.

SYDNEY METRO NORTHWEST

In reply to **Ms ABIGAIL BOYD** (6 August 2019).

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)—The Minister provided the following response:

I am advised:

Changes to bus services in Sydney's north west were introduced to support customer access to new Sydney Metro services and to deliver the best integrated transport system for the North West. The adjustments reflect changes in customer demand and travel patterns, and have allowed for resources to be redeployed to provide improved local services and to reduce service duplication. As announced in 2014, the operator of the Metro earns no revenue from the number of customers who use it. All revenue is collected by the New South Wales Government.

WATER QUALITY

In reply to **Ms CATE FAEHRMANN** (6 August 2019).

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

WaterNSW has no legislated responsibility for managing water quality for recreation in swimming sites downstream of storages. Recreational sites are generally the responsibility of local councils. Multiple agencies collect water quality in the Hawkesbury-Nepean River system.

Within the Great Sydney drinking water catchment, WaterNSW monitor sites in rivers, water bodies, groundwater, water storages and the delivery network. Monitoring is a critical tool for managing the water supply—as it provides early warning of changes to water quality—so that the configuration of the water supply system can be adapted to ensure only the best quality water is supplied to customers.

LANDCOM

In reply to **the Hon. PENNY SHARPE** (7 August 2019).

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)—The Minister provided the following response:

I am advised:

In December 2018, Suzanne Jones, Chair of Landcom, went on leave while allegations made against her were investigated by an external independent investigator, independent of the Landcom Board and Management, and overseen by Treasury.

The investigation is now complete and the Secretary of Treasury as the decision maker in this matter has determined that no further action is to be taken.

As a result of the Secretary of Treasury's decision, Ms Jones resumed her duties as Landcom Chair in June 2019.

As this matter falls within the portfolio of responsibility for the Minister for Planning and Public Spaces, any further questions should be directed to his office.

CROWN RESORTS

In reply to **Mr JUSTIN FIELD** (7 August 2019).

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)—The Minister provided the following response:

I refer you to Minister Dominello's answer to the member for Balmain's Question without Notice in the Legislative Assembly on 21 August 2019.

LANDCOM

In reply to **the Hon. ADAM SEARLE** (7 August 2019).

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)—The Minister provided the following response:

I am advised:

An independent investigation was commenced into allegations raised against Ms Chadwick following receipt of a formal complaint on 29 November 2018. Prior to the conclusion of the investigation Ms Chadwick's role was removed as part of an organisational restructure. As such the investigation was ceased.

As this matter falls within the portfolio of responsibility for the Minister for Planning and Public Spaces, any further questions should be directed to his office.

OFFICE OF ENVIRONMENT AND HERITAGE

In reply to **the Hon. MICK VEITCH** (7 August 2019).

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

I am advised of the following:

The then Office of Environment and Heritage [OEH] commenced its investigation into land clearing by Jam Land Pty Limited by seeking independent advice on whether the area sprayed was likely to be native grassland. Representatives of Jam Land provided the then OEH with a copy of an assessment undertaken on its behalf, that concluded the vegetation did not meet the definition of native grassland.

In the case of Fairross Pty Limited, details of the self-assessment were provided by Duncan Taylor, a director of the company, as soon as requested by OEH. Self-assessment is permissible under the Land Management Code. An independent assessment was not required as there was no evidence to suggest that the self-assessment was not satisfactory.

DISABILITY SERVICES

In reply to **Reverend the Hon. FRED NILE** (7 August 2019).

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

As the question relates to disability services, this is a matter for the Hon. Gareth Ward, MP, Minister for Families, Communities and Disability Services.

LAND CLEARING

In reply to **the Hon. MARK PEARSON** (7 August 2019).

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

In respect of land clearing no amnesty has been granted. Compliance with the Government's land clearing legislation is a matter for the Minister for Energy and Environment and questions regarding specific cases should be referred to that portfolio.

NEWSTART ALLOWANCE

In reply to **the Hon. DANIEL MOOKHEY** (7 August 2019).

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business)—The Minister provided the following response:

I have been advised NSW Treasury has made no formal submissions to the Commonwealth Government's Senate Community Affairs References Committee inquiry into the adequacy of Newstart and related payments.

PARRAMATTA EAST PUBLIC SCHOOL

In reply to **the Hon. ADAM SEARLE** (8 August 2019).

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

This project for a new primary school in Westmead is currently in the early planning phase which considers a number of factors including demographic trends; educational requirements; catchment boundaries; site identification and due diligence studies; transport links and partnership opportunities.

In line with all School Infrastructure NSW projects, more information will be shared with and feedback sought from the school and local community as the project progresses.

I can further advise that at Parramatta East Public School, the two new demountable classrooms and additional toilet facilities were completed and handed over to the school on 15 August 2019.

COMMERCIAL FISHING INDUSTRY

In reply to **the Hon. MARK BANASIAK** (8 August 2019).

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

The New South Wales Government took considerable care to ensure the integrity of the Subsidised Share Trading Market, this included appointing an independent probity adviser to oversee the design and operation of the market. The probity arrangements surrounding the Share Trade Market have also been examined through an independent audit process.

If the honourable member has any evidence that the integrity of the Share Trading Market was compromised, it should be provided to the appropriate authorities as a matter of urgency.

In addition, please be advised that the Ministerial Fisheries Advisory Council was not established until 2014.

NARSZA PTY LIMITED

In reply to **the Hon. ROBERT BORSAK** (8 August 2019).

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

I am advised that the company referred to is not liquidated, the shares were issued correctly, and the company was not removed from a "register" by NSW DPI.

NEIGHBOURHOOD WATCH

In reply to **the Hon. DANIEL MOOKHEY** (8 August 2019).

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business)—The Minister provided the following response:

Neighbourhood Watch is a vital community group that supports police in crime prevention and engaging with the public.

Since the matter has come to the New South Wales Government's attention, we have taken proactive steps to clarify the matter at hand.

I am pleased to inform the member that we will be providing the organisation with a $9,500 grant to cover the current financial year's insurance.

SHARK NETS

In reply to **Ms ABIGAIL BOYD** (7 August 2019).

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

Bather protection is our number one priority when it comes to shark mitigation in New South Wales.

The nets of the Shark Meshing Program are not a guarantee that shark interactions will never happen, but a study of shark control programs in New South Wales, Queensland and South Africa, reported that following the introduction of shark nets, there was a reduction in the rate of shark interactions by up to 90 per cent.

While the Shark Meshing Program appears to be effective at protecting beachgoers, the Government recognises that the nets have an impact on marine life, which it seeks to minimise by:

- managing the program in accordance with a Joint Management Agreement under the threatened species provisions of the Fisheries Management Act 1994 and the Biodiversity Conservation Act 2016;
- preparing annual reports for review by the independent NSW Fisheries Scientific Committee and the NSW Threatened Species Scientific Committee;
- fitting acoustic warning devices on the nets that act like an underwater alarm for dolphins and whales to minimise the chances of entanglements;
- checking the nets every 12 to 72 hours, and releasing all marine life found alive in the nets, including the target sharks, where it is practical and safe to do so;
- removing the nets from May until the end of August to avoid the peak of the whale migration season; and
- trialling other bycatch reduction technologies, such as LED lights this season to reduce the catch of turtles.

This Government is also continuing to trial alternative technologies to increase safety for beachgoers from sharks, including;

- aerial surveillance using drones and helicopters;
- non-entanglement shark barriers;
- shark tagging and tracking;
- SMART drumlines, which allow sharks to be tagged, relocated and released;
- our 21 VR4G listening stations, which provide real-time data of tagged shark movements along our coast;
- providing funds for PhD students to increase our knowledge of sharks;
- providing funds for product developers of shark detection and deterrent systems;
- community education and stakeholder engagement; and
- working with surf lifesaving organisations, local councils and other beach authorities to increase their skills and capacity for increased beachgoer safety.

More information about the New South Wales Government's shark meshing (bather protection) program is available online at https://www.sharksmart.nsw.gov.au/.

NATIVE FORESTS

In reply to **the Hon. EMMA HURST** (8 August 2019).

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)—The Minister provided the following response:

I am advised:

> Any rescission of, or amendment to, a heritage listing on the State Heritage Register requires a legislated process to be followed. There is no proposal that would affect the listing of State heritage-listed forests on the north coast before the department.

COUNTRY UNIVERSITIES CENTRE

In reply to **the Hon. TARA MORIARTY** (8 August 2019).

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)—The Minister provided the following response:

I refer you to my answer to the Hon. Courtney Houssos' Question without Notice on 29 May 2019.

COUNTRY UNIVERSITIES CENTRE

In reply to **the Hon. MARK BUTTIGIEG** (8 August 2019).

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

I am advised that the new contract being negotiated with CUC will reflect best practice reporting, robust data provision obligations, including around success and completion rates, and a comprehensive evaluation of the program.

MENTAL HEALTH

In reply to **the Hon. WALT SECORD** (20 August 2019).

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

The New South Wales Government has committed an investment of $2.8 billion to recruit a total of 8,300 health frontline staff with 45 per cent in regional New South Wales.

- Regional NSW will receive nearly half of this workforce boost, with more than 3,700 staff to be recruited into country towns and regional cities.
- The new investment will fund targeted areas of services and workforce including additional:-
    - 5,000 nurses and midwives including mental health and residential care nurses
    - 1,060 medical staff including doctors, psychiatrists and specialists to enhance response times for patients waiting in emergency departments, for elective surgery, and to access psychiatric care
    - 880 allied health staff including pharmacists, social workers, physiotherapists, occupational therapists and psychologists
    - 1,360 hospital support staff.
- Staffing in applicable adult acute mental health wards in specialist mental health hospitals will be increased from 5.5 to 6 nursing hours per patient day over the next four years which will mean an increase of 23 nursing staff to support patients.
- Mental Health initiatives detailed in the 2019-20 State Budget include:
    - $23.5 million over four years to expand the capacity of Lifeline and Kids Helpline
    - $19.7 million in 2019-20 to support implementation of key initiatives to drive suicides towards zero in New South Wales
    - $3 million in funding over four years for the Gidget Foundation, a not-for-profit organisation, to expand its work to stop maternal suicide, by identifying, diagnosing and treating perinatal depression and anxiety among mothers and fathers.
    - Over $7.7 million to expand specialist community-based older people's mental health services to help meet the needs of our ageing population.
    - Over $5.2 million to expand mental health-residential aged care partnership services to assist long-stay mental health patients with aged care needs to transition to the community under stage one of the Pathways to Community Living Initiative. This includes approximately $2 million for non-government aged care providers and approximately $3.2 million for specialist clinical mental health services provided by LHDs.
    - $2.4 million per annum over five years from 2019-20 until 2023-24 to increase eating disorder coordinators in local health districts and provide additional support to the InsideOut Institute.
    - $1.1 million for perinatal and infant mental health services to support an ongoing commitment to good health for mothers and their children.
    - $1.1 million per annum from 2017-18 to 2021-22 to the Project Air Strategy for Personality Disorders [Project Air] to support a staged program rollout to be completed by June 2020.
    - $8.3 million to continue to expand mental health support for those affected by drought.
    - $1.1 million per annum to fund increased mental health services for people living with intellectual disabilities and comorbid mental health conditions, including the formation of two statewide tertiary intellectual disability and mental health hubs.
- $4 million has been allocated in the 2019-20 Service Agreements with local health districts [LHDs] for 43 FTE for the first year of this commitment, of which 1.5 FTE is for mental health.

- $750,000 was allocated in 2019-20 Service Agreements for six FTE psychologists to work in drought affected areas in five LHDs.
- Information for each local health district's funding for mental health services is published online (via each local health districts website), following endorsement by the respective local health district board.

REGIONAL WATER SUPPLY

In reply to **the Hon. MARK PEARSON** (20 August 2019).

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

In response to extreme drought across much of regional New South Wales, the New South Wales Government has invested more than $1.8 billion in drought assistance.

Helping regional communities and industries through drought is a priority of the New South Wales Government; the funding includes a range of assistance to bolster rural and regional farmers and communities.

The New South Wales Government is also looking towards the medium and long term future of the state by developing 12 regional water strategies that will identify infrastructure and policy opportunities to improve water security and the resilience of our water resources.

The strategies will provide best available information about water security risks in each region and identify solutions to improve the resilience of water resources including investment in infrastructure; changes to how we manage and operate river systems; and changes to our regulatory and policy frameworks.

HOSPITAL SECURITY

In reply to **the Hon. ROD ROBERTS** (20 August 2019).

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

The safety of staff, patients and visitors to New South Wales public hospitals is paramount and NSW Health maintains comprehensive policies and procedures, as well as training and education to ensure that all staff have the skills and support needed to prevent and manage escalating situations when they arise.

Steps have been undertaken to improve physical security measures and access controls at hospitals, enhance CCTV systems, and upgrade personal duress alarms for staff in emergency departments across New South Wales, which they must wear while on duty.

Former Health and Police Minister, the Hon. Peter Anderson, AM, was appointed in November 2018 to review security in New South Wales public hospitals. His interim report was published in February 2019 and is publicly available. Work on implementing the preliminary recommendations is underway and a final report is expected by the end of the year.

AMP FINANCIAL ADVISERS

In reply to **the Hon. DANIEL MOOKHEY** (20 August 2019).

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business)—The Minister provided the following response:

AMP Limited is a financial services company that provides superannuation and investment products, insurance, financial advice and banking products. As a financial services company, AMP operates within a Commonwealth legislative framework that regulates the types of products and activities that AMP is focused on. For example, I note the Australian Securities and Investments Commission [ASIC] regulates financial advice industry at the Commonwealth level, including the "Future of Financial Advice" reforms and the requisite licensing.

As I have stated previously in relation to this matter, my understanding is that following the Financial Services Royal Commission (more commonly referred to as the Hayne Royal Commission) and subsequent reputational damage to AMP, AMP has sought to completely revamp its business structure to ensure it continues to meet its obligations to customers. I understand as a part of but not limited to this restructure, AMP has decided to reduce its financial adviser network, as well as buying back contracts at a lower rate than previously advised.

The community and Government would expect that any and all actions AMP undertakes should be within the legal framework in which it operates. If any Commonwealth or New South Wales laws have been breached, my expectation would be these matters would be raised with the proper Commonwealth agency or be brought before the courts.

I sympathise with small business owners who now face uncertainty and financial hardship as a result of AMP's action. It is particularly disappointing that, if media reports are correct, that the industry was not properly consulted on such a significant change to established practices. I would urge any New South Wales-based small business AMP adviser negatively impacted by this action to contact the NSW Small Business Commissioner as a first step to ascertain what services or support is available.

Small businesses may wish to discuss any potential breaches of contract with the NSW Small Business Commissioner, who can provide initial strategic and commercial advice to help them plan their best way forward. I note that to date no contact has been received by any such small business owner.

DEPARTMENT OF EDUCATION STAFF PAYOUTS

In reply to **the Hon. MARK BANASIAK** (20 August 2019).

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

No budget has been set aside in the Department of Education forward estimates for out-of-court settlements.

DEPARTMENT OF EDUCATION STAFF PAYOUTS

In reply to **the Hon. ROBERT BORSAK** (20 August 2019).

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

The Department of Education is insured by the Treasury Managed Fund. The fund manager, Allianz Australia, is responsible for assessing all workers compensation claims and determining liability for claims in accordance with the workers compensation legislation. Therefore, the department does not have this data as all payments are made in accordance with the legislation by the fund manager and an employee's reasons for resignation is not recorded.

SEXUAL VIOLENCE

In reply to **Ms ABIGAIL BOYD** (21 August 2019).

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

Violence against women, including sexual violence against women, is a key focus of the New South Wales Government's attention.

Since the *Change the Course* report was published, I am advised that Women NSW has developed and released the NSW Sexual Assault Strategy 2018-2021. The strategy focuses on five reform areas: prevention, education, supporting victims and survivors, holding perpetrators to account and reshaping the service system. The scope of these reform areas extends to educational institutions such as TAFE, university campuses and residential colleges and significant cross-agency work is in progress to deliver the 26 activities under the strategy. More information on the strategy is available on the Women NSW website at https://www.women.nsw.gov.au.

On 1 July 2019, the New South Wales Government also joined Our Watch, whose aim is to drive nationwide change in the cultures that lead to violence against women. The decision to join will change the way primary prevention work is coordinated in this State and means New South Wales is now proudly part of a cohesive national primary prevention approach to address domestic, family and sexual violence.

A community education campaign, #makenodoubt, was also released in December 2018. The campaign used social media videos and posters to raise awareness about the importance of seeking consent. The campaign was effective, securing nearly 500,000 video views across the department's social media channels, being adopted by New South Wales universities and TAFE campuses for use in Orientation Week and receiving major national and international media coverage.

MENTAL HEALTH SERVICES

In reply to **the Hon. ANTHONY D'ADAM** (21 August 2019).

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

The Drug and Alcohol Treatment Act 2007 provides the legislative basis for IDAT, and ensures that involuntary treatment is only used as an option of last resort, when no other less restrictive means are appropriate.

In 2016 the Government provided an additional $14.5 million over four years to help people with severe substance dependence.

PLATYPUS CONSERVATION INITIATIVE

In reply to **the Hon. EMMA HURST** (21 August 2019).

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

I am advised that in waterways where opera house traps can be used, modifications are required to avoid bycatch, including platypus. Traps are required to have a bycatch reduction device with a maximum diameter of 90 millimetres (fixed ring) fitted to all entrance funnels.

Further information is available at www.dpi.nsw.qov.au/fishing/recreational/fishing-rules-and-regs/perm-prohib-freshwater.

PLATYPUS CONSERVATION INITIATIVE

In reply to **the Hon. WALT SECORD** (21 August 2019).

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

I am advised that there are no available records of leachate entering waterways from poisoning of grasslands or subsequent damage to platypus habitat.

Platypus protection measures include:

- a protected status under the Biodiversity Conservation Act 2016 with significant penalties for offences;
- development activities which may impact on platypus are subject to comprehensive planning requirements to ensure there is appropriate identification and mitigation measures in place;
- support for research of platypus population dynamics and genetics; and
- a ban on opera house traps in parts of New South Wales and a requirement for modifications to these traps to avoid bycatch of platypus elsewhere.

DOMESTIC VIOLENCE

In reply to **the Hon. COURTNEY HOUSSOS** (21 August 2019).

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

The New South Wales Government has made reducing domestic violence re-offending one of its highest priorities, establishing it as a Premier's Priority in 2015.

In June 2019, the Premier revised the target from a 25 per cent reduction in the rate of reoffending by 2021 to a 25 per cent reduction in the number of domestic violence reoffenders by 2023.

The New South Wales Government is investing a record $431 million over four years to tackle domestic violence through a range of initiatives. This is in addition to the hundreds of millions of dollars our government spends each year to combat domestic and family violence through mainstream services in justice, police, health, child protection, social housing and homelessness services.

As domestic violence falls within the portfolio responsibilities of the Attorney General and Minister for Domestic Violence, I have not made representations to the Premier in relation to the Government's decision.

I recognise that domestic violence victims are predominately women and in my capacity as Minister for Women work with the Premier, Department of Premier and Cabinet and Attorney General.

LAND CLEARING

In reply to **Mr JUSTIN FIELD** (21 August 2019).

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

The recently announced policy is not an amnesty for landholders.

On 1 August 2019 the New South Wales Government announced a new policy in relation to outstanding compliance investigations under the repealed Native Vegetation Act 2003 [the Act]. The objectives of the policy are to:

- provide for the timely resolution of outstanding compliance matters under the repealed Act in a manner that delivers positive environmental outcomes;
- ensure that the regulatory outcomes for such matters are consistent with the outcomes that would have been delivered had those matters been regulated under current laws; and
- provide increased transparency, consistency and certainty for landholders.

SCHOOL ENROLMENT POLICY

In reply to **the Hon. PENNY SHARPE** (22 August 2019).

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

There is no plan to close Terara Public School. Based on the current anticipated enrolment figures for 2020, enrolments will remain consistent with those in 2019.

Investigation into the number of siblings of current students at Terara Public School indicates that the enrolment will remain above 90 for several years to come.

The enrolment policy is not about insisting that parents enrol siblings at different schools. There will always be exceptional circumstances for parents to seek non-local enrolment for their child in a school.

There is no intention by the Department of Education to prevent parents from seeking non-local enrolment at any school.

The reasons for parents seeking a non-local enrolment will be taken into consideration on a case-by-case basis. All non-local enrolment applications will be managed by the Principal or delegate through an enrolment panel.

ANIMAL RIGHTS

In reply to **the Hon. MARK PEARSON** (22 August 2019).

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

No.

NSW RURAL FIRE SERVICE

In reply to **the Hon. ROD ROBERTS** (22 August 2019).

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

I am advised:

NSW Rural Fire Service [NSWRFS] firefighting vehicles are outfitted with technology that enables the use of chemical fire suppressants including firefighting foams, and have had this capacity for a number of years. The NSWRFS supplies rural fire brigades with relevant firefighting foams as required. The NSWRFS also has the capacity to drop fire suppressants from aircraft during firefighting operations, which can help to slow the spread of a fire.

Where possible, rural fire brigades adhere to water restrictions and limit the use of town or drinking water for non-essential activities. Where practical, dry firefighting strategies and heavy plant engagement are used to limit the amount of water used.

CHILDREN IN STATE CARE

In reply to **Mr DAVID SHOEBRIDGE** (22 August 2019).

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business)—The Minister provided the following response:

As the representative of the Minister for Families Communities and Disabilities Services in the Legislative Council, I enclose advice from the Minister in response to question taken on notice on 22 August 2019 relating to Children in State Care.

Sadly alternative care placements have been used for over 20 years to place children when no other more suitable arrangement can be found.

Minister Goward assembled a taskforce to work to drive the numbers of children in alternative care arrangements down and I am building on this work as this type of placement is clearly least preferred.

Whilst the number of children entering OOHC has reduced since 2015/16, there are challenges recruiting enough people who wish to provide a loving and safe home to a child or young people who do enter care.

Despite this the New South Wales Government is taking action and has funded My Forever Family to drive recruitment of people who would like to provide emergency care, short term care, become guardians or prospective adoptive parents.

The key priorities to reduce the need for emergency placements include; identifying suitable placements for vulnerable children and young people, prioritising recruitment and support for foster carers and resolving practice and system issues.

At the Minister's direction, the New South Wales Government has provided additional resources within the Association of Children's Welfare Agencies [ACWA] to find practical solutions to reduce the number of children and young people in Alternative Care Arrangements [ACAs].

We are working collaboratively with non-government organisations to better support carers to prevent placement breakdown and to build flexible funding packages to support sibling groups into foster care placements.

There are currently significant efforts underway to reduce the amount of children and young people in alternative care arrangements and to increase permanency for all children and young people within New South Wales.

INNOVATION RESEARCH AND DEVELOPMENT

In reply to **Reverend the Hon. FRED NILE** (22 August 2019).

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business)—The Minister provided the following response:

As the representative of the Minister for Better Regulation and Innovation, I am advised by the Minister that Government policies in this area are matters falling within the responsibilities of the Deputy Premier in his capacity as Minister for Regional NSW, Industry and Trade and of the Minister for Jobs, Investment, Tourism and Western Sydney. The Government has a multi-faceted approach to supporting innovation in New South Wales, to increase the number of startups which scale and contribute to jobs growth in New South Wales. Examples of programs designed to support innovation include the Research Attraction and Acceleration Program administered by the NSW Chief Scientist & Engineer, and the Jobs for NSW Minimum Viable Product grants program.

FILM INDUSTRY

In reply to **the Hon. WALT SECORD** (22 August 2019).

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)— The Minister provided the following response:

I am advised:

1. The INSW project team have been meeting with Fox Studios Australia since May 2018 to keep them up to date on the project and discuss their concerns. This includes five separate briefings in 2019.

2. The INSW project team is aware of Marvel Studios production and has been liaising with Fox Studios regarding timings and potential concerns for some time.

3. The INSW project team is committed to working with all stakeholders throughout the life of the project and will continue to work with Fox Studios regarding any concerns they may have.

4. The Government takes public feedback from the community very seriously and is in the process of considering all 84 submissions received during the stage two Environmental Impact Statement public exhibition period.

5. A response to submissions report will be made available in the coming months which responds to each of the key issues raise by the community.

FILM INDUSTRY

In reply to **the Hon. DANIEL MOOKHEY** (22 August 2019).

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)—The Minister provided the following response:

I am advised:

The INSW project team have been meeting with Fox Studios Australia since May 2018 to keep them up to date on the project and discuss their concerns. This includes five separate briefings in 2019.

The INSW project team is aware of Marvel Studios production and has been liaising with Fox Studios regarding timings and potential concerns for some time.

The INSW project team is committed to working with all stakeholders throughout the life of the project and will continue to work with Fox Studios regarding any concerns they may have.

The Government takes public feedback from the community very seriously and is in the process of considering all 84 submissions received during the stage two Environmental Impact Statement public exhibition period.

A response to submissions report will be made available in the coming months which responds to each of the key issues raise by the community.

BULLYING

In reply to **the Hon. MARK BANASIAK** (22 August 2019).

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

No. The department would not, and has not, entered into any agreement with the NSW Teachers Federation or any other union that limits the capacity of the union to represent their members on industrial issues.

FIREFIGHTER WORKERS COMPENSATION

In reply to **the Hon. ROBERT BORSAK** (22 August 2019).

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business)—The Minister provided the following response:

This question is better directed to the Minister for Customer Service, the Hon. Victor Dominello. However, I am advised by the Minister that in December 2018, the Government introduced the Workers Compensation Legislation Amendment (Firefighters) Act to make it easier for firefighters with one of 12 prescribed work-related cancers to make a claim for workers compensation.

Under the reforms, eligible firefighters (employed and official Rural Fire Service volunteers) diagnosed with one of 12 prescribed cancers were no longer required to prove that the cancer was a result of their work as firefighters.

As part of extensive discussions pertaining to the bill, the Government reached an agreement with Reverend the Hon. Fred Nile that further consideration be given to the cost of allowing unlimited retrospective application of the presumptive provisions. It was envisaged that this would occur by way of a Parliamentary inquiry chaired by Reverend Nile.

Following passage of the bill, the Government wrote to Reverend Nile, providing Treasury advice on the projected added cost of a total retrospective scheme, estimated to be $1.1 billion. It is noted that this would have significant impacts on insurance premiums, council rates and funds from consolidated revenue. It is also noted that total retrospectivity is inconsistent with the laws introduced in all other Australian jurisdictions.

In reply, Reverend Nile advised that the Treasury costings were sufficient to demonstrate that the option of unlimited retrospectivity had been adequately considered by the Government, subsequently negating the need for a standalone Parliamentary inquiry in the interests of "[saving] the taxpayer considerable and unnecessary expenses".

Written Answers to Supplementary Questions

EARLY CHILDHOOD EDUCATION

In reply to **the Hon. COURTNEY HOUSSOS** (22 August 2019).

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

The following towns are classified as very remote and do not have a local early childhood facility.

- Bulla
- Hungerford
- Tilpa
- Kulwin
- Milparinka
- Noona
- Wanaaring
- White Cliffs
- Tibooburra
- Ivanhoe
- Marra Creek

The following towns are classified as very remote, do not have a local early childhood facility and have a local primary school.

- Wanaaring
- White Cliffs
- Marra Creek
- Tibooburra
- Ivanhoe

Bills

REPRODUCTIVE HEALTH CARE REFORM BILL 2019

In Committee

Consideration resumed from an earlier hour.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The next amendment we will deal with is on sheet c2019-061C, which is a group of amendments to change the usage of the word "person" to "woman" in various parts of the bill.

The Hon. NATASHA MACLAREN-JONES (17:20): By leave: I move amendments Nos 1 to 38 on sheet c2019-061C in globo:

No. 1 **References to woman who is pregnant**

Page 3, proposed section 5, line 4. Omit "on a person". Insert instead "on a woman".

No. 2 **References to woman who is pregnant**

Page 3, proposed section 5, line 6. Omit "person". Insert instead "woman".

No. 3 **References to woman who is pregnant**

Page 3, proposed section 5, line 9. Omit "person's". Insert instead "woman's".

No. 4 **References to woman who is pregnant**

Page 3, proposed section 6, line 11. Omit "person". Insert instead "woman".

No. 5 **References to woman who is pregnant**

Page 3, proposed section 6, line 18. Omit "person's". Insert instead "woman's".

No. 6 **References to woman who is pregnant**

Page 3, proposed section 6, line 27. Omit "person". Insert instead "woman".

No. 7 **References to woman who is pregnant**

Page 3, proposed section 6, line 30. Omit "person's". Insert instead "woman's".

No. 8 **References to woman who is pregnant**

Page 3, proposed section 6, line 35. Omit "person". Insert instead "woman".

No. 9 **References to woman who is pregnant**

Page 3, proposed section 6, line 38. Omit "person's". Insert instead "woman's".

No. 10 **References to woman who is pregnant**

Page 4, proposed section 7, line 2. Omit "person". Insert instead "woman".

No. 11 **References to woman who is pregnant**

Page 4, proposed section 7, line 4. Omit "person". Insert instead "woman".

No. 12 **References to woman who is pregnant**

Page 4, proposed section 7, line 7. Omit "person". Insert instead "woman".

No. 13 **References to woman who is pregnant**

Page 4, proposed section 7, line 8. Omit "person". Insert instead "woman".

No. 14 **References to woman who is pregnant**

Page 4, proposed section 7, line 10. Omit "person". Insert instead "woman".

No. 15 **References to woman who is pregnant**

Page 4, proposed section 8, line 16. Omit "person". Insert instead "woman".

No. 16 **References to woman who is pregnant**

Page 4, proposed section 9, line 26. Omit "another person". Insert instead "a woman".

No. 17 **References to woman who is pregnant**

Page 4, proposed section 9, line 27. Omit "another person". Insert instead "a woman".

No. 18 **References to woman who is pregnant**

Page 4, proposed section 9, lines 28 and 29. Omit "another person". Insert instead "a woman".

No. 19 **References to woman who is pregnant**

Page 4, proposed section 9, line 31. Omit "another person". Insert instead "a woman".

No. 20 **References to woman who is pregnant**

Page 4, proposed section 9, line 37. Omit "by a person is". Insert instead "is by a woman".

No. 21 **References to woman who is pregnant**

Page 4, proposed section 9, line 38. Omit "person" wherever occurring. Insert instead "woman".

No. 22 **References to woman who is pregnant**

Page 4, proposed section 9, line 39. Omit "person". Insert instead "woman".

No. 23 **References to woman who is pregnant**

Page 4, proposed section 9, line 41. Omit "person". Insert instead "woman".

No. 24 **References to woman who is pregnant**

Page 4, proposed section 9, line 44. Omit "person's". Insert instead "woman's".

No. 25 **References to woman who is pregnant**

Page 5, proposed section 10, line 11. Omit "person". Insert instead "woman".

No. 26 **References to woman who is pregnant**

Page 5, proposed section 10, line 13. Omit "person". Insert instead "woman".

No. 27 **References to woman who is pregnant**

Page 6, proposed section 11, line 2. Omit "Person". Insert instead "Woman".

No. 28 **References to woman who is pregnant**

Page 6, proposed section 11, line 2. Omit "themselves". Insert instead "herself".

No. 29 **References to woman who is pregnant**

Page 6, proposed section 11, line 3. Omit "person". Insert instead "woman".

No. 30 **References to woman who is pregnant**

Page 6, proposed section 11, line 4. Omit "themselves". Insert instead "herself".

No. 31 **References to woman who is pregnant**

Page 7, proposed section 12, line 5. Omit "persons". Insert instead "women".

No. 32 **References to woman who is pregnant**

Page 9, proposed Schedule 2.1[2], line 11. Omit "another person". Insert instead "a woman".

No. 33 **References to woman who is pregnant**

Page 9, proposed Schedule 2.1[2], line 15. Omit "another person". Insert instead "a woman".

No. 34 **References to woman who is pregnant**

Page 9, proposed Schedule 2.1[2], line 23. Omit "person". Insert instead "woman".

No. 35 **References to woman who is pregnant**

Page 9, proposed Schedule 2.1[2], line 23. Omit "themselves". Insert instead "herself".

No. 36 **References to woman who is pregnant**

Page 9, proposed Schedule 2.1[2], line 37. Omit "another person". Insert instead "a woman".

No. 37 **References to woman who is pregnant**

Page 9, proposed Schedule 2.1[2], lines 39 and 40. Omit "another person". Insert instead "a woman".

No. 38 **References to woman who is pregnant**

Page 10, proposed Schedule 2.1[4], line 7. Omit "person's". Insert instead "woman's".

These amendments are straightforward. They replace the word "person" with "woman" as well as "themselves" and "they" with "her" and "herself". The bill currently refers to "them" as a person receiving an abortion. That is saying the bill does not place a woman as the key stakeholder of the legislation; it is based on the premise that gender is ambiguous and that any sex and/or gender can have a baby. However, that is simply unscientific as only those who are biologically a woman can become pregnant. In essence, it is a woman who will be subject to this bill and the one who will be carrying the child. Regardless of whether someone identifies as a different gender, biology is empirical.

To say that anyone besides those who have female reproductive organs can fall pregnant is unscientific. Throughout the parliamentary inquiry a number of submissions raised concerns about this and it was also raised during the second reading debate by a number of members. They also referred to other bills and the fact that this bill is based on similar bills in other jurisdictions, in particular Queensland and Victoria. I note that the Queensland Termination of Pregnancy Act 2018 and the Victorian Abortion Law Reform Act 2018 bills refer to a woman who is pregnant throughout the course of the legislation. This highlights again that this bill is not in line with other jurisdictions. Previous legislation passed by this House supports the position of pregnancy as being innate to a woman. I use the example of the Radiation Control Regulation 2013 under the Radiation Act 1990. It states:

> When a female employee declares a pregnancy, the embryo or foetus should be afforded the same level of protection as required for members of the public.

This highlights the idea of a woman being the gender that undergoes the pregnancy. To provide a change to this creates legal ambiguity with parts of the New South Wales statute law saying that women are those who are subject to pregnancy and other places saying that a person is subject to pregnancy. Therefore, I ask that the Committee support these amendments.

The Hon. PENNY SHARPE (17:23): I do not support these amendments. The bill has been drafted in this way for a very clear reason. It is considered best practice to ensure we are fully inclusive of everyone who is receiving health care. Whether those in the Chamber have issues around transgender individuals or non-binary people that is fine, but it is absolutely inappropriate to limit it in this bill. We know that the vast majority of people who become pregnant and have unwanted pregnancies are women—that is the clear intent of the bill.

But it is bad practice to try to exclude people because one has a particular view about other issues that are yet to be dealt with in terms of law reform and this Parliament. This issue was dealt with at length in the parliamentary inquiry and all the experts said that this is best practice in the way that we talk about those who can be pregnant—that is, women and there are other people who do not identify as women who are able to get pregnant. This is making sure that this bill is inclusive; that is what good health care is about.

The Hon. GREG DONNELLY (17:24): I support these amendments. The bill currently writes women out of the proposed legislation. Women are written right out; they just do not appear. It is a human biological fact that women, and only women, can become pregnant, gestate a human being within their own body and give birth to a child. That is a human biological fact. A male can simply not do this. It is impossible for them. It is the golden rule of parliamentary drafting that a bill, indeed a bill that will become an important statute in the State of New South Wales, should be written in the clearest possible way. In simple terms, a bill should say what it means and mean what it says. It makes no sense to use the term "person" in the bill in the way that it does when the correct term, unambiguously, is "woman".

I also note that those who drafted the bill failed to place a definition of "person" in the schedule 1 dictionary to the bill. If one goes to page 8 of the bill, where the dictionary is to be found, there is no definition of

"person". There is just no reason whatsoever to structure the bill where you write a woman out of it other than to, I would submit, inadvertently create confusion. Clearly, the bill is providing for the termination of pregnancy that can be only undertaken by the female of the species—a woman. As legislators, we endeavour to write, have legislation prepared and ultimately enacted that is clear.

This is not a question of what might be considered or said by some to be an innate bias or failure to understand the situation whereby you may have a person identifying as another sex. The Hon. Penny Sharpe suggested that there may be a failure to comprehend this. We do comprehend—or at least, I comprehend—the situation of people identifying. But it does not change the reality of their biology, the XX or the XY chromosomes, in the context of what we are dealing with here—that is, the capacity to fall pregnant, to carry and to bear a child. That simply cannot be done by a male. I strongly support these amendments.

Ms ABIGAIL BOYD (17:28): Despite the way it feels for some of us at times like this in this place, women are people. The reason this bill has been written using the language of "person" is pretty clear. As my Greens colleague the member for Newtown said in the other place, "as much as it may blow the narrow minds of some of the people in this place, people who are not women have uteruses too". Not all of them, some of them. There is not a finite or limited amount of equality or inclusion to go around and that is why we must not seek to advance some reproductive rights at the expense of others. The criminalisation of abortion has prevented people from being able to access abortions and safe, free and legal reproductive and sexual health care and advice.

All people have a right to access an abortion—women, trans, non-binary, intersex and queer people. Our laws must be gender inclusive and non-discriminatory and, wherever possible, avoid ambiguity. I am sure it is not the intention of the mover of these amendments to regulate abortion only in respect of women and not for all people with a uterus. Using the word "person" in the bill recognises that all people need to be able to access an abortion and be free to make their own choices, and that is why The Greens do not support the amendments.

The Hon. EMMA HURST (17:30): I will briefly indicate that I will not be supporting these amendments. It is truly surprising to me that the use of the word "person" could be such a controversial issue in this place. As others have pointed out, the term "person" itself is inclusive of women. It is a distraction from the real issue at play, which is simply the decriminalisation of abortion. Legislation across New South Wales commonly refers to a person even if the conduct it is regulating tends to relate to one sex or another. In any other piece of legislation reference to a person would not be controversial. It is a fact that people in the community who do not identify as being a woman may still, at some stage, require a pregnancy termination. I see no problem with being inclusive and supportive of the diversity of identities within our society. Using the word "person", which is inclusive of women, does not change the overall effect of the bill, and I see no reason to support the amendments.

The Hon. MARK BANASIAK (17:31): The Shooters, Fishers and Farmers Party support the amendments. An abortion bill is no place for gender ideology. If people want to make such moves they should do so in a separate bill. The majority of people in New South Wales are of this view. The bill makes it clear through the use of "a person" rather than "a woman" as being pregnant that this Government is playing gender identity politics. There is no place for that in health care. Such radical ideology denies women their place in the healthcare system and only those who are biological women can become pregnant. Erasing the word "women" from the bill will subsequently erase women from the bill. The Shooters, Fishers and Farmers Party strongly supports the amendments.

The Hon. SCOTT FARLOW (17:32): The Hon. Penny Sharpe mentioned that there is an intent about women and it is a clear intent in the bill. It is not a clear intent because the word "woman" is not mentioned in the bill. While the current criminal law actually applies to women, the bill has no application to women. If we look at the practice guidelines of the Royal Australian and New Zealand College of Gynaecologists with respect to abortions and late-term abortions we will see that the word "woman" is used 24 times. There is no mention of "person". As such, and to be fair, it should also be reflected in the bill. This bill, which is supposed to be about women, should also mention "women". I support the amendments moved by the Hon. Natasha Maclaren-Jones.

The Hon. WALT SECORD (17:33): I make a short contribution to say that I will be opposing the amendments. I think this whole debate is a furphy. It is actually common parliamentary drafting practise to use the word "person".

Reverend the Hon. FRED NILE (17:33): I make a brief contribution in support of the amendments, which will change the wording in the bill in 38 places from simply "on a person" to "on a woman". I was shocked when I read this extensive bill that deals with abortion to note that the word "woman" was not mentioned and that anonymous persons have abortions. It is an insult to the women of this State.

The Hon. NIALL BLAIR (17:34): I have listened to the arguments from all sides about the amendments. I place on record that, having sat through the parliamentary inquiry and heard from women's groups,

a lot of people refer to women. It is not offensive to use the word "woman". To support the amendments does not automatically suggest that anyone would have a problem with transgender people or any of the other issues that come with that. I point out that, although I am inclined to support the amendments, that does not automatically mean I have an issue with transgender people or any of the other issues they may identify with. This discussion is solely about these amendments and this bill and I see no harm in referring to women.

The Hon. MATTHEW MASON-COX (17:35): I find myself in a similar position to that of the Hon. Niall Blair in that we need to acknowledge the truth of this issue without seeking to look at prejudicing any other view about transgender issues. We started with acknowledging that the bill was about abortion law reform and speaking truth in relation to the subject matter. The subject matter in this amendment is women. I think that is undeniable, incontrovertible and the truth. I support the amendments of the Hon. Natasha Maclaren-Jones for those reasons.

I note one other matter that might seem to be a little bit churlish but I will mention it anyway in the interests of, perhaps, creating a little bit more thought for the other side of this debate: a number of times the bill mentions the words "midwife" and "midwifery". Perhaps that needs to be changed to "midpersons", I am not sure. but at the end of the day nomenclature is important. I know that was a little bit trite. Truth in the bill should be reflected in the context that it applies to women without prejudicing, as other members have mentioned, transsexual, intersex, et cetera, persons. When we look at the statutory construction issues here, while I acknowledge the view of the Hon. Penny Sharpe in terms that "person" is all inclusive, the reality too in that context is that in drafting bills we refer in many other circumstances to women and to children. They are people as well and the context is important in how legislation is framed. In that regard, it is important to acknowledge that the bill is about abortion and it is about women.

Ms ABIGAIL BOYD (17:37): I do not speak a second time lightly but I feel compelled to correct some of the terminology and language that has been used, which is incorrect and offensive to many. We use the words "female" and "male" when we talk about sex and chromosomes. When we talk about gender we talk about men and women and non-binary people. If the intention is to deal with people who are born with certain chromosomes then "female person" should be put into this bill. Women is a term for gender.

The Hon. ADAM SEARLE (17:38): I did not intend to speak to the amendments but I want to point out that the amendments proposed would potentially create a barrier to persons seeking medical treatment, persons who may be biologically female but may identify in a different way. Why would we want to create a situation where there was any legislative doubt about whether any person could seek the health care they need at a point of time? The entire purpose of this legislation is to remove the arcane legal barriers that have built up over time and provide a simpler, modern legislative mechanism and framework regulating abortion procedures in this State. I take the point that it is about truth and we have changed the name of the bill. We should speak truth in this part of the legislation as well and not create barriers to people seeking medical treatment.

Mr DAVID SHOEBRIDGE (17:39): I take issue with the argument that the amendments do no harm. In fact, it is quite the opposite. Queer, transgender and intersex people can have children. The amendments would consciously write them out of this legislation and place them again on the margins. They already feel so much on the margins, constantly the subject of discrimination and marginalisation in society. Anybody who identifies as queer, transgender or intersex will hear this debate and the attempt to write them out of the law and place them yet again on the margins. To suggest that does no harm misunderstands where the amendments are coming from. The amendments will cause harm. They will continue that legal political marginalisation of queer, transgender and intersex people. We should be inclusive in this debate and in this law and we should not further that harm.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Natasha Maclaren-Jones has moved amendments Nos 1 to 38 on sheet c2019-061C. The question is that the amendments be agreed to.

The Committee divided.

Ayes 18
Noes 23
Majority.....5

AYES

Amato, Mr L	Banasiak, Mr M	Blair, Mr
Borsak, Mr R	Cusack, Ms C	Donnelly, Mr G
Fang, Mr W (teller)	Farlow, Mr S	Franklin, Mr B
Houssos, Mrs C	Latham, Mr M	Maclaren-Jones, Mrs (teller)
Martin, Mr T	Mason-Cox, Mr M	Moselmane, Mr S

AYES

Nile, Revd Mr	Roberts, Mr R	Tudehope, Mr D

NOES

Ajaka, Mr	Boyd, Ms A	Buttigieg, Mr M (teller)
D'Adam, Mr A	Faehrmann, Ms C	Field, Mr J
Graham, Mr J	Harwin, Mr D	Hurst, Ms E
Jackson, Ms R	Khan, Mr T	Mitchell, Mrs
Mookhey, Mr D	Moriarty, Ms T	Pearson, Mr M
Primrose, Mr P	Searle, Mr A	Secord, Mr W
Sharpe, Ms P	Shoebridge, Mr D (teller)	Taylor, Mrs
Veitch, Mr M	Ward, Mrs N	

Amendments negatived.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): We are now dealing with amendments on sheet c2019-134C.

The Hon. MATTHEW MASON-COX (17:49): I will not move amendments Nos 1 and 2 on sheet c2019-134C and amendments Nos 1 and 2 on sheet c2019-136A.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): We are now dealing with amendments on sheet c2019-091D.

The Hon. SCOTT FARLOW (17:49): By leave: I move amendments Nos 1 to 6 on sheet c2019-091D in globo:

No. 1 **Termination at less than 20 weeks**

Page 3, proposed section 5, line 3. Omit "not more than 22 weeks". Insert instead "less than 20 weeks".

No. 2 **Termination at less than 20 weeks**

Page 3, proposed section 5, line 5. Omit "not more than 22 weeks". Insert instead "less than 20 weeks".

No. 3 **Termination at 20 weeks or more**

Page 3, proposed section 6, line 10. Omit "after 22 weeks". Insert instead "at 20 weeks or more".

No. 4 **Termination at 20 weeks or more**

Page 3, proposed section 6, lines 11 and 12. Omit "more than 22 weeks pregnant". Insert instead "20 weeks pregnant or more".

No. 5 **Termination at 20 weeks or more**

Page 7, proposed section 12, line 2. Omit "after 22 weeks". Insert instead "at 20 weeks or more".

No. 6 **Termination at 20 weeks or more**

Page 7, proposed section 12, line 5. Omit "more than 22 weeks pregnant". Insert instead "20 weeks pregnant or more".

As members would be aware, there is a distinction made in the bill based on the weeks of pregnancy as to who may perform a termination, what—if anything—that person must consider and where the termination may be performed. Currently the bill sets this distinction at 22 weeks of pregnancy. I believe there are a number of converging, cogent reasons that an earlier stage of pregnancy—namely 20 weeks of pregnancy—would be a more appropriate point at which to make a distinction between the terminations permitted under clause 5 of the bill and those terminations performed at a later stage of pregnancy under clause 6 of the bill.

The amendments I am proposing would not add further requirements or limitations to terminations under clause 6. They would merely shift the dividing point from which those requirements already in clause 6 would apply. Later amendments will address that issue and can be considered on their merits. In expert evidence given to the inquiry, experienced obstetrician Dr Simon McCaffrey explained:

> I cannot understand why the cut-off is 22 weeks. My fetomaternal specialist colleagues also cannot understand why the cut-off is 22 weeks. The complexity of a termination performed at 23 weeks is no different to 21 weeks. If we require specialist oversight at 23 weeks, we require specialist oversight at 21 weeks because they are very similar conditions. And terminating a pregnancy at 23 weeks is similar to terminating one at 21 weeks. The complications are the same. The cut-off makes no medical sense and I believe it leaves women with less duty of care.

The point of division made in laws regulating terminations has been tendered to move to an earlier stage of pregnancy, reflecting advances in medical science, especially those affecting the stage at which an unborn child is viable outside the womb. In 1969 South Australia opted for 28 weeks. In 2008 Victoria chose 24 weeks. In 2017 the Northern Territory went for 23 weeks and in 2018 Queensland settled on 22 weeks. However, Tasmania opted for 16 weeks in 2013. In 1998 Western Australia settled on 20 weeks.

One influential argument in the debate in Western Australia was the existing law, which required the registration of the birth of a stillborn child, including a child stillborn as a result of a termination of pregnancy delivered at 20 weeks of pregnancy or later. This legal requirement applies uniformly across Australia, including in New South Wales. The bill does not seek to change the legal requirement to give any child delivered stillborn at 20 weeks of pregnancy or later a name and date of birth so that there is a permanent personal and legal identity officially recorded in the Registry of Births, Deaths and Marriages in New South Wales. One of the first pieces of correspondence I received on the bill came from a friend who outlined their circumstance with a stillborn child, saying:

> We lost Walter at 20 weeks of age. It was a registered birth.

They asked:

> Are you going to change the age of a living baby to 23 weeks? I am all for live and let live. I voted yes to same-sex marriage. I am far from a devout Christian but I just see this as wrong.

Given that the law in New South Wales will continue to recognise the legal existence of a child born at 20 weeks or later, including a child stillborn after termination of pregnancy, this would be the most appropriate gestational age at which to make a distinction in the conditions under which a termination of pregnancy can be performed. In November 2017 a case report was published in the journal, *Pediatrics*, on a female infant resuscitated after delivery at 21 weeks four days gestation with a birth weight of 410 grams—possibly the most premature known survivor to date. As of November 2018, Lyla Stensrud was four years old and happily attending preschool. She had a slight delay in speech but no other known medical issues or disabilities. The authors of the article in *Paediatric*s, concluded:

> It is known that active intervention policies at 22 weeks' gestation improves the outcome for those infants and it may be reasonable to infer that these benefits would extend, if to a lesser degree, into the 21st week. Ultimately, such limited data exist at this gestational age that the time may have arrived for obstetrical centers to begin systematically reporting fetal outcomes in the 21st week.

We should not wait for the stage of viability to drop further as it is likely to do but anticipate developments. That would be a forward-looking approach to reformed abortion law for the second decade of the 21st century. Another major development in medical science relevant to this amendment is the development of 4D ultrasound. We now know, and can see for ourselves, something of the life and activity of the unborn child at different stages of pregnancy. According to the Raising Children website, which is supported by the Australian Government, at 20 weeks of pregnancy:

- Your baby measures about 16 cm from head to bottom, and weighs about 320 gm.

…

- The heart is beating at 120-160 beats per minute.
- Muscles are growing and your baby is moving around a lot.
- Your baby's fingerprints are formed.
- Permanent teeth have grown beneath your baby's first teeth, deep in the gums.
- Your baby can hear sounds, such as its mother's heart or voice, even though the ears are not yet completely formed.

An additional argument for setting 20 weeks as the dividing point is that it is halfway through the 40-week span of the average human pregnancy. There is a general scientific consensus reflected in the *Australian code for the care and use of animals for scientific purposes* published by the National Health and Medical Research Council in 2013, which states:

> As a guide, when embryos, fetuses and larval forms have progressed beyond half the gestation or incubation period of the relevant species … the potential for them to experience pain and distress should be taken into account.

Should the unborn human child be the only animal who is not protected from pain? We ought not to be allowing the termination of an unborn human child capable of experiencing pain simply on request as allowed under proposed section 5 of the bill. Under Victoria's Abortion Law Reform Act 2008, which allows abortion simply on request up to 24 weeks, the worst breaches of good health care for women occurred at Marie Stopes Maroondah, which was the only facility in Victoria offering abortions for non-medical reasons from 16 weeks to 24 weeks.

Those breaches, which have all been fully documented in legal proceedings, have included a drug addict anaesthetist infecting 60 women with hepatitis C; a doctor performing an abortion on an intellectually disabled girl at the insistence of her rapist father without obtaining the required consent from the guardianship board; one woman, Pheap Sem, ending up in a near fatal coma and another woman, Delta Poke, dying. Late-term abortions from 20 weeks onwards should be subject to the protections for women set out in clause 6 at a minimum, either as it stands or as it may later be amended by this Committee, so that a similar operation is not able to be established in New South Wales. I commend the amendments to the Committee.

The Hon. TREVOR KHAN (17:57): I indicate that I oppose the amendments. I note that in making reference to this matter I will refer essentially to two documents that support the proposition that the gestational trigger should be at 22 weeks. The first reference I have is pages 30 and 31 of the report of the social issues committee, which conducted an inquiry into the bill. On page 30 the following observation was made:

> … the Royal Australian and New Zealand College of Obstetricians and Gynaecologists, supported the maintenance of the proposed 22 week deadline in Clause 5. It was indicated that ultrasound testing for foetal abnormalities is generally done at 18 to 20 weeks gestation, and that many anomalies are not diagnosed until this time, or indeed for several days later if repeat scans are required. Based on this fact, it was argued that the 22 week gestational limit is appropriate, as it means that women have time to consider the implications of any foetal abnormalities that may be detected. In evidence, Adjunct Prof Deborah Bateson, Medical Director, Family Planning NSW, observed:
>
> > We have heard, I think in the previous day, about the need for that 22-week limit because of what we call the morphology scan, that is where foetal abnormalities are detected, and that happens between 18 and 21 weeks, and sometimes repeat scans have to happen as well, so women need time to make their decisions. These later abortions happen for severe maternal concerns and issues. These are never ever taken lightly, they are always within the context of a multidisciplinary team. There are many considered professionals involved in this in a compassionate way. Not only have I had the opportunity of hearing the President of the Royal Australian and New Zealand College of Obstetricians and Gynaecologists [RANZCOG], Dr Vijay Roach, give evidence before the committee's inquiry into the bill—a person whom one could only describe as a compassionate and thoughtful professional—but also in more recent times I have been able to speak to him almost on a one-on-one basis. He pointed out in those discussions that, once you get to this late stage, one of the problems with any bill that is designed with a gestational trigger—as this bill is, for quite legitimate reasons—is that it creates a form of pressure upon a woman who faces an irregularity in scans perhaps. Whether it is right or wrong, that pressure potentially forces women into making a rushed decision that may, in fact, be unnecessary.

If you bring the trigger down to 20 weeks, you may apply pressure on women to make a decision based upon the evidence that they have at that stage, rather than, for instance, being referred to another specialist or obtaining another scan that may prove or disprove what had occurred in the first scan. That is a regrettable outcome in the design of the bill but it is a reality. If we bring the gestational limit down, we create a coercive impact on women that is unnecessary and potentially tragic. The bill was not designed by simply plucking figures from the air. We referred to the considerable work that was undertaken by the Queensland Law Reform Commission, the members of which are highly qualified practitioners. We were also aided by the extraordinary research that backed up the commission's report. On pages 95 to 97 of the report, the commission states:

> 3.186 For a number of reasons, the Commission recommends that the gestational limit be set at 22 weeks gestation.

This was in 2018. This is not going back in history. These are current recommendations. The report continues:

> 3.187 First, 22 weeks represents the stage immediately before the 'threshold of viability' under current clinical practice. The threshold of viability for pre-term birth is between 23 weeks zero days and 25 weeks six days gestation and, once reached, may involve the provision of life-sustaining interventions. The relevant clinical guideline provides that:
>
> - At less than 23 weeks, palliative care is recommended.
> - At 23 weeks, life sustaining interventions are not usually recommended but might be provided if, after appropriate counselling, the parents make an informed decision or if parental wishes are unknown.
> - At 24 weeks, life sustaining interventions are usually recommended, but palliative care might be provided if, after appropriate counselling, the parents make an informed decision.
> - At 25 weeks, life sustaining interventions are recommended and would be provided except in unusual circumstances.
>
> …
>
> 3.191 The Commission considers that a gestational limit earlier than 22 weeks would be unduly restrictive and a potential barrier, particularly to vulnerable and disadvantaged women, and that a gestational limit later than 22 weeks would be out of step with the current clinical framework in Queensland.
>
> 3.192 Accordingly, the draft legislation should provide that a medical practitioner may terminate a pregnancy if the woman is not more than 22 weeks pregnant.

The report continues:

> 3.193 Concerns about potential discrimination and barriers faced by vulnerable and disadvantaged women in making difficult decisions about later termination can be ameliorated by ensuring that the additional ground and consultation requirements triggered when the 22 week gestational limit is reached are not unduly onerous or burdensome.

3.194 The Commission also recognises that for all women across the State—

I repeat that: all women across the State—

> at any gestational stage of pregnancy, but especially those in regional and remote areas and at later gestations, access to termination services is heavily influenced by the affordability and availability of the full range of sexual and reproductive health care services. Workforce and resource issues fall outside the scope of the terms of reference, but form part of the context in which the issues for reform have to be considered.

When we talk about whether it is 20 weeks or 22 weeks, let us not talk about the person who lives in St Ives. Let us talk about the woman who lives at Narrabri or Temora, where access to services is extraordinarily restricted. Let us talk about Aboriginal and Torres Strait Islander women with no money and no access to reasonable transport to get to Newcastle or come to Sydney. Let us talk about the women in those areas who have extraordinary difficulty in getting access to scans. That is the problem we face. If we impose unreasonable restrictions, the people who are most disadvantaged are the poor, the Aboriginal and Torres Strait Islanders and women who live in regional areas. The gestational limit of 22 weeks is supported by the Queensland Law Reform Commission, it is supported by RANZCOG and it is supported by the Australian Medical Association. It is sound and reasonable, and we should not interfere with it.

Ms ABIGAIL BOYD (18:06): I speak on behalf of The Greens to oppose the amendments. The Greens do not believe that any gestational period is necessary or desirable, such as currently exists in the laws in the Australian Capital Territory or in places like Canada. Gestational limits discriminate against the most disadvantaged, as the Hon. Trevor Khan noted. They discriminate against the poorest, the most isolated and those in domestic violence situations. Restricting access to second- or third-trimester abortions produces a two-tiered system—one for people who have the resources to access abortion services interstate and another for people who do not. Despite having a preference for no gestational limit, the experts have told us that 22 weeks is the time period they believe they can work with. The Royal Australian and New Zealand College of Obstetricians and Gynaecologists [RANZCOG] and the Australian Medical Association [AMA] of NSW both support the 22-week gestation period. They have made it clear that a late-term abortion is only ever performed when there is a compelling, clinical need and that this bill will not change current clinical practice.

Further, shorter time periods force women to rush decision-making. Serious and fatal fetal conditions cannot be confirmed until 20 to 22 weeks after a routine ultrasound at 18 to 20 weeks and further testing may be required. Women must have sufficient time after diagnosis to understand their options and discuss them with their medical professionals. Narrowing the period from 22 weeks to 20 weeks, as has been proposed, makes it harder for doctors to act in the best interests of their patients and for women to make informed decisions. There is no evidence that gestational limits will result in fewer second- and third-trimester abortions. In fact, recent evidence shows that the reverse is true: Jurisdictions with no gestational limit record fewer second- and third-trimester abortions than jurisdictions with gestational limits. However, we know that gestational cut-offs do harm women and people with uteruses and get in the way of doctors providing pregnant people with the best possible care.

At this point, it is worth calling out the myth that underlies the proposed amendments. People who seek an abortion at 20 or 22 weeks are not using abortion as a form of contraception. That is an unscientific and stigmatising myth that has no place in this debate. As the Hon. Trevor Khan noted, during the inquiry into this bill we heard from Adjunct Professor Dr Bateson, the medical director of Family Planning NSW, who, when questioned on this topic, explained the reality of late-term abortions. She noted that the idea that people simply have a sudden change of mind is incorrect—it does not happen. Abortions beyond 20 weeks are extremely rare and abortions beyond 22 weeks are even rarer. When they do occur, it is always for complex reasons. Terminations at this stage are rare and in general follow the diagnosis of problems that can be identified only later in a pregnancy.

In a few cases where people request an abortion after 22 weeks for reasons other than fetal abnormalities, it is usually because the person has suffered a series of delays in accessing abortion services or because they have had problems identifying that they are pregnant, for example, because of a regular period, because they had been trusting contraception to be effective, because of coercion by a partner or because of significant personal or family events that would make it impossible to contemplate continuing what was previously a wanted pregnancy. Those are all valid reasons to request an abortion and no person should face criminal charges as a result of that very difficult decision. Judges interpreting the current legislation in New South Wales have allowed consideration of economic and social factors for more than 40 years. It is worth noting that Queensland's legislation contains a 24-week gestational limit whereas Victoria's contains a 22-week limit. The Victorian laws passed 11 years ago and there is no evidence that they led to an increase in abortions after 24 weeks gestation. On those grounds, The Greens oppose the amendments.

The Hon. WES FANG (18:10): Initially I was inclined to support these amendments. The 22-week trigger had given me some concern but I sought advice from the Royal Australian and New Zealand College of

Obstetricians and Gynaecologists and the Australian Medical Association. It was on their advice that the 22-week trigger not only requires two doctors for approval but also severely limits the number of hospitals in which the termination can be performed. That raises issues around the provision of health care in rural and regional communities that do not meet those standards and creates a barrier for rural and regional women receiving similar services that women in metropolitan areas may receive. It is on that basis and that basis alone that I am not able to support these amendments.

The Hon. ADAM SEARLE (18:11): I also oppose this set of amendments. As other speakers before me have indicated, gestation limits in legislation are unhelpful in this area. Presently there is no specific legislative regulation of late-term terminations of this nature. I do not see the need to have them in the legislation but I accept that they exist in the Queensland and Victorian legislations. If you are to choose a time frame—a line in the sand, as it were—that should be informed by the best medical advice that Parliament can obtain. That is what has informed the drafting of this bill and this part of the bill.

As we have heard in this debate and elsewhere, late terminations are very rare—they do not occur for reasons of convenience or change of heart. Almost always they are to do with fetal abnormalities or health impacts on a pregnant person. The one part of the bill that has concerned me is the tightening of regulations at this period. I would have been minded to leave it to clinical practice and the guidelines that apply to doctors performing these procedures but if it has to be in the bill, it should be the limitation that is in the bill as it stands now. We should not lessen the time period. We should not put this additional pressure on pregnant people to make earlier decisions, which may not be in their best interests. We should also be very cognisant of the reasons outlined by the Hon. Trevor Khan about those significant sectors of our community who do not have ready access to the full range of sexual and reproductive health services that people living in the more urban areas have.

For all of those reasons, I strongly oppose the six amendments. I do not think they are necessary. They will do harm not only in the sense that it would take the position of people seeking terminations today significantly backwards in terms of the period of time but also it would put additional pressure on medical practitioners, which is not warranted either. For all of the reasons that we have heard outlined here this evening, these amendments should not be supported. The limitation in the bill—the trigger that is there now—should be left undisturbed.

The Hon. NATASHA MACLAREN-JONES (18:14): I will not speak for long. I support the amendments that the Hon. Scott Farlow has moved. I do not believe we should support a bill just because Queensland has a particular time frame. An earlier speaker's claim that there has not been an increase in terminations in Victoria is a myth: Following the introduction of the Victorian Abortion Law Reform Act 2008, evidence has shown that 3,104 abortions were performed at 20 weeks or later from 2009 to 2017. I do not think over 3,000 abortions are rare. Of the babies who were terminated after 20 weeks gestation, they found that around 10 per cent were born alive and treatment of other things occurred. One of the concerns I have is that community outrage about this legislation comes back to late-term abortions.

A significant amount of emails and phone calls from people are complaining about the time limit of over 20 weeks. By supporting these amendments, not only will we in some way bring this legislation in line with community expectations but also we will address their concerns. I note the comments made by the Hon. Adam Searle about going through the details about a child's development but I highlight that evidence shows that from 20 weeks a fetus does feel pain. There is nothing in this legislation, and there is nothing being raised, about ensuring that a child is given an anaesthetic to prevent the pain when they are being terminated. I think it is important that we accept these amendments to not only go in line with what community expects but also prevent further late-term abortions.

The Hon. EMMA HURST (18:17): I strongly oppose these amendments. Let us be clear: Late-term abortions are extremely rare in New South Wales. Currently a tiny minority of abortions are performed in New South Wales at late term—almost all for medical reasons. There is no reason that this would change under the new legislation. A late-term abortion is a decision that no-one ever takes lightly. However, I would not want to impose the additional restrictions that go above and beyond the current state of the law and restrict late-term abortions to life-threatening situations only.

There may be a range of circumstances that, although not life-threatening, may be incredibly serious and damaging to either the person or her unborn fetus if an abortion cannot be performed. The bill as it currently exists requires that if a termination is to be performed after 22 weeks it must be approved by two specialist professionals who agree that the termination is appropriate in all the circumstances. I believe this is a sufficient safeguard around late-term abortions. I would not seek to impose any additional requirements on doctors or persons seeking an abortion. As such, I will not support the amendments.

The Hon. MARK BANASIAK (18:18): My party supports the amendments. I will not get into an argy-bargy and debate about who quoted more studies but I will pick up on what some of the opponents to these

amendments are talking about: the difficulties in regional and rural health care. Why are we going to lower the standards of our bill to meet the standards of health care in the regions? Why do we not raise the standards of health care in the regions so the bill matches them? That is the real issue. We have seriously underinvested in health care in the regions and now we are going to lower the standards of a bill to match our underinvestment? Let us raise the investment to meet the highest standards of the bill.

The Hon. GREG DONNELLY (18:19): Previous speakers have already made comments that I intended to make, so I will not make the same comments. Rather, I will endorse the comments of the Hon. Scott Farlow, who spoke at the commencement of the debate on the amendment, the Hon. Natasha Maclaren-Jones and the Hon. Mark Banasiak, who just spoke. He made the very point that I was going to make: about lifting the boats as opposed to dropping the boats, in terms of the tide.

I make the point I made during the questioning of some of the witnesses during the committee inquiry. I had the honour of being on the inquiry, ably chaired by the Hon. Shayne Mallard, who is chairing the proceedings today. I made the point, on more than one occasion, that with respect to pregnancy termination there was a failure to deal with the reality of it. It was a one-sided issue with respect to dealing with the unborn because they are the other part of this whole consideration: There is the woman and the unborn. The unborn are officially innocent, absolutely vulnerable, completely defenceless and totally voiceless in their capacity to represent their interests in the matter. Dare I say, we were all once them—everyone in the Chamber.

The deliberate termination of a pregnancy can never be healthy for the unborn. That is a clear, unambiguous statement. The intention of a deliberate termination of a pregnancy is to extinguish the life of the unborn. That is the outcome and we should be frank enough to say that, acknowledge it and accept the consequences of it. We have had many comments—and I am sure we will receive others—about matters of autonomy, with respect to reproductive rights, and whether that autonomy ought or ought not be delineated in terms of being able to obtain an abortion up to a limit and beyond a limit. The consequences of that—both above and below the limit—is the issue of the extinguishment of human life. We are not having a theoretical discussion. It is a medical procedure that intends to terminate the life of the unborn.

With respect to some members' comments in the debate about the position of the Australian Medical Association [AMA] and the Royal Australian and New Zealand College of Obstetricians and Gynaecologists [RANZCOG], can I say that they are but one voice that should be listened to in the debate. There has been some reference to Dr Roach, the President of RANZCOG, who gave evidence at the hearing. Honourable members who followed that or were part of the hearing will remember his presence and his contribution. They will recall that with respect to the use of the term "late-term abortion"—what it meant and matters of limitation—I asked whether Dr Roach was aware of the position of RANZCOG a couple of years ago regarding the bill brought before the House by then member for The Greens Dr Mehreen Faruqi.

This is important to give us a reference point because RANZCOG at that point in time—a couple of years ago, the bill was defeated in 2017—supported no regulation around cut-off times. The position of RANZCOG was that there should be no regulation with respect to abortion in the State of New South Wales. The position of RANZCOG was to remove pregnancy terminations—abortion—from the Crimes Act, full stop. That was only a couple of years ago. I then took the president to the bill that came before the Legislative Assembly in the first instance as asked what was his position and the position of the organisation in regard to that? He said, "We support that, of course." I said, "Well, of course you do. Here is your media release." I then said, "What is the position of RANZCOG now, with respect to the amended bill that has come out of the Legislative Assembly?" He said, "We support that."

I then put the proposition to him, "With respect to amendments that could be made in this place, the Legislative Council, what would be the position of RANZCOG?" He said, "Well, I cannot answer that." The next question I was going to follow up with, which I did not do because I thought it may have been cheeky, was, "Dr Roach, at the end of the day, it will be the law. What comes out of this place—and, ultimately goes back to the other place, and if it receives royal assent and is proclaimed—will be the law that RANZCOG will be obliged to follow. Not your guidelines, not your position. It is the law." The Parliament makes laws with respect to these matters—the deliberation that goes into the parliamentary process. The issue of the matter of the cut-off is very important—and cut-off is the most crude way of putting it, but that is the phrase that is being used.

With respect to the period, the Hon. Scott Farlow made the point—and it was also one that I made in my contribution to an early amendment—that we are creating a statute to regulate abortion in the State, looking into the future as far as we possibly can see and beyond. The truth of the matter is that medical science is now essentially at the point of being able to ensure that a fetus of 20 weeks duration or more—and I acknowledge that is a very small fetus—is capable of living outside the mother's body with appropriate medical health care. I acknowledge that it is at the very margin of best practice medicine and health but this is where we are now, in 2019. This is not something we will get to in five years or 10 years time. This is where we are now. This is the

reality of our medicine, our health and what we have available—and are we not fortunate to live in a society where we have the availability of this medicine and health to ensure that a fetus can live outside the mother's body at 20 weeks or beyond? This is where we are right now.

It is clearly defensible—in fact, more than defensible; it is fully supportable. If there is to be a demarcation line—and remember what this demarcation line provides for; it provides for the pregnant woman to have her pregnancy terminated for whatever reason she decides she wishes to use. It could be a whole range of reasons—those are reasons that she and her mind have come to but she will be exercising, as is argued, that reproductive autonomy. She is using her agency, as it is described, to make a decision about carrying a pregnancy. One can accept that argument up to the point whereby—and I am not saying I follow this argument to the very end of its logical conclusion—if the unborn is capable at a point in time of living outside the mother's body and had the opportunity, that ought be a very serious consideration for the Parliament in determining a cut-off point, if I can use that phrase one more time.

I make a further point: I have found the term "late-term abortion" quite uncomfortable—although it has not been raised that much in the debate. I am uncomfortable in the sense that it is being suggested that 20 weeks is "late". Well, 20 weeks is just 50 per cent; it is halfway through the pregnancy. It is hardly how "late" would normally be understood as a vernacular description of a situation. It is five months. It is halfway through the gestation of a human being. That is what this is. The other part of the consideration is that it is not just the issue of the right of the woman to exercise reproductive choice; it is consideration for the position of the unborn life. The consequence of a termination of a pregnancy is extinguishment of that unborn life.

I conclude my comments there. More than being, as I said, a passing suggestion that 20 weeks may be adequate or satisfactory, I think it is highly arguable and strongly defensible that the setting of the limit at 20 weeks is appropriate and that it is a matter for the Parliament to make—obviously taking into account advice and insights and opinions that may be received from stakeholders such as RANZCOG, the AMA, other NGOs and individuals. It is the Parliament that makes those decisions and we need to make those decisions in full consideration of the facts before us.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I will now leave the chair. The House will resume at 8.00 p.m.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): We are dealing with the amendments on sheet c2019-091D.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (20:01): The issue being raised here is the winding back of 22 weeks to 20 weeks. I embrace the arguments put by the Hon. Scott Farlow about this and start with the premise that this is a provision that will provide better healthcare outcomes for women. If that is accepted then how do we not support this amendment? The Hon. Scott Farlow made reference to the evidence given by Dr Simon McCaffrey before the Legislative Council Standing Committee on Social Issues. That evidence, from a man who had been in practice as an obstetrician for 40 years, was that you would never do a termination after 18 weeks except in a hospital. In fact, he says the process after 18 weeks is so involved that it necessitates hospital care.

Why would we say that the level of hospital care and the care of two doctors who would give extra time to consider the material that was before them is something that we would not support? I put this to members: The Hon. Trevor Khan quite rightly makes the point that if someone rushes to make a decision to terminate a pregnancy because the time was going to tick over from 20 weeks and that date was going to cut off then that may represent circumstances in which women terminate a pregnancy without having all the information available to them that may have been the subject of a scan or some material that potentially gave conflicting advice.

Some evidence was provided to the Legislative Council Standing Committee on Social Issues that about 8 per cent of material subject to scans did in fact give false positives in respect of the diagnoses that arose out of those scans. If in fact this amendment is adopted, it gives rise to a circumstance where the woman would make that decision in circumstances where all the information was available to her and if she was making it at a later time it would be exactly the same information. We are saying bring the time back so that she has all the information earlier and is cared for in a hospital in circumstances that Dr McCaffrey described as best practice in administration of terminations in late-term pregnancy.

If we accept that this is about giving better care to women it is hard to understand why we would not have the best facilities in doctor care and hospital care available to them earlier rather than waiting till later. I find it hard to understand that we would not necessarily do that. Whether we wait that extra two weeks is irrelevant after 22 weeks. It is not that we are considering different circumstances as the Act is currently drafted. It would just say, "Here it is. At 20 weeks you embrace the terms of the Act. Two doctors must provide an opinion in

relation to it. It is public hospital care and it provides better health care in those circumstances." I wish to say two things. I acknowledge the contribution of the Hon. Mark Banasiak in relation to this. One of the proposals put is that this disadvantages regional women. Why is that so? If in fact Dr McCaffrey's evidence is accepted that it must be done in a hospital, why is it so that regional women are disadvantaged? They can only be disadvantaged if the facilities at the hospital are such that they are not able to deliver the procedure.

It does not change when it gets to 22 weeks. The same disadvantage applies, so in many respects the argument about whether it is 20 weeks or 22 weeks is a bit spurious. We are saying that whether it is 20 weeks or 22 weeks we ought to be taking it back to provide the best possible care earlier, not later. That is the argument that should prevail. The second thing I want to say is that any argument that you would have a termination performed in a clinic without any of the services available at a hospital just does not happen after 16 weeks. Terminations are not performed in clinics after 16 weeks, so it is all hospital based. I urge members of this House to consider that it is unreasonable not to want better care for women by not in fact moving the time that you would give them that care from 22 weeks to 20 weeks.

The Hon. MATTHEW MASON-COX (20:07): I strongly support my colleagues in moving the gestation limit from 22 weeks to 20 weeks. A range of arguments have been canvassed and I do not want to go over all those things but it is worthwhile highlighting a few key points and focusing on a couple of other issues that perhaps have not been fully explored.

The Hon. Penny Sharpe: Speak to the amendments.

The Hon. MATTHEW MASON-COX: By all means. In that regard it is worth noting—and I may have missed somebody's contribution while I was not in the Chamber—that under the Births, Deaths and Marriages Registration Act we have a stand in relation to stillborn babies, which is that at 20 weeks there is a requirement to issue a birth certificate. That is a relevant point in understanding that there is a legal requirement that exists in current law recognising the human quality of a baby born stillborn at 20 weeks. The Hon. Scott Farlow raised arguments in relation to thresholds in Tasmania of 16 weeks, Western Australia of 20 weeks and obviously we have different thresholds in Queensland and Victoria. We have heard from the Hon. Trevor Khan about the Law Reform Commission report of 2018 in Queensland, the issues in relation to rural and regional access and Aboriginal and Torres Strait Islanders.

There have been some quite persuasive arguments put to counter that, particularly the Hon. Mark Banasiak's comment: Why don't we have the best health care in rural and regional New South Wales? Indeed, we need to invest in that to ensure we have the proper care in those areas. It is important not only to look at those practical issues but also to understand the clinical practice. In that regard, the policy directive titled "Pregnancy - Framework for Terminations in New South Wales Public Health Organisations", of which members would be aware, goes through in some detail the expectations. At page 5 of 9 there are references to greater than 20 weeks gestation. It is pretty clear—and I think the Hon. Damien Tudehope explained—that private clinics are not doing abortions from 16 weeks. They occur in a public hospital environment.

From talking to friends of mine who are obstetricians—and I heard some of the evidence from the inquiry as well—the information that has been given to me is strongly of the view that at 20 weeks gestation a woman should be having a termination in a public hospital, with the support of a multidisciplinary team, as stipulated by the "Pregnancy - Framework for Terminations in New South Wales Public Health Organisations". It is very important that the woman has that health support and that protection in a public hospital, particularly in relation to this argument of bringing it back from 22 weeks to 20 weeks. I note the argument put by the Hon. Wes Fang that his concern is that is perhaps that service is not available so much in rural and regional New South Wales. In that regard it is probably worthwhile looking at what it says in proposed section 6 about terminations after 22 weeks.

In this case, if we move to 20 weeks, the same would apply with necessary changes being made. Proposed section 6 (d) states that the termination is performed at a hospital controlled by a statutory health organisation within the meaning of the Health Services Act 1997 or at an approved health facility. That gets back to the Minister again approving the relevant health facilities. The concerns raised in relation to rural and regional New South Wales are real concerns. I am a member from rural and regional New South Wales and I have long advocated for affirmative action on health policy investment into rural and regional New South Wales where we bring the services back into a lot of the hospitals that over time have leaked services. That has happened under various governments and it is important that we restore some of those services to rural communities and we reinvest in those services to ensure—

Mr David Shoebridge: Point of order: This contribution is now going well beyond the amendments to treatise on the quality and extent of services in regional health. Perhaps there is some modest relevance to the amendments but this is now becoming the focus of the contribution.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I will ask that the member return to the amendments. That area has been canvassed by other members.

The Hon. MATTHEW MASON-COX: By all means. I was just making the point. These are relevant considerations and I ask members to consider those in looking at the amendments. The other considerations I want to raise are in relation to the concerns that the Royal Australian and New Zealand College of Obstetricians and Gynaecologists put forward and the salient observations of the Hon. Greg Donnelly in relation to the Faruqi bill, where no gestational limits were put in place. That is the case in the Australian Capital Territory and so on. What is really behind this demarcation line, whether it is 22 weeks or 20 weeks? We are talking about a difference between a medical practitioner at up to 22 weeks under the current provision of the bill and beyond that we have two specialist medical practitioners. Those specialist medical practitioners are obviously around the State and in the relevant facilities.

In this scenario we would have a specialised medical practitioner or a medical practitioner in those facilities where abortions are being conducted at either 20 or 22 weeks. The demarcation line is really not that significant in terms of where one draws this gestation period. Whether it is 20 or 22 weeks, if one is looking at the care that a woman requires at that time, it is pretty similar. In that regard, whether it is 22 or 20 weeks, the real difference is the quality of care that may be available to the woman. Indeed, the multidisciplinary teams and the like kick in at 20 weeks or before, depending on the facility. The demarcation is not as important as some members have articulated. The demarcation is more important to a woman in terms of the best possible care, and the earlier the better. Indeed, I have had some discussions with obstetricians who would recommend it be at 16 weeks, which is obviously the case in Tasmania. It has been put to me that their view is that care should be available to the woman at the time of gestation because it is necessary to ensure that she is safe.

These are relevant considerations in where we draw this arbitrary line. I submit that this line is rather arbitrary. I strongly submit that it be drawn earlier at 20 weeks because that is the best possible place to give care to the woman concerned. It also reflects the 20-week period when a birth certificate is issued for a stillborn child, which is our existing recognition of a quality of life or a human character to a stillborn baby. At the same time, we have the health policy directive that supports that conclusion from 20 weeks with the multidisciplinary teams and the like. There are cogent arguments to move from 22 weeks to 20 weeks. I note that one of the serious arguments put by a number of members who oppose that amendment is that we have the morphology scan at 18 to 20 weeks and we need time for a woman to make a decision. That is a very fair argument but I submit that, whether it is at 20 weeks or at 22 weeks, the only difference is another specialist medical practitioner.

There is no real significant hurdle we are jumping over in driving a person back to 20 weeks. To suggest that we put it at 20 weeks and that we have a situation where a woman might be pressured into doing something that might terminate the child really does not reflect the situation. These are very delicate situations. The reality would be that tests would be done at that 18-week to 20-week period and if the woman concerned received those test results and was able to make a decision by 20 weeks, I do not think there is much of a difference except for one specialist medical practitioner, who would be available by phone in rural and regional New South Wales if there are workforce issues. That is the sort of difference one is talking about between that threshold of 20 weeks or 22 weeks.

In that scenario it is not like one is jumping a big threshold; one is just looking at more care and that is what this amendment is about—more care for a woman in that situation. It is the care for the woman and the safety of the woman in these procedures that are paramount in that circumstance. Obviously a woman will make a decision in those difficult circumstances because we all understand how difficult late-term abortions are for everybody concerned. We want them to be rare and we want women to be supported in the best possible way. I strongly submit that moving from 22 weeks to 20 weeks is not a fallacy; it is just not a significant difference. It is an arbitrary line that can be easily moved, which will only promote the health care for the woman concerned and it brings it into line with our existing laws relating to births, deaths and marriages and the issuing of birth certificates for stillborn children.

It brings it into line with the health policy directive that exists and acknowledges the final scan, the morphology scan, at 18 to 20 weeks, which might be easily done in Vaucluse—I do not mean that in a derogatory way but those services are more accessible there—but if it is in the country it should be done in the same way. We should not have any services in the country that are second rate. If you put all that together, we expect the same level of care in the country and in the city, and we should invest the money to make sure that happens. All these things point strongly to a rationale for a 20-week threshold rather than a 22-week threshold for gestation. I submit to members that the difference is more illusory than perhaps is being put forward tonight and I ask that they reflect on that deeply.

Mr DAVID SHOEBRIDGE (20:20): There has been a series of contributions from men largely without medical training asserting why they think the threshold should change. I am guided by the advice from the Royal

Australian and New Zealand College of Obstetricians and Gynaecologists. It is very clear. I will read onto the record its contribution in part:

> RANZCOG recognises the complexities associated with late term abortions, and supports a process by which late term abortions can be lawfully performed where appropriate.

All women seeking a termination of pregnancy should be offered counselling. It further stated:

> In the case of abortion after 22 weeks gestation, the College agrees that involvement of two doctors and a multidisciplinary team is desirable, but should not be mandatory, and should not obstruct a woman's right to determine the course of action that she chooses to take. A multidisciplinary team may include, but not be limited to, fetomaternal medicine specialists, neonatologists, geneticists, social workers, psychiatrists or other mental health specialists.

Indeed, The Greens strongly endorse the approach of it not being mandatory at 22 weeks or otherwise but we note that the provision for the bill is 22 weeks. The college then sets out significant extracts from its guidance on abortion. I urge members to read that and comprehend what the college says. Its opinions matter in this debate. Its members are the experts and they deal with these issues. At the end, they state that if the clinical decision is made by the treating medical practitioner that a termination is to occur up to 22 weeks gestation, this service should be provided within the facility.

They further state that if the clinical decision is made between a woman and a treating medical practitioner that a termination is required after 22 weeks gestation and the facility is not in a position to offer a termination as outlined in its policy, the treating practitioner must provide appropriate information and refer the woman to another facility within their tiered maternity network that does have the expertise and capacity to undertake the procedure. The Royal Australian and New Zealand College of Obstetricians and Gynaecologists sets 22 weeks as the relevant threshold for its advice. What possible basis can a bunch of men with no medical expertise be challenging that seriously in this law?

The Hon. CATHERINE CUSACK (20:22): I do not have any medical expertise but I have actually carried two babies to full term and I hope that that experience might count for something. These amendments are really about defining what is a late-term abortion. At what point do we say it is early or it is late? Having had two pregnancies, I can tell you that 20 weeks pregnant is not early. There is full awareness. There is a lot of movement before the 20 weeks but, as somebody who has had that experience, the idea that an abortion beyond 20 weeks could be defined as early actually appals me.

I do not care what Queensland does; that does not persuade me. We do many things in New South Wales that are not done on the basis that Queensland does it. I agree that the doctors and the medical practitioners have an important voice in this debate. But imagine if all our law and order policies were based on what lawyers told us to do. The New South Wales Bar Association and those organisations put their best views forward and they are often quoted in this Chamber. But those views are not the sole basis upon which we make a decision. I am sure it is going to be easier for the doctors if the bar is raised at 22 weeks compared with whether the bar is raised at 20 weeks. I do not intend to contribute a great deal on the amendments and I have not spoken so far but this issue is really important to me.

I congratulate the Hon. Scott Farlow on the amendments and the way he has put his arguments. But the lack of concern and recognition of community anxiety on this matter about what is and is not a late-term abortion and the fact that there seems to be no prospect of any compromise on this particular issue disappoints me tremendously, just in terms of having a genuine debate and discussion about this issue and the concept that this parliamentary debate could contribute something and improve a private member's bill in some way. But if this particular issue cannot be improved then the whole debate has not been genuine. I am very sad about that. There are cabals on both sides of the Chamber; I am not in any of those. I am a member who has tried to read as much as I can to understand the bill. I entered this debate in the belief that it has been a genuine discussion.

These particular amendments disappoint me—not only the amendments but also the bill as a whole. I wish to lend my support to the amendments. I am very disappointed and sad that a child at 20 weeks gestation cannot be considered as a higher bar.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! I make the observation that people in the public gallery have been incredibly well behaved today, but they are not to applaud or interject. We can hear the protesters outside and we know their views. I ask that you not interject.

The Hon. PENNY SHARPE (20:26): I oppose the amendments. I have listened very carefully to the discussion. In response to issues raised by the Hon. Catherine Cusack, I do not doubt for a minute her sincerity or her distress about this issue and the views she has. But we are standing here in unusual circumstances in that it is a conscience vote for all members. I oppose the amendments on the basis of my own conscience. I will explain to the House why and encourage others to do the same. Fundamentally, the bill is about removing from the

Crimes Act the threat of jail for doctors or women who are seeking terminations. It seeks to codify the current common law practices relating to abortion.

At the moment there is no gestational limit and there is no requirement to have more than one doctor managing an abortion. This is dealt with in the guidelines and I am not going to go through those tonight. For those members who are concerned about this, I want them to remember that the bill is tighter than the current arrangements. Secondly, an abortion at any time is not something that a woman chooses to do lightly or without great thought. The issue around whether it occurs at 20 or 22 weeks is not arbitrary. It is actually very important.

The reason the drafters of the bill have set the limit at 22 weeks is we have taken the best advice from the Royal Australian and New Zealand College of Obstetricians and Gynaecologists [RANZCOG] and from the Australian Medical Association [AMA]. We have also listened to the 72 organisations in the NSW Pro-Choice Alliance. We have worked in detail with ethics committees and have heard the lived experiences of women making those choices. The experts deal with them every day and they tell us that 22 weeks is right and important. It is important because women may have to make a decision later in their gestation when they find out that something has gone wrong either to themselves or to their baby. This is important and we need to understand that.

I am also driven in relation to whether it is 22 weeks or 20 weeks on the basis that women in rural and regional New South Wales are discriminated against because of the current laws and they do have less access compared with other women. I find that unconscionable. I welcome the comments from members in this Chamber who said they want to see better health care in rural and regional New South Wales. So do we all, but let us understand the reality for women in this State. Twenty-nine women a week in New South Wales are travelling interstate at great expense, in great distress and often having later-term abortions than they ever wanted to have because they do not have access to appropriate services.

Members of this House can say that they want better health services—and I am happy to reach across the aisle and work with all Government members to increase funding and increase access so that women do not have to do that—but we are not dealing with what we want to happen. We are dealing with what is actually happening now. How do we make that safe? How do we make that legal? That is what these amendments are about. I cannot find it conscionable that 29 women have to go interstate. My own conscience is driven by the experiences of the women who have spoken to me over the long period during which we have been having this debate. I have to say that I continue to reject the idea that there has not been enough time for consideration of the bill. I am not going to revisit the rhetoric around 119 years but I will go to the fact that there have been thousands of submissions and that we have received thousands of emails.

There has been a parliamentary inquiry at which everyone got a chance to put on record their expertise and their views. The one thing I would note and the one thing that I am disappointed about in some of the people who are moving these amendments is that, when they refer to the obstetrician who gave evidence to the inquiry, they fail to say that he is currently the president of Right to Life. That is fine, but he has a very particular view when it comes to the way in which this issue is managed. I am not doubting his expertise or his view, but let us be honest that he brings a very particular framework to his evidence. We need to be honest about that.

I have listened very carefully and spoken at great length to doctors, obstetricians and gynaecologists who work in this field. I have talked to people on the front line every day who have women coming into their services in a degree of distress that few of us understand. These are not easy choices. They are extremely difficult. Women do not make these choices lightly. They do not need the faux concern of people who say, "We want them to have the best proper care." If these women are actually able to access the care, if they can actually walk through the doorway of a clinic or a hospital or walk in to see their doctor, they are getting the best care because those doctors are working with them through very difficult discussions.

Those doctors are talking the women through what their options are. They are seeing them through when they have to have two, three or four scans and they then find out that something might not be right with the much-wanted pregnancy and child that they are carrying. I conclude by saying that there is a big difference between 20 weeks and 22 weeks. It is not arbitrary; it is based on the best advice that we can get from medical practitioners. It is also based on the best advice of women's organisations across this State who are at the coalface every single day dealing with these matters. It is also best for the 29 women a week who have to go interstate because they cannot get earlier-term abortions in New South Wales and we do not have the requisite health care available to them. This stuff is not arbitrary. It is important, and two weeks matter to women who have to make very difficult decisions.

Some of my closest friends have had to make very difficult decisions when much-wanted pregnancies have not gone right. The idea that members can say that this stage of termination is arbitrary and that there is no difference between them being able to make that decision with their partners and their families about whether they terminate or they carry a child to term that they know is going to die in terrible circumstances is not something

that members should play with lightly or consider arbitrary. These matters are about women and their doctors, in consultation with their families, making decisions that they will have to live with for the rest of their lives. We have to respect that. I urge members to reject the amendments.

The Hon. NATASHA MACLAREN-JONES (20:33): I will not speak at length because I spoke earlier, but I want to clarify comments that have been made by the Hon. Penny Sharpe about the 14,000 submissions that have been made in relation to this legislation. I assume she was referring to the inquiry that was conducted.

Mr David Shoebridge: Point of order: Discussion of amendments is focused on the amendments. It is not in order for a member to seek to comment on an earlier contribution that was outside the leave of the discussion. This contribution is about submissions to an inquiry process, which is not relevant to the amendments.

The Hon. NATASHA MACLAREN-JONES: To the point of order: The Hon. Penny Sharpe referred to 14,000 people whose submissions had been read. The fact is that those submissions were not read. I place on record an apology to those people who have not had an opportunity to actually have their voice heard.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! I am afraid that was an abuse of the process by the Hon. Natasha Maclaren-Jones. She was not speaking to the point of order. I rule the contribution out of order.

The Hon. COURTNEY HOUSSOS (20:34): I support this set of amendments. At the outset, I express my view that they were well explained by the Hon. Scott Farlow to the Committee in a careful and considered manner. I will provide a few reflections on the debate and speak specifically around the question of 22 weeks and how it was brought to the debate. The main point referred to during the debate around the reason for 22 weeks is on the basis of a Queensland Law Reform Commission report. I appreciate that the Queenslanders had the opportunity to pursue this through a careful and considered process and came to that view, but that was a view that was relevant to Queensland. I think the view we should be considering in this place should reflect upon the laws that exist in New South Wales to govern this particular area.

Previous speakers have referred to stillborn babies at 20 weeks being registered and being treated in a different way. When it comes to a stillborn baby, 20 weeks is seen as a clear marker of a point in their development that requires further registration, further understanding and further recognition of a life that has been lost. The existing framework that applies to pregnancy terminations in New South Wales at the moment distinguishes between those under 13 weeks, those between 13 and 20 weeks, and those over 20 weeks. Again, we come to that crucial point of 20 weeks. The Hon. Damien Tudehope explained clearly the medical reasons for this distinction being based at 20 weeks. I think that was very compelling. Moreover, we need to be futureproofing this legislation. We need to be thinking about what is the framework we are providing going forward.

Of course, there have been many speakers in this place and in the other place who have referred to the miracle of a child—I cannot explain it in any other way—who survived being delivered at 21 weeks and four days and the care that was provided. I think we must be really careful about creating a legal grey area in this space between 20 weeks and 22 weeks. While I deeply respect the doctors and the work they do, our role in this place is to balance the views of experts and the views of the community and, particularly on issues of conscience, provide our own personal experiences. I reiterate what was said by the Hon. Catherine Cusack, and what I said during my second reading contribution about this question of 20 or 22 weeks becoming all the more real after living through a pregnancy and seeing the rapid speed of development that affirms that two weeks at any point in pregnancy is crucial, but particularly around that time.

I reflected that it was actually at 20 weeks that I first felt my daughter move. In terms of the development of pregnancy, these are important markers. The member for Pittwater referred in the other place to potential human beings having rights too and he said that those rights need to be recognised and balanced. This is a scale that we are working on and I think it is important to move that scale backwards to 20 weeks from 22 weeks. While one of the previous speakers referred to the extensive consultation with doctors and organisations in the Pro-Choice Alliance, there is deep community concern around late-term abortion and the way that it will not be regulated effectively under this bill. One of the things we can do to address those community concerns is bring that back from 22 weeks to 20 weeks.

Further amendments will deal with other aspects of the bill, but I think it is incredibly important as a first step tonight that we move that marker back to 20 weeks—to what is generally considered to be the halfway point of pregnancy. We should acknowledge that 20 weeks is a very significant point at which two specialists should be required. At that stage of gestation there should be additional requirements. My final point concerns fetal abnormalities. The 18- to 20-week scan has been raised consistently in this debate. I have had friends in the terribly tragic circumstance of thinking that their pregnancy was progressing beautifully and telling people about it and planning for an imminent arrival who then got absolutely devastating news at that scan. If the bill is amended as

proposed, an abortion will still be available to people who find themselves in that situation. I agree with the Hon. Mark Banasiak, who said we should be aiming higher for our country medical services.

If there is a significant fetal abnormality, if there is a medical reason for a termination to be performed, that will still be available under the amended bill. Indeed, the two consulting medical specialists will be able to provide that approval. But, in the meantime, I believe the framework we provide to the community and the feedback that we receive from them tells us that we should move that marker back to 20 weeks. I appeal to members to support the amendments.

The Hon. GREG DONNELLY (20:41): So that all members clearly understand it, I will read onto the record an extract from page 5 of the NSW Health policy directive entitled "Pregnancy - Framework for Terminations in New South Wales Public Health Organisations" regarding the demarcation between 20 and 22 weeks. It states:

> Except where there is an imminent threat to the life or physical health of a woman necessitating a termination as a matter of urgency, the following process is to be followed …

The directive then sets out three time frames: less than 13 weeks gestation—I will not read that; 13 to 20 weeks gestation—I will not read that; and more than 20 weeks gestation. The current guidelines apply to NSW Health bodies, institutions, agencies, entities, hospitals—however you would like to describe them—across the State. Bear in mind that the words are carefully drafted. The paragraph relating to terminations at greater than 20 weeks gestation states:

- > 20 weeks gestation - In the assessment of need the treating practitioner should seek appropriate consultation and advice as dictated by the individual clinical scenario. Such consultation and advice should be documented by the treating practitioner. In some circumstances the Local Health Districts may provide opportunity for a case conference or multidisciplinary team, with a mix of skills and experience to provide advice to the treating medical practitioner so that he/she is able to undertake an informed assessment of need for termination of pregnancy. The provision of a case conference or multidisciplinary team is not a mandatory component of the assessment of need but serves to assist the treating practitioner in complex clinical situations. The multidisciplinary team may include experts in the areas of psychiatry or specialist mental health, fetal medicine, neonatology and the other specialty or specialties relevant to the woman's and fetus' condition.

The next paragraph completes it properly:

> Such a multidisciplinary team is neither a constituted ethics committee nor does it have clinical decision making ability. Its sole purpose is to provide the treating medical practitioner with advice of a clinical or technical nature.

Let us contemplate a terrible situation: If the bill passes without the proposed amendment, it invites NSW Health—in fact, it may well obligate NSW Health because it will become the law—to go back, as I spoke about in my earlier contribution this evening, and review its directive and push 20 weeks up to 22 weeks. What an extraordinary, perverse and appalling outcome that would be. The guidelines provide for 20 weeks or more. Correct me if I am wrong, but if this proposed reasonable amendment is not accepted, NSW Health would potentially be obliged to change its guidelines from 20 weeks to 22 weeks. The discussion comes into sharp focus when we realise what the current practice is in New South Wales. We cannot allow such a perverse outcome.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I acknowledge the presence of the Hon. Jenny Gardiner in the President's gallery. Ms Gardiner was a member of the Legislative Council from 1991 to 2015 and—intimidatingly for me—she was Deputy President and Chair of Committees from 2011 to 2015. People here still talk about her. I welcome her to the Chamber.

The Hon. SCOTT FARLOW (20:46): I echo the comments of the Hon. Greg Donnelly in drawing attention to NSW Health policy directive entitled "Pregnancy - Framework for Terminations in New South Wales Public Health Organisations". It puts an end to the argument that the bill simply reflects current practice. As the honourable member outlined, the bill represents a change to current practice. I also pick up some of the points with respect to the limiting of terminations. We have heard a lot about trusting women and trusting their doctors. The proposed amendments simply seek to change the threshold to the 20-week mark. The appropriateness of a termination is still a determination between a woman and her doctor. I choose to use the word "woman", as many other members have done in this debate.

A termination would still be applicable in the circumstances that members have outlined as an argument against the proposed amendments, and therefore would be permissible under new section 6. The proposed amendments effect no drastic change. The House may consider subsequent changes and honourable members will be able to consider those on their merits. The Hon. Penny Sharpe talked about the current situation where women are receiving the best care from clinics. As I pointed out in my initial contribution, the Marie Stopes Australia clinic in Maroondah in Victoria, which is the only clinic in Victoria that performs terminations between 18 and 24 weeks gestation, has a very long list—

The Hon. Penny Sharpe: Point of order: The member is straying a long way from the amendments before the Committee.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I remind the member to apply his attention to the amendments. The member does not have a right of reply.

The Hon. Greg Donnelly: Point of order—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! Is it a new point of order? Under the standing orders, I can rule at any point. I want to keep consideration moving. I was reminding the member that his contribution needs to apply to the amendments. We should move on rather than take up time with points of order. The Hon. Scott Farlow has the call.

The Hon. Greg Donnelly: Point of order—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I asked the Hon. Greg Donnelly whether he had a point of order and he did not reply. Is there a point of order?

The Hon. Greg Donnelly: My point of order is to the point of order.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I have ruled on from that. The Hon. Scott Farlow has the call.

Reverend the Hon. Fred Nile: It is a point of order, is it not?

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Is it a new point of order?

The Hon. Greg Donnelly: It is related to that point of order, yes.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Okay, so it is a new point of order.

The Hon. Greg Donnelly: No, it is in relation to the one that you ruled on.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I have ruled on that point. The Hon. Scott Farlow has the call.

The Hon. SCOTT FARLOW: This is relevant because it changes the setting in terms of the performance of a termination in a hospital setting. It is directly relevant to this point, and that is not a case where the best care is being demonstrated. Changing the threshold would allow for the best care under NSW Health to be provided in a hospital setting under part 6 of the Act. With respect to the comments made by the Hon. Damien Tudehope, which I think were very well explored in terms of—

The Hon. Penny Sharpe: Point of order: This is not a second reading debate. We are in Committee. I understand that the Hon. Scott Farlow moved this amendment. There has been extensive debate in relation to this. It is not the time for a right-of-reply speech in relation to the amendments before us.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): There is no scope for right of reply.

The Hon. Greg Donnelly: To the point of order: The Hon. Penny Sharpe has taken a point of order. I have been listening carefully to the contribution of the Hon. Scott Farlow and he has been dealing specifically, as I understand it, with the matter before the Committee. I have understood and appreciated thus far an absolute fairness in allowing the discussion to take place within the parameters of each amendment. I am grateful for that, and I am sure all other members are too. I do not see in any way whatsoever how the Hon. Scott Farlow's contribution is outside the actual amendments. In fact, it relates precisely to this issue of the treatment and care of women who make the very significant decision to terminate a pregnancy and how that is done.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I remind the Hon. Scott Farlow again, so the debate keeps flowing, to keep his reply focused on the amendments. The member is not entitled to a right of reply. That does not mean he cannot refer to other speeches, but there is no formal right of reply.

The Hon. SCOTT FARLOW: I understand that and I do not seek to make a speech in reply. Rather, I seek to pick up some of the issues that have been raised in this discussion. It is important to remember that in New South Wales these late-term abortions only happen in a hospital setting. The amendments seek to keep it that way, effectively, rather than opening the scope—which the bill at present would do—by extending it to up to 22 weeks outside a hospital setting. I again commend the amendments to the Committee.

Reverend the Hon. FRED NILE (20:52): I support the amendments moved by the Hon. Scott Farlow, which relate to terminations at less than 20 weeks. The amendments would omit "not more than 22 weeks" and insert instead "less than 20 weeks". That is key to these amendments. As members know, I strongly oppose abortion for all reasons at any stage, so agreeing to these amendments is hard to do. I only agree in recognition of

the fact that this will help save some babies from a terrible fate—the fate of death. My conscience will not allow me to vote against an amendment that will help save even one life. However, I wish to make it clear that abortion is never a solution for women. Two weeks matters a lot when it comes to the lives of babies.

Also, as other members have said, it is recognised in our State law that a baby stillborn at 20 weeks must be registered as a human being. I am very pleased that that is our State law, that they are regarded legally as human beings. A better policy would be to have no abortions, to give care to mothers who can care for their babies up to birth and, where there are other problems or matters, to have the baby put up for adoption. That would be a better outcome, obviously, for the baby. "Termination" is a nice word to use in this debate—

Mr David Shoebridge: Point of order—

Reverend the Hon. FRED NILE: —but it hides the fact that it is the death of a baby.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): A point of order has been taken. Reverend the Hon. Fred Nile has concluded, so I think the point of order might now be redundant.

Mr David Shoebridge: Point of order: Reverend the Hon. Fred Nile's contribution was not at all in relation to the amendments, but was instead a general treatise on his views on the bill.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I remind all members—yet again—to focus specifically on the amendment and not make a second reading speech.

Reverend the Hon. FRED NILE: That was my last point.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I thought that was the case. I remind members of Standing Order 95 (6), which states:

> The President or Chair of Committees may hear argument on the question, and may determine it immediately, or at a later time, at the President's or Chair's discretion.

So I can make that ruling at any point to keep the discussion flowing freely, as I am trying to do. The question is that the Hon. Scott Farlow's amendments Nos 1 to 6 on sheet c2019-091D be agreed to.

The Committee divided.

Ayes 15
Noes 26
Majority.....11

AYES

Amato, Mr L	Banasiak, Mr M	Borsak, Mr R
Cusack, Ms C	Donnelly, Mr G	Farlow, Mr S
Houssos, Mrs C	Latham, Mr M	Maclaren-Jones, Mrs (teller)
Martin, Mr T	Mason-Cox, Mr M	Moselmane, Mr S (teller)
Nile, Revd Mr	Roberts, Mr R	Tudehope, Mr D

NOES

Ajaka, Mr	Blair, Mr	Boyd, Ms A
Buttigieg, Mr M	D'Adam, Mr A	Faehrmann, Ms C
Fang, Mr W (teller)	Field, Mr J	Franklin, Mr B (teller)
Graham, Mr J	Harwin, Mr D	Hurst, Ms E
Jackson, Ms R	Khan, Mr T	Mitchell, Mrs
Mookhey, Mr D	Moriarty, Ms T	Pearson, Mr M
Primrose, Mr P	Searle, Mr A	Secord, Mr W
Sharpe, Ms P	Shoebridge, Mr D	Taylor, Mrs
Veitch, Mr M	Ward, Mrs N	

Amendments negatived.

The Hon. NIALL BLAIR (21:03): By leave: I move amendments Nos 1 and 2 on sheet c2019-099 in globo:

No. 1 **Informed consent**

Page 3, proposed section 5, lines 6 and 7. Omit all words on those lines. Insert instead—

(2) The medical practitioner may perform the termination on the person only if the medical practitioner has obtained informed consent to the termination from—

(a) the person, or

(b) if the person lacks the capacity to give informed consent to the termination, a person lawfully authorised to give consent on the person's behalf.

No. 2 **Informed consent**

Page 3, proposed section 6, lines 18 and 19. Omit all words on those lines. Insert instead—

(c) the specialist medical practitioner has obtained informed consent to the termination from—

(i) the person, or

(ii) if the person lacks the capacity to give informed consent to the termination, a person lawfully authorised to give consent on the person's behalf, and

The amendments propose to clarify the informed consent provisions added to the bill in the other place. While duty of care and legal and professional obligations require doctors to always ensure that patients have given informed consent before any treatment, the bill was amended in the other place to codify this practice and legislate the requirement for a medical practitioner to perform a termination only if the woman has given informed consent. "Informed consent" is defined to mean consent that is given freely and voluntarily and in accordance with any applicable guidelines.

While the added provision includes emergency situations, clarity is needed around doctors' obligations in cases where a woman lacks capacity to give informed consent. In most situations, women can make informed decisions about their life and their body but sometimes a woman lacks capacity to consent. That could occur if a woman is unconscious, is too young or has an intellectual disability, although not all women with an intellectual disability will lack capacity. Doctors are well trained to determine patients' capacity to make free and informed decisions.

The amendments I move recognise the regime set out in the Guardianship Act 1987 for obtaining consent when a person lacks capacity. Under the amendment, if a woman lacks capacity, her substituted decision-maker will be required to give informed consent. The change will ensure that if a woman cannot give informed consent, a person who is lawfully authorised to give consent on her behalf for medical treatment can give consent to a termination. I believe this was overlooked when it was put into the bill in the other place. That is why I think it is important that this provision and these amendments be included in the section on informed consent. I commend the amendments to the Committee.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (21:06): There are very clear guidelines about and obligations towards people who do not have the capacity to give informed consent. Generally that involves an application to the Guardianship Tribunal. The amendment is a significant deviation from that process. The Guardianship Tribunal would take into account a whole range of circumstances and evidence in coming to its decision. Including the provision to give a person, who is appointed a guardian or who acts in loco parentis to someone who does not have capacity, the opportunity to give that consent pursuant to this bill is right outside the guidelines of how we normally deal with consent in those circumstances. A parallel may well be drawn to applications that are on the other side of this, such as when young people who lack capacity are the subject of sterilisation procedures. Because of the nature of the procedure, having it carried out involves a complex application to the Guardianship Tribunal. While I accept the bona fides of the mover of this motion, it is such a deviation from the current law relating to consent for persons who do not have capacity that we could not possibly support it.

Ms ABIGAIL BOYD (21:08): As we know, medical professionals are legally and ethically bound to get informed consent before each and every medical procedure. No other medical procedure has a specially legislated requirement for informed consent. For example, vasectomies are not required in legislation to be a special type of medical procedure requiring informed consent. It is offensive to doctors to seek to codify this requirement here. It panders to those who seek to take away reproductive healthcare decisions from patients and their doctors. The requirement was introduced in the bill during debate in the lower House, as the Hon. Niall Blair has described. Frankly, that was a mistake and now people are concerned that amendment will have unintended consequences.

The Hon. Trevor Khan: Point of order: The member is canvassing the substantive amendment that was made in the lower House, not dealing with the amendment that is before the Committee. Whilst the member may

wish that she had moved an amendment to remove the informed consent provision—that was available to her—she is essentially seeking to canvas that issue rather than deal with the very specific provision, which has sought to be amended, to deal with the issue of informed consent in the case of incapacity.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I direct the member to confine her remarks to the amendment before the Committee.

Ms ABIGAIL BOYD: I can assure you they are and they go to why we will not be supporting the amendment.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I am sure they are and I am sure the member will take on board the comments she has heard.

Ms ABIGAIL BOYD: I go back to why we will not be supporting the amendment. Mr Brad Hazzard, in the lower House—

The Hon. Scott Farlow: The Hon. Brad Hazzard.

Ms ABIGAIL BOYD: Sorry, I thought that was a point of order. During the debate, he stated:

> Other than in an emergency, no doctor would consider it appropriate to undertake any procedure without informed consent. It does not matter whether it is a termination, an appendectomy or taking tonsils out—it is informed consent.

He went on to say:

> The general principles of law provide that a medical practitioner can only provide treatment with consent and that, in fact, a failure to obtain consent could render them liable not only to civil action … but also to potential criminal proceedings.

In other words, by inserting the provision in the lower House, it was bound to have unintended consequences, as it seeks to codify something that already exists in practice. The best amendment to make now would be to restore the original provisions of the bill as first introduced to the lower House, by removing the informed consent provision entirely. I did draft an amendment for that purpose but rather than move it tonight—other than being completely unnecessary and patronising—we are not convinced that the provision as it stands in the bill, acts in any operative way to change the current practice. We do not agree that the additional amendment is required or is a necessary fix. On that basis, we oppose the amendment.

The Hon. MATTHEW MASON-COX (21:12): I do not doubt for a moment the bona fides of the Hon. Niall Blair in moving this amendment. To be frank, I have not had enough time to consider it, given I only received it prior to coming in here this afternoon. I have sought to consider the amendment in light of the guardianship provisions. I am concerned about unintended consequences because there are very specific provisions in relation to guardianship, which members would be aware of. I am not confident at this point in time—unfortunately this is sadly part of something that happens in some of these processes when we do need to move quickly. I regret that at this point in time I cannot support the amendment in its current form. I think that the bill as it stands with the provisions that are well set, well regarded and well understood in the guardianship framework, prevail and should be looked to in relation to informed consent in these matters.

The Hon. ADAM SEARLE (21:13): I support the amendment moved by the Hon. Niall Blair. As I read clause 5 of the bill now, informed consent is required for the medical practitioner to perform a termination and the only exception to that, in the following subsection, is an emergency, where it is not practical to obtain informed consent. If, for some reason, the person proposed to have the procedure is not—outside of an emergency—able to give informed consent on a legal basis, that, as I read the bill, would prohibit any termination from taking place.

If it is your intention to limit access to this procedure then, of course, you will vote against these amendments—that is pretty clear. In my view the amendments are necessary to provide a wider set of possibilities for the procedure to be accessed by all persons who need the treatment because the bill as it stands, in my view, is unduly restrictive. The amendments proposed by the Hon. Niall Blair do not widen the scope very much. But they do deal with a situation where a person, on a legal basis, lacks capacity and enables a person lawfully authorised to give consent on a person's behalf to do so.

There may still be circumstances where there is no such person. But it does provide that where such a person exists, that person can give consent on the other person's behalf. Without these amendments being carried, the change made in the other place to the original bill would, I think, make the procedure less available under this legislation than it is today. I do not wish to support legislation that takes the women of New South Wales and all people who need access to this health care backwards from where they are today, which is why I support these two amendments and why I urge all honourable members to also support these amendments.

The Hon. MATTHEW MASON-COX (21:15): Perhaps the member can elucidate. I would like to understand a little bit more clearly how this actually takes us back from the current position, given that these

issues are dealt with under the Guardianship Act through a regime that is well understood. I would like to understand how this does take us backwards.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): In the spirit of the debate on the amendments I will permit that speech. It is up to the member if he wishes to respond. He does not.

The Hon. TREVOR KHAN (21:16): I make this observation—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Is it a point of order?

The Hon. TREVOR KHAN: No, it is not a point of order. I am seeking the call. The difficulty that exists with the current provision is that it requires the person to give informed consent. The question therefore becomes an issue of a conflict of laws. Notwithstanding the existence of the Guardianship Act, if this legislation—being later legislation—indicates that the person must give informed consent, the danger exists that that will be read as requiring that specific informed consent being given by the person and that that overrides anything within the Guardianship Act.

The insertion of this provision, which gives a person lawfully authorised to give consent on behalf of the person, makes it consistent with the Guardianship Act because it requires the consent to be given by somebody who is lawfully authorised, and that can be under the provisions of the Guardianship Act or it could be under some other provision that may be appropriate to giving that consent, such as a power of enduring guardianship one might think. If I am right in that regard the power of enduring guardian may be capable of being read as a person lawfully authorised to do so, or, failing that, an order may be made under the Guardianship Act. It seems to me that rather than doing harm, as suggested by the Hon. Damien Tudehope, this is the mechanism by which the provisions of the Guardianship Act can come into play without any threat of a conflict of laws.

The Hon. PENNY SHARPE (21:18): I have listened closely to this debate. Like the Hon. Matthew Mason-Cox, I only got to see these amendments this afternoon. To be frank with the Committee, as the sponsor of this bill in this Chamber, my preference in the lower House was not to have the informed consent inserted for the reasons that The Greens have outlined: A lot of this—in fact, all of it—is covered by the guidelines. Having said that, I accept that the outcome of the lower House was to insert the informed consent provision.

This is an important addition, in my view, to tidying up the amendment made in the lower House. There is nothing sneaky or tricky about it; it is about ensuring that when it comes to accessing a termination, informed consent is dealt with in all circumstances. Frankly, there was a greater rush in the lower House than there has been in the upper House and we have had time to think about this. I think this is an appropriate tidy up and I will support the amendments.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The question is that amendments Nos 1 and 2 on sheet c2019-099 be agreed to.

Amendments agreed to.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Who is the mover of the amendment on sheet c2019-092A?

The Hon. SCOTT FARLOW (21:22): I am.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Are you of the view that the amendment has lapsed?

The Hon. SCOTT FARLOW: Yes. I withdraw amendment No. 1 on sheet c2019-092A.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): We will move on to the amendments on sheet c2019-088B relating to the 22 weeks. Members will note that on page 4 of the running sheet is amendment No. 1 on sheet c2019-078C, which also seeks to omit lines 13 and 17 and insert a new subclause. There is an option there for that to be debated at the same time. Is that your amendment on sheet c2019-078C, Mr Farlow?

The Hon. SCOTT FARLOW: No.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Whose amendment is on sheet c2019-078C?

The Hon. ROD ROBERTS (21:23): I believe that would be me, Mr Temporary Chair.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Would you be seeking to debate that at the same time as the amendment on sheet c2019-088B?

The Hon. ROD ROBERTS: Yes, Mr Temporary Chair, that would be my intention.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Then we will vote on them in the order of their arrival on the document. Thank you for that clarification. We will deal with the amendments on sheet c2019-088B relating to the termination issue.

The Hon. SCOTT FARLOW (21:24): By leave: I move amendments Nos 1 to 3 on sheet c2019-88B in globo:

No. 1 **Termination after 22 weeks**

Page 3, proposed section 6, lines 13-17. Omit all words on those lines. Insert instead—

(a) the specialist medical practitioner considers that, in accordance with reasonable medical judgment, the termination is necessary to save the person's life or the life of another foetus, and

(b) the specialist medical practitioner has consulted with another specialist medical practitioner who also considers that, in accordance with reasonable medical judgment, the termination is necessary to save the person's life or the life of another foetus, and

No. 2 **Termination after 22 weeks**

Page 3, proposed section 6, line 23. Omit "facility". Insert instead—

facility, and

(e) so far as is compatible with saving the person's life or the life of the other foetus, in performing the termination the specialist medical practitioner makes every effort to deliver the foetus alive.

No. 3 **Termination after 22 weeks**

Page 3, proposed section 6, lines 27-39. Omit all words on those lines.

Proposed section 6, as amended in the Legislative Assembly, provides some procedural requirements for a late-term abortion. It does not, despite appearances, impose any actual restriction on the reasons for late-term abortion—performed when an unborn child would, in many cases, be viable outside of the womb. The only test is whether two specialist medical practitioners can be found who will consider "that, in all the circumstances, the termination should be performed".

Before coming to that conclusion, the two practitioners are supposed to consider all relevant medical circumstances and the person's current and future physical, psychological and social circumstances, as well as the professional standards and guidelines that apply to the medical practitioners in relation to the performance of the termination. However, despite this requirement, there is no actual duty for either practitioner to weigh these matters seriously or even to hold an honest and reasonable belief in relation to the conclusion that the termination should be performed. It is clearly a lower bar than that set by Justice Levine, which governs current abortion law in New South Wales.

Under the current law, the medical practitioner must have "an honest belief based on reasonable grounds that the procedure is necessary to preserve the woman from serious danger to her life or physical or mental health and that, in the circumstances, the operation is not out of proportion to the danger intended to be avoided". It is disingenuous of the proponents of the bill to argue it is setting a stricter standard for late-term abortions in regard to the reasons or circumstances in which such abortions may be performed. The amendments would replace these illusory provisions with a very clear, objective provision that abortions at or near the new threshold of viability could only be performed in those fortunately rare circumstances where a real threat to the life of the mother is posed by the continuation of the pregnancy to full term.

Amendment No. 2 would take into account the extremely rare circumstance in which two or more fetuses share a single placenta, one of the fetuses is at risk of death and there is a real risk that the death of that fetus could result in the subsequent death of or severe brain damage to the surviving fetus or fetuses. I am advised that this rare condition would require expert surgery involving cord diathermy or occlusion techniques by an experienced sub-specialist. The amendment provides that "so far as is compatible with saving the person's life or the life of the other fetus, in performing the termination the specialist medical practitioner makes every effort to deliver the fetus alive". These amendments give the fullest possible protection to the lives of all those concerned in a late-term pregnancy: the unborn child or children as well as their mother. I commend the amendments to the Committee.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I invite the Hon. Rod Roberts to consider moving his amendments on sheet c2019-078C in globo.

The Hon. ROD ROBERTS (21:27): By leave: I move amendments Nos 1 to 6 on sheet c2019-078C in globo:

No. 1 **Panel of specialist medical practitioners**

Page 3, proposed section 6, lines 13 to 17. Omit all words on those lines. Insert instead—

(a) the specialist medical practitioner considers that the person or the foetus has a severe medical condition that, in the clinical judgment of the specialist medical practitioner justifies the termination, and

(b) the specialist medical practitioner has consulted with at least 2 members of the termination advisory panel who also consider that the person or the foetus has a severe medical condition that, in the clinical judgment of the specialist medical practitioner justifies the termination, and

No. 2 **Termination after 22 weeks**

Page 3, proposed section 6, line 18. Insert "specialist" before "medical practitioner".

No. 3 **Termination after 22 weeks**

Page 3, proposed section 6, lines 30 and 31. Omit all words on those lines.

No. 4 **Termination after 22 weeks**

Page 3, proposed section 6, lines 34 and 35. Omit ", whether or not a specialist medical practitioner,".

No. 5 **Panel of specialist medical practitioners**

Page 7. Insert after line 11—

14 Panel of specialist medical practitioners

(1) The Minister must establish a panel (the ***termination advisory panel***) to provide advice to specialist medical practitioners about the performance of terminations on persons who are more than 22 weeks pregnant.

(2) The membership of the termination advisory panel must consist of at least 6 specialist medical practitioners.

No. 6 **Panel of specialist medical practitioners**

Page 8, proposed Schedule 1. Insert after line 31—

termination advisory panel see section 14. At the outset I reiterate that I believe it is not for me to question a woman who makes a decision about her body. Only a woman knows what is best for her. I want it noted that I have not spoken to any other amendments this evening. I do not think it is wise for parliamentarians to be legislating in this area; however, if we are going to go down this path, let us seriously consider these amendments. I bring to this debate no religious or ideological viewpoint. As a legislator I look at this bill with the same analytical and pragmatic approach as I would any other legislation. Since the bill was introduced in the other place, I have actively listened to the people of New South Wales who have brought to my attention their concerns about the bill in its current form. My response to them and my contribution to this debate relate to terminations performed after 22 weeks, and specifically in an emergency context where there exists a severe medical condition in the woman or the fetus.

In such a situation a woman should have access to a specialist medical practitioner to perform the termination after 22 weeks, not just any medical practitioner. I also propose that the first medical practitioner consulted must consult with at least two members of a termination advisory board appointed by the Minister. The purpose of a termination advisory panel is to have a minimum of six specialist medical practitioners available and on-call on a rotating roster to provide transparent, independent and expert opinion in a high-pressure emergency situation, to enable doctors to be supported in their decision-making and to ensure that a woman has the best medical advice available to her.

I do not say this with any great degree of glib: Unfortunately, there are rogue and corrupt professionals in all walks of life and doctors are not exempt from this. A certificate on the wall is not proof of good moral character. If a doctor is confident in his or her determination there should be no fear or apprehension of an independent review; it actually protects and supports the doctor in his or her decision. An independent peer review is required and "independent" is the key word. In the public interest there needs to be proper checks and balances in law for abortions after 22 weeks. It would give the vast majority of people in New South Wales peace of mind. It is incumbent upon us to ensure that we protect women from unscrupulous doctors. For this reason I propose that a board be appointed by the Minister to create a termination advisory panel and I ask the Chamber to support these amendments.

The Hon. TREVOR KHAN (21:31): I will be relatively brief. I make the observation that in the lower House amendments were moved in the area of post-22 week terminations to require that terminations occur in a public hospital setting. That was an additional requirement that was imposed and it was imposed because it provided an added framework of security around those post-22 week terminations. There was considerable discussion with regards to other amendments. By recollection, with regards to boards and the like, the reality is there are about seven or nine hospitals in New South Wales where terminations post-22 weeks are performed—

seven. Only three of them are in regional areas—in Orange, Tweed and perhaps Dubbo. That means a woman in the difficult circumstances of considering a termination in a regional area of New South Wales has to be transferred to one of those centres—away from loved ones or an extended family in many circumstances—for these terminations to occur.

That framework of care was developed well before this bill came into existence to ensure proper support for women, at least in a medical setting. I accept with the best of intents what the Hon. Rod Roberts says but, notwithstanding the framework of care that has been put in place in the limited circumstances—as I say in regional areas, three hospitals—now additional layers of restrictions are to be placed on them. And, to be frank, not restrictions being placed on by experts in the field of obstetric care but by politicians in the Legislative Council of New South Wales who at best, I suspect, may have had the opportunity of watching their wives deliver their children or, if they are my age, they were not really allowed in the place at all.

The reality is that it is the clinicians who make the appropriate decisions as to care and it is appropriate that clinicians make a determination as to whether a termination should be undertaken. Let me say, with regard to something that the Hon. Rod Roberts said, these are clinicians who are working in our public hospital system. They are not—as might be inferred from some of the things that have been suggested—shonks who were working in backyards in Ultimo, Glebe or somewhere else in 1935, carrying out abortions. They are specialist, trained doctors who are providing that care.

I suggest that all these amendments that apparently have the intention of imposing additional restrictions will only have one effect—to lessen and restrict the care that is available to the women who are already in difficult circumstances. These amendments are unnecessary and they complicate an already clinically difficult situation. These sorts of amendments were not supported in the lower House, including by the Minister for Health and Medical Research. They are not supported by the Australian Medical Association [AMA] and, notwithstanding what anyone else may say, they are not supported by the Royal Australian and New Zealand College of Obstetricians and Gynaecologists [RANZCOG]. Those organisations have a better understanding of this area than any of us.

The Hon. GREG DONNELLY (21:36): I participate in this debate on the amendments—specifically the amendments on sheet c2019-088B, which the Hon. Scott Farlow spoke to in some detail. I return to a matter I raised earlier this evening—that is, the other consideration in the context of a termination of pregnancy: The reality of the killing of the unborn. I submit there should be some considerations for that human being. It has been argued that it is a matter for the clinicians and that we have to be guided by what they say—that you draw a line under what they say, and that is the end of it. We are told that we should accept what the clinicians say. I make the point that the clinicians—RANZCOG or the AMA—do not speak on behalf of the citizens of New South Wales. They are not the elected representatives of the citizens of New South Wales.

Whilst we might take note of their submissions, the evidence that they might provide to an inquiry or any other form of information they might provide, it falls to this Committee and this Parliament to make a judgment in regard to a law like this. I turn to the provisions currently in the bill. Part 2, 6 (1) (a) and (b) states:

> (a) the specialist medical practitioner considers that, in all the circumstances, the termination should be performed, and
>
> (b) the specialist medical practitioner has consulted with another specialist medical practitioner who also considers that, in all the circumstances, the termination should be performed, and With respect to the proposed amendments, the fundamental difference is a set of words that I would have thought were very agreeable—so much so that I struggle to see how they could not be agreed to. Those words are providing for some specificity around the circumstances of this decision-making with respect to late-term abortions. The proposition states very specifically "necessary to save the person's life", that is the mother's life, "or the life of another foetus". The proposition is very specific. That same set of words is used once again in paragraph (b).

The ultimate decision to terminate means that the life of the unborn is extinguished, finished, over, and that human being does not take a breath. Surely if we are considering the weighty decision about whether that unborn life should be terminated, there should be a very clear focus on the extremely significant circumstances around which a decision would be taken to terminate the life of that unborn human being. To give clear focus to that, in other words to provide a clear framework or prism through which to make the judgment that that unborn life should be taken, if it is to save the mother's life or that of another fetus, that provides a very clear framework for decision-making. But to not have that leaves the field wide open to a range of other possibilities.

I invite members to put forward other possibilities that would be reasonable to justify the killing of an unborn who at that time in its life, although at a very early stage, is capable to live with sufficient support and care outside the mother's womb. I conclude by saying that the proposition to give some clear specificity around that decision-making process of either live or die—and it is live or die—should be as crystal clear and precise as possible to the extent that such a decision in all the circumstances needs to be made.

Ms ABIGAIL BOYD (21:41): These amendments make me sad. I have listened to the debate and have heard members talk about the decisions of women having abortions after 22 weeks as though those decisions have been made flippantly. I think about the number of times I have sat with my friends and we have cried and talked through all of the options available before a person decides to terminate a pregnancy. These decisions are not made lightly and they are not always made because of an immediate threat to a woman's life or to the life of another fetus that is being carried at the same time. Often these decisions are made in incredibly difficult circumstances where a person's emotional wellbeing, their mental health would mean that to continue with the pregnancy would put the person in danger and in harm's way.

This myth in the media and members comments in this place that women choose to have an abortion because they have changed their mind at this point is really offensive. It does not happen. People do not suddenly decide not to have a wanted child. If they have got to the point where they make a decision that they cannot continue with that pregnancy it is for a very good reason. It is up to us to respect that decision because they know better than we do. They have talked to their medical practitioners, friends and family and they know in the context of their situation what is best for them and their families.

What this amendment is saying is that we should force women, we should force any person with a uterus to be pregnant at a time when everything in their life and circumstances is saying that they cannot be pregnant at this time. It is up to us to respect that. We are not listening to the advice of doctors, we are not listening to frontline service providers in women's health centres, we are not listening to the experts in the area, we are not listening to women and we are not listening to those who are going through the process and making the decisions. How dare we try to legislate that. How dare we bring amendments that try to make the situation for women in this State worse than it currently is. Obviously The Greens do not support these amendments. These amendments are additional obstacles that are clearly designed to stop people in difficult circumstances from making their own decision. It places them under threat of criminal action. That is what this bill is about. The Greens do not support these amendments.

The Hon. ADAM SEARLE (21:45): I oppose each of the two sets of amendments that we are currently debating—that is, the six amendments on sheet c2019-078C and the three amendments on sheet c2019-088B. What can be said in favour of both sets of amendments is that they are very clearly prescriptive. It would restrict the performance of terminations after 22 weeks, in the case of the One Nation amendments, where there is a severe medical condition for the person or the fetus she is carrying. It is a very clear and limited circumstance. The other set of amendments would restrict the availability of terminations to the very limited circumstance where it is necessary to save the person's life or the life of another fetus. That is very clear and very restrictive. Either of those amendments would walk back the availability of terminations from where they are today and make them much harder to obtain.

As the Hon. Trevor Khan indicated, both sets of amendments would introduce new barriers and further complicate decision-making and access to health treatment that is currently available. The intention of the legislation before the Committee is to simplify, make more accessible and regulate terminations appropriately. The Hon. Greg Donnelly asked what "in all the circumstances" might mean in terms of a medical practitioner forming a view. Obviously the clinical practice directions and training that doctors have would inform that clinical judgement.

There is also an important legal problem that we need to turn our mind to. At the moment the availability of terminations in New South Wales rests upon the New South Wales Court of Appeal's view of the Levine ruling. That ruling held that abortions are lawful where there was any economic, social or medical ground or reason upon which a doctor could base an honest and reasonable belief that an abortion was required to avoid serious danger to the life of the pregnant woman or to her physical or mental health. That is the doctor's judgement. The Court of Appeal in *CES v. Superclinics*, which now represents the legal position, somewhat liberalises the original Levine ruling and does not confine permissible abortion cases to where there is a serious danger to the woman's health arising during the pregnancy but additionally allows consideration of threats to her health that might arise after the child's birth. Again, all of this goes to the formation of the reasonable opinion of the medical practitioner. That is the current law.

By codifying the law or legislating, we are legislating away those common law rulings and replacing them with new words. The issue for us is to be mindful of how those words might be interpreted by future courts. It is my view that the current formulation in the bill as it now stands better encapsulates the existing law and the existing level of availability through the formation of the reasonable opinion of the medical practitioner. That is what I believe the current words in the bill do. In my view, the words in each of these two sets of amendments step backwards from that, restricting the availability of terminations quite profoundly. However, they do so in a way that is very clear, by simply saying that an abortion can only be performed post 22 weeks in extremely rare and limited circumstances.

The history of this debate and the experiences of which many members in this place and the other place are aware tell us that restricting the law creates problems. People need access to this medical treatment. Where it is not legal or lawfully available we know that people's circumstances are such that sometimes—perhaps unwisely—they avail themselves of treatment either elsewhere, where it is available, or in a way that is not safe and lawfully regulated. That would lead to profound and adverse health outcomes for women in New South Wales, which I do not think anyone in this Chamber would want. I think that each of these two sets of amendments make the availability of this treatment far too restrictive.

We should not make the law much worse than it is today for women in New South Wales. As far as possible, I believe we should keep the level of availability where it is today but remove some of the legal doublethink and obstacles that exist. The formulation in the bill as it now stands comes close to replicating the existing test of what is in the medical practitioner's reasonable and honest belief. These two amendments wind the clock back far too much. I think that they would not only occasion poor health outcomes but may well send people underground and cause injustice in people's lives, which I do not think anyone would want to see. I urge members to not support either of these sets of amendments because they are far too restrictive. Instead, I urge members to stick with that part of the bill as it currently stands which, in my view, reflects current practice and current approach as to the law.

The Hon. NATASHA MACLAREN-JONES (21:52): I speak briefly to amendment No. 2 on sheet c2019-088B which relates to termination after 22 weeks. The amendment proposes that the "approved facility" be amended to be that the "approved facility makes every effort to deliver the fetus alive". The fact is that no facility will be undertaking terminations with the intent to harm a woman and they will have the correct equipment. The amendment also ensures that the correct equipment is available to save the life of a child that may be born alive. That means that they have neonatal equipment to do what is needed to then transfer that child to intensive care elsewhere. The amendment is actually about protecting the life of a baby, should it be born alive. It is not about harming a woman or harming a child. It is actually trying to save a life. I encourage members to support it.

The Hon. MATTHEW MASON-COX (21:54): I am sympathetic to what the members who are proposing these series of amendments are putting forward. I acknowledge the comments of the Hon. Adam Searle about where the current law is in relation to Wald and Superclinics. However, I submit that the attempt to codify that in this provision is less than perfect but I understand that is where this provision is going. There are perhaps other ways to reflect upon that but at this point that would be a discussion on another amendment and I will reserve my comments in that context. I see the merits put forward by the members moving these amendments and I see their intent. It is worth acknowledging tonight that intent is shared by a lot of people in our communities across New South Wales.

There is widespread concern about late-term abortions and it is a difficult issue. It is difficult to try to codify and put community sentiment in a balanced and reflective way. That is almost an eye in the beholder argument. It depends on where you come from in relation to this debate. It depends on one's personal view but also the communities that you represent and the people that you mix with and all those things that go into forming one's conscience. I do not for a moment reflect negatively on anyone's view in this regard but in this instance I support the members moving these amendments. At the same time I acknowledge the difficulties that everybody will face in this debate and point to the amendment that I will be moving subsequently in relation to the test in Wald and Superclinics.

The Hon. PENNY SHARPE (21:56): I cannot support these amendments because they fundamentally undermine the situation for women in New South Wales. These amendments seek to narrow the range and the ability for medical practitioners to make decisions in concert with women around terminating a pregnancy after 22 weeks. Let us be clear. Currently what is required in the bill is that:

> (1) A specialist medical practitioner may perform a termination on a person who is more than 22 weeks pregnant if—
>
> (a) the specialist medical practitioner considers that, in all the circumstances, the termination should be performed, and
>
> (b) the specialist medical practitioner has consulted with another specialist medical practitioner who also considers that, in all the circumstances, the termination should be performed …

The bill sets out very clearly what "all the circumstances" are. It further states:

> (3) In considering whether a termination should be performed on a person under this section, a specialist medical practitioner must consider—
>
> (a) all relevant medical circumstances, and
>
> (b) the person's current and future physical, psychological and social circumstances, and

(c) the professional standards and guidelines that apply to the specialist medical practitioner in relation to the performance of the termination.

If the bill fails to pass today, this is the current test. This is the current way that late-term abortions in New South Wales are being performed. They are being performed diligently and carefully in concert with women and their doctors. What these amendments seek to do is to make it harder. I am looking at all of the amendments carefully and the basic test for me in supporting any of them is: Do they make it harder for women and their doctors to access the health care that they need in making the decisions that they need to over their own bodies. I cannot support these amendments.

The Hon. COURTNEY HOUSSOS (21:58): I support the amendments as proposed. I have listened carefully to the debate about these provisions and the debate more broadly tonight. I accept that these will dramatically increase the restrictions on late-term abortions as they currently stand in the bill, but I believe that that is reflective of the community view. Members can hear those protesting outside tonight. There is a range of people within the community—indeed I have had a number of people even as late as today contact me to indicate this—who, whilst they consider themselves pro-choice, say that the provisions around the lack of restrictions for late-term abortions in the bill mean that if they were in my position they would be voting against this bill. I referenced earlier in my contribution a quote from the member for Pittwater in the debate in the other place. I think it is relevant to this particular amendment. He said:

While the rights of a pregnant woman are paramount we need to recognise that the rights of a fetus gradually increase as it develops.

Already tonight we have debated the cut-off point for no questions to be asked, essentially, for an abortion to be granted, and that was determined to be 22 weeks.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): According to sessional order, it being 10.00 p.m., does the Minister require that I report progress to allow the motion for the adjournment to be moved?

The Hon. DON HARWIN: No.

The Committee continued to sit.

The Hon. COURTNEY HOUSSOS: I was just referring to the earlier amendment that we debated that determined that the cut-off for the requirement of no questions to be asked for an abortion to be sought would remain at 22 weeks. We have already debated that. In the course of that debate we established that that really is a point at which the baby is viable outside of the woman's body. This comes to the crux of the debate around the point at which we authorise that an abortion should be legal. My view—and I think it is the view of many people within the community—is that once that baby is viable outside of the woman's body only the most extreme circumstances should lead to that pregnancy being terminated.

I appreciate that that is a very difficult decision to be made and it is not one that is taken lightly but equally the laws around it should be difficult and should place restrictions on it. As others have said in this debate, and particularly on issues of conscience, we bring our own experiences here. I say this: I remember distinctly that point in my pregnancy and the relief that I felt that the baby would be able to survive if the worst did happen. I do not think it is reflective of the broader community view for us in this place to say that there are not additional restrictions on an abortion at that point when the baby can survive and it is certainly not reflective of my view. I understand that these are not easy decisions to make but I will be supporting these amendments because I believe that they have been carefully considered to place an increased restriction upon a pregnancy at a point at which a baby is viable outside a woman's body. I think that is the point at which we should be considering this very carefully.

Reverend the Hon. FRED NILE (22:03): I put on record that the Christian Democratic Party supports the amendments proposed by the Hon. Scott Farlow and the Hon. Rod Roberts. I know they have been strongly criticised as increasing restrictions on late-term abortions, 22 weeks and after, but I believe that the focus of this debate should shift from the needs of the mother. They are very important, but we seem to have forgotten the needs of the unborn baby. Who is here representing the unborn baby—the baby at 22 weeks or after? I believe the movers of these amendments have shifted the focus in that direction with the proposal of a panel of specialist medical practitioners appointed by government and so on. All of that would provide protections for the unborn baby, who is a human being.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (22:04): I too support the amendments moved by the Hon. Scott Farlow. I start by saying this: Are there any circumstances where a termination after 22 weeks would not be allowed? What would we think of? If the answer to that is yes, there are some circumstances where it should not be allowed, what are they? The proponents of this bill say that the only decision-makers in relation to that decision are the clinicians and the woman. I think we are better than that and I think the Parliament ought to be better than that. We ought to be saying that we can have a law which says that

after a woman is 5½ months pregnant, the only circumstance where a termination should take place is in circumstances where the health of the mother, the life of the mother or the life of another unborn fetus is in fact put at risk. In my second reading speech in relation to this I alluded to the risk of eugenics in this whole debate. I place on record the United Nations statement in relation to the Rights of Persons with Disability. It states:

> Laws which allow for abortion on grounds of impairment violate the Convention on the Rights of Persons with Disabilities.

That is articles 4, 5 and 8.

Mr David Shoebridge: Point of order: This contribution is talking about laws that allow for terminations on the basis of impairment. That is not this amendment, it is not in the bill and this contribution is outside the leave of the debate.

The Hon. DAMIEN TUDEHOPE: To the point of order: It is in fact within the leave of the debate because I started by saying that this goes to what are the circumstances which we would, as a Committee, say that there should not be a termination of pregnancy. This goes to exactly that point.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! I invite the Minister to maintain focus on the amendment.

The Hon. DAMIEN TUDEHOPE: I will continue. Even if the condition is considered fatal, there is still a decision made on the basis of impairment. Often it cannot be said if an impairment is fatal. Experience shows that assessments on impairment conditions are often false. Even if it is not false, the assessment perpetuates notions of a stereotyping disability as incompatible with a good life.

Mr David Shoebridge: Point of order: This contribution is now talking to assessments of impairment. It is not in the bill; it is not in the amendment. It is outside the leave of this Committee debate.

The Hon. Scott Farlow: To the point of order: What the amendment deals with are certain circumstances in which a termination can occur after 22 weeks. The member is being completely relevant to those circumstances by referring to other circumstances which he believes should not be included within the terms of the bill.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I have heard enough on the point of order. It is within the leave of the amendment to discuss this.

The Hon. DAMIEN TUDEHOPE: The point is this: Such abortions are discriminatory on the grounds of disability and contrary to the respect we owe each other regardless of disability or otherwise. In Victoria between 2009 and 2017 there were 1,686 abortions performed at 20 weeks or later on children with a confirmed or suspected congenital abnormality—that is eugenic abortions based on a fear of raising a child with a disability, a fear often based on inaccurate and discriminatory information about disability. Given a known false positive rate, which I referred to earlier, in the second and third trimester diagnosis of disability of around 8.8 per cent or more than one in 12 cases, this means that perhaps 150 perfectly healthy babies were aborted in this period out of a mistaken fear that they had a disability. Is this what we want in New South Wales?

In the case of prenatal diagnosis of an untreatable condition that is likely to lead to the death of a child before, at, or shortly after birth, perinatal hospice—sometimes called "hospice in the womb"—provides affirmation and support to parents in the face of devastating grief or loss. What I would urge upon this Committee is this: The amendments moved by the Hon. Scott Farlow say that after 5½ months, or 22 weeks, we are a State which says there are limits on termination of pregnancy. There are limits. We do not just leave it. As a society, we say that the life of the mother or another unborn child is where we would go and no further. I urge the Committee to accept these amendments.

Mr DAVID SHOEBRIDGE (22:10): We have heard the contributions in support of these amendments and we have heard the discussion from the Leader of the Opposition about the current state of the law and the two key judgements that got us to the current state of the law. It is very clear these amendments are intended to go entirely against the bill. The bill is seeking to decriminalise abortion and remove current restrictions on the rights of pregnant persons to access reproductive healthcare services. These amendments would take us back to the way the law operated in the 1950s before we had those key cases in the 1970s and then again in the 1980s and 1990s that got us to the place we are at the moment.

This would actually take us back to the 1950s. These amendments show that this process of amending the bill is happening in a context where those who are saying they are seeking to amend it are actually trying to defeat the bill. If these amendments succeed then instead of being a law that decriminalises abortion and improves a pregnant person's rights to have access to reproductive health treatments, this would actually take us back before those landmark decisions in the 1970s and 1990s. That we are having this debate in 2019—about going back to the 1950s—and doing it in this disingenuous manner is extraordinary.

The Hon. MATTHEW MASON-COX (22:12): I would like to reflect on the contributions from members and make the point that they were genuine and not disingenuous. I think that needs to be put on the record. We do need to reflect carefully in relation to the test being construed under this provision. As I said previously, I will be supporting my colleagues in relation to the amendments that have been put forward. It is worth keeping in perspective when we look at these amendments what the current law says and how the provisions of the bill as it now stands do not codify the current law in a way consistent with that law.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Scott Farlow has moved amendments Nos 1 to 3 on sheet c2019-088B regarding termination at 22 weeks. After we deal with those amendments we will deal with the Hon. Rod Roberts' amendments. If the first set of amendments is successful there will be some adjustments to the second set. Members will note the advice from the Clerk on page 4 of the running sheet, where it states there is nothing to stop the Committee agreeing to both sets of amendments but members should be cognisant of the practical effect if both were agreed to. The question is that the Hon. Scott Farlow's amendments Nos 1 to 3 on sheet c2019-088B be agreed to.

The Committee divided.

Ayes 15
Noes 26
Majority.....11

AYES

Amato, Mr L	Banasiak, Mr M	Borsak, Mr R
Cusack, Ms C	Donnelly, Mr G	Farlow, Mr S
Houssos, Mrs C	Latham, Mr M	Maclaren-Jones, Mrs (teller)
Martin, Mr T	Mason-Cox, Mr M	Moselmane, Mr S (teller)
Nile, Revd Mr	Roberts, Mr R	Tudehope, Mr D

NOES

Ajaka, Mr	Blair, Mr	Boyd, Ms A
Buttigieg, Mr M (teller)	D'Adam, Mr A	Faehrmann, Ms C
Fang, Mr W (teller)	Field, Mr J	Franklin, Mr B
Graham, Mr J	Harwin, Mr D	Hurst, Ms E
Jackson, Ms R	Khan, Mr T	Mitchell, Mrs
Mookhey, Mr D	Moriarty, Ms T	Pearson, Mr M
Primrose, Mr P	Searle, Mr A	Secord, Mr W
Sharpe, Ms P	Shoebridge, Mr D	Taylor, Mrs
Veitch, Mr M	Ward, Mrs N	

Amendments negatived.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Rod Roberts has moved amendments Nos 1 to 6 on sheet c2019-078C. Amendment No. 2 has lapsed because it was approved earlier tonight in the amendments on sheet c2019-099 moved by the Hon. Niall Blair. The question is that amendments Nos 1, 3, 4, 5 and 6 on sheet c2019-078C be agreed to. Is leave granted to ring the bells for one minute?

Leave granted.

The Committee divided.

Ayes 15
Noes 26
Majority.....11

AYES

Amato, Mr L	Banasiak, Mr M	Borsak, Mr R
Cusack, Ms C	Donnelly, Mr G	Farlow, Mr S
Houssos, Mrs C	Latham, Mr M	Maclaren-Jones, Mrs (teller)

AYES

Martin, Mr T	Mason-Cox, Mr M	Moselmane, Mr S (teller)
Nile, Revd Mr	Roberts, Mr R	Tudehope, Mr D

NOES

Ajaka, Mr	Blair, Mr	Boyd, Ms A
Buttigieg, Mr M (teller)	D'Adam, Mr A	Faehrmann, Ms C
Fang, Mr W (teller)	Field, Mr J	Franklin, Mr B
Graham, Mr J	Harwin, Mr D	Hurst, Ms E
Jackson, Ms R	Khan, Mr T	Mitchell, Mrs
Mookhey, Mr D	Moriarty, Ms T	Pearson, Mr M
Primrose, Mr P	Searle, Mr A	Secord, Mr W
Sharpe, Ms P	Shoebridge, Mr D	Taylor, Mrs
Veitch, Mr M	Ward, Mrs N	

Amendments negatived.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): We will now move to the amendments on sheet c2019-089A.

Reverend the Hon. FRED NILE (22:26): I move amendment No. 1 on sheet c2019-089A:

No. 1 **Care of child born alive after termination**

Page 3. Insert after line 44—

7 Care of child born alive after termination

(1) This section applies if a termination results in a child being born alive.

(2) The medical practitioner who performed the termination, and any other registered health practitioner present at the time the child is born, must take all necessary steps to ensure the child receives the same neonatal care that would be given to any other child born at the same stage of pregnancy and in the same medical condition.

(3) Without limiting subsection (2), if the child is born in a hospital that does not have a neonatal intensive care unit, the medical practitioner must arrange for the child to be transferred, as soon as practicable, to a hospital that has a neonatal intensive care unit.

(4) If a child is born alive following a termination the child is taken to be at risk of significant harm for the purposes of Parts 2 and 3 of Chapter 3 of the *Children and Young Persons (Care and Protection) Act 1998*.

(5) To avoid any doubt, if a child is born alive following a termination but dies within 28 days after birth, the child's death is taken to be a reportable death for the purposes of the *Coroners Act 2009*.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! Members will have their conversations a little more quietly. I am having difficulty hearing Reverend the Hon. Fred Nile.

Reverend the Hon. FRED NILE: I am pleased to move this amendment at this point in the debate. One of the factors that influenced me to move this amendment is that I read a report about a young lady in America called Gianna Jessen. I contacted her because she was an abortion survivor. She had been aborted and dropped in the bin, but she started crying. A caring nurse then took her out of the bin and cared for her. Later, Gianna was adopted out. I brought her to Australia to speak at meetings in Sydney and other capital cities. She would have died if she had not been saved by that caring nurse. I thank God for her.

However, I note that on Saturday during the protests some people were seen on television chanting, "Dump the fetus in the bin." I am here to represent those babies born alive after termination. The amendment seeks to minimise the damage that would be caused if we do not have these protections. Under the current bill, no obligation is placed on the medical practitioner towards a child who miraculously survives an abortion. The amendment that I have moved rectifies that glaring omission. Proposed section 7 is entitled "Care of child born alive after termination". I have read out that proposed section and subparagraphs (1), (2), (3) and (4). The relevant parts of the Act concern reports, investigations and assessments so that a clear system of accountability is placed on medical practitioners, who have a duty of care towards an abortion survivor arising from proposed section 7.

The final paragraph, subparagraph (5), states that any child who survives an abortion but dies after 28 days would be a reportable death for the purposes of the Coroners Act 2009. Subparagraph (5) also reaffirms the accountability of medical and related health practitioners who have an abortion survivor in their care, which also makes the law consistent. Is this amendment necessary? According to information from the fifty-fifth survey of perinatal deaths in Victoria published by that State's Department of Health and Human Services, between 2009 and 2017 more than 10 per cent of babies who were aborted at late term were, in fact, delivered alive—there were over 30 babies who survived the abortion process. That is over 30 reasons to vote for the amendment that I have moved.

According to an ABC report by Josh Bavas from 2016, in Queensland the number of babies surviving an abortion has risen in the decade between 2005 and 2015. The number of abortion survivors in that State is 209—another 209 reasons to support my amendment. Hope 103.2, an organisation fighting for the civil rights of the unborn, reports a shameful fact that the 209 abortion survivors were simply left to die of exposure with no assistance or care. They were not even provided painkillers. Dr Megan Best, a biotheist, government advisor and senior lecturer in health ethics at the University of Sydney and the University of Notre Dame, was quoted by Hope 103.2:

> These are cases where babies have started crying after being born, they're definitely alive, and they're left to die … Nothing is done to help them. I've spoken to nurses who held the baby until the baby died. It's certainly a very distressing experience for them. There are also several people who have survived abortion procedures and lived to tell their stories.

I have already spoken about Gianna Jessen. This is horrific and unworthy of any civilised society. Australia should be deeply ashamed of this kind of action in the twenty-first century. Let Victoria and Queensland wear that stain on their legal systems; we in New South Wales do not need to sully ourselves with it. We should do something for those babies who are born after an abortion. Medical practitioners in New South Wales should conduct themselves and their practice to a higher, more human standard.

I hope this Chamber believes the professional benchmarks for our doctors should be the highest in the land. The amendment will, at the very least, minimise the diabolical nature of late-term abortions by making it clear that those who survive abortions and who are, therefore, alive outside their mother's wombs have all the rights that each one of us in the Chamber tonight enjoys. They deserve the necessary medical services that any person would require to sustain his or her life. This is not only a basic feature of law, it is a fundamental precept of medical practice. I urge all members to vote for the amendment.

The Hon. TREVOR KHAN (22:34): Let me start by observing this: Later the Hon. Niall Blair will move an amendment that deals with at least one element of this amendment that has been put forward now, and I will support that amendment. But let me also say this: This is in many ways, or at least the last contribution is in many ways, the most disturbing part of this debate. The suggestion that medical practitioners dump babies in bins and the like is an affront to the legal profession in New South Wales.

The Hon. Mark Latham: The legal profession? What about the doctors?

The Hon. TREVOR KHAN: Sorry, the medical profession. If the Hon. Mark Latham wants to make a contribution he can, in due course.

The Hon. Mark Latham: You've got the wrong profession. I'm helping you.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! Interjections that are helpful are still disorderly.

The Hon. Mark Latham: He sad the wrong profession.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I ask you to restrain yourself.

The Hon. Mark Latham: He doesn't know the difference between legal and medical.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Do not argue with the Chair. I ask you to restrain yourself.

The Hon. Mark Latham: You can't help people.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. Trevor Khan has the call and he will be heard in silence.

The Hon. TREVOR KHAN: He might think this is funny; I do not. Let me make this observation: The *Pregnancy—Framework for Terminations in New South Wales Public Health Organisations* provides as follows:

> For the purposes of this section "child" refers to a child who has been expelled or removed from the mother's womb alive. It should be noted that a fetus in utero is not recognised as a separate legal entity. However, once a fetus has been expelled or removed from

> the mother's womb, and is born alive, the child has the legal status of a person whose rights exist independently of the rights of the parents.
>
> Where a child is born alive and a responsible body of medical opinion considers that the burden of medical treatment is such that it would not benefit the child, because of previability of the child, prematurity, or the effect of a disease or condition—then a medical practitioner is under no duty to render overburdensome treatment. Healthcare professionals have an obligation to work together with families to make compassionate decisions. Conversely, where the likelihood of treatment will be of benefit, there is an obligation to render life-saving medical treatment.

Not only does that form part of the guideline for medical practitioners in New South Wales, it is a reflection of the law; it is a reflection of section 20 of the Crimes Act, which identifies the point of the commencement of life in New South Wales as being from the point of obtaining an independent circulation. To kill a child after that point of independent circulation is no more or no less than murder; no more or no less than murder. This bill makes no change to that law; no change, whatsoever. That is the law.

In the infamous—and I will use the term, "infamous"—case of Sood, who was responsible for the most appalling provision of medical care—if one could describe it as such—she was charged with manslaughter. The backup charge related to section 82 of the Crimes Act—that is, the abortion offence. She was not convicted of manslaughter at trial, but she was nevertheless charged. Let us have no doubt that in New South Wales if, in the course of attempting to effect an abortion, a medical practitioner acts criminally negligently, let alone intentionally, they are liable to be charged. That is the law.

Reverend the Hon. Fred Nile: That section is no longer there.

The Hon. TREVOR KHAN: I am afraid it is, Reverend the Hon. Fred Nile.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! Reverend the Hon. Fred Nile has moved the amendment. He is permitted to speak again. The Hon. Trevor Khan will be heard in silence.

The Hon. TREVOR KHAN: Some of the misconceptions that have been spread in the community about this bill on this issue have caused unnecessary fear and concern. I make the observation that as this amendment is similar to one that was moved in the lower House, we can refer to some things that were said there. But before I do that I will deal with subparagraph (3) of the amendment, which provides that if a child is born in a hospital that does not have a neonatal intensive care unit the medical practitioner must arrange for the child to be transferred, as soon as possible, to a hospital with a neonatal intensive care unit.

I invite all members of this Chamber to consider what that does. Irrespective of the clinical assessment that is taken about the likelihood of the new born child to survive, the child is to be transferred to somewhere else. It may be that any reasonable clinical assessment would be that the child will die shortly because of its prematurity, a disease or another condition. Contrary to what might be in the best interests of that child, which would be to provide it with support and nurture, and what might be in the best interests of the mother, which would be to have her dying child with her, this amendments says that at least the child and perhaps the mother, who may not be in a suitable condition, have to be bundled into an ambulance or, in country New South Wales, a helicopter and flown for heaven knows how long to meet the requirements of subparagraph (3).

I go back to what I said before: Politicians in the Legislative Council are trying to make laws that are contrary to good clinical practice. Gracious me, caring? I suppose it was made with the best of intent but the impact upon the mother and, in fact, upon the child, may well fall short of what was intended. With regard to subparagraph (4), in the lower House the Minister responsible, the Hon. Gareth Ward, said, "There are already laws that cover this. You do not need it here." The law requires certain things to happen. It is inappropriate to have this provision in this bill. If there is a need for a report to be made under the Children and Young Persons (Care and Protection) Act then it should be dealt with in that Act, not this one.

As to subparagraph (5), the Coroners Act already covers this field. Why are we putting it here? It could potentially create a conflict between the obligations that exist under the Coroners Act and the obligations of the proposed provision. I suggest this is as a result of making legislation on the run because it seems like a good idea at the time. Coroners Act matters should be dealt with under the Coroners Act and care and protection issues should be dealt with under the relevant Act. They should not be dealt with in this bill because one seeks to overlay levels of protection, which may in fact create simple legislation and administrative confusion. I invite members to reject this amendment and to support the Hon. Niall Blair's amendment when it comes before the Committee.

Ms ABIGAIL BOYD (22:44): One of the most upsetting parts of this whole debate over the past month and a bit has been the amount of misinformation that has been spread around. First, I correct the assertion by Reverend the Hon. Fred Nile that there had been some chanting about putting a fetus in the bin. As we know, that was a lie—a complete fabrication.

Reverend the Hon. Fred Nile: I will send you the video.

The Hon. Natasha Maclaren-Jones: Point of order: My point of order relates to relevance.

Ms ABIGAIL BOYD: This is completely relevant.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): What is the point of order?

The Hon. Natasha Maclaren-Jones: The honourable member is not speaking directly to the amendments.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Ms Boyd is responding to comments made in Reverend the Hon. Fred Nile's contribution. Some latitude is allowed with that, but I ask the member to come back to the amendments.

The Hon. Scott Farlow: Point of order—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I had not finished my ruling. I direct Ms Abigail Boyd to focus on the amendment specifically.

Ms ABIGAIL BOYD: This is background as to why we will not be supporting this amendment and in the course of it I am reflecting on the amount of misinformation that forms the basis of the reasoning behind this amendment. The well-known chant was actually "Throw the bigots in the bin". It is something that has been—

The Hon. Natasha Maclaren-Jones: Point of order—

The Hon. Greg Donnelly: Point of order—

Ms ABIGAIL BOYD: Heaven forbid that I should actually correct misinformation.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! I heard the Government Whip's point of order first. It is getting late and I would rather members restrain themselves. What is the Hon. Natasha Maclaren-Jones' point of order?

The Hon. Natasha Maclaren-Jones: Earlier this evening Mr David Shoebridge took a point of order about the comments I was making about the Hon. Penny Sharpe's contribution. It was ruled that I could not reflect on her comments and that I had to speak to the amendment. I ask you to draw the member back to the amendment before the Committee and to be directly relevant.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Throughout the evening members have been referring to other members' contributions. I have reminded members moving amendments that it is not a speech in reply but that it has to be relevant to the debate. I will ask the member to move off that area and go to the specific amendments.

Ms ABIGAIL BOYD: Having corrected that piece of misinformation I will move to the next one.

Reverend the Hon. Fred Nile: Could you repeat that?

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! Members will not interject. It is getting late in the evening.

Ms ABIGAIL BOYD: There is a myth being perpetuated that people who have an abortion are somehow dismissive of the fetus. Again, it goes with this idea that somehow this is a flippant decision where people are choosing to have abortions as some kind of contraceptive means, rather than what we know it to be—an incredibly difficult decision. The NSW Health framework is very clear about a health practitioner's duties after a termination of pregnancy. There is no suggestion that under the current law we would have a situation where a child born alive and showing signs of life would be discarded or dealt with in any way other than with compassion and an understanding of the incredibly emotional situation it is for the parents and the people involved with that pregnancy.

This is a completely unnecessary amendment and it is incredibly cruel because it assumes that in situations where people have found themselves forced to terminate, they also somehow lack compassion or any due regard for the fetus. That is incredibly offensive. It is completely inappropriate For those reasons, The Greens oppose the amendment.

The Hon. NIALL BLAIR (22:49): As the Hon. Trevor Khan foreshadowed, I will be moving an amendment on this topic later in the debate. A number of contributions to the debate on Reverend the Hon. Fred Nile's amendment talked about the situation we find ourselves in now, with the misinformation or the campaign that has led us to this point. That is why I will move an amendment. There is a misunderstanding as to what happens in our hospitals. There is a lack of understanding in the community and community concern, which came through the parliamentary inquiry and through people making representations to us. Because of what people have

heard in the media and in debate on the bill, they are concerned in relation to babies potentially being born alive after termination that adequate care and provisions are not in place. They are. So we should not fear to codify that. I believe that my amendment is a better way to do that than Reverend the Hon. Fred Nile's amendment.

I understand that the Hon. Damien Tudehope has a further provision to potentially add to my amendment. We will look at that overnight because we will be returning to this topic some time tomorrow. Whether because of misinformation, misunderstanding or other types of campaigns, this issue needs to be dealt with. The best way to deal with it is to codify what is already in practice. All sides have agreed that the types of abortions where there is the potential of a child being born alive will be those in public hospitals after 22 weeks. We can agree upon that. That was dealt with earlier. So we go to the point: What are the practices in those public hospitals? We should not fear to codify that because of the level of community concern that has centred around this topic as part of the debate. We will return to that later but I wanted to put it on the record now.

This is a genuine issue that is live in our community and we need to address it, even if it is just by repeating what is already in law, in order to put the debate to rest and to address concerns in the community. With respect to Reverend the Hon. Fred Nile, I believe that the wording in my amendment is a better way to do it. I will be opposing his amendment. I will continue to work with the Hon. Damien Tudehope overnight to see whether his further amendments to my amendment can be taken on board. I wanted to flag that at this point of the debate. We need to do something in this area and I believe that we will. It has got out of hand and we need to bring back to the debate what actually will happen in our public hospitals—not any other story, not any other fear, not any other make-up, not any other campaign. That is why I will be moving an amendment.

The Hon. GREG DONNELLY (22:53): I support amendment No 1 on c2019-089A. The matter in some sense is a curiosity in terms of the position being put by the people who oppose this proposition and what seems to be a misunderstanding or, dare I say, a lack of willingness to try to comprehend what is actually going on. I will say the following very carefully, and I do not wish to bring any offence. I am not sure if members opposing this proposed amendment have spent 20 minutes or so—and they do not need much more time than that—to go on the internet and access medical information from universities and medical schools. We are not talking about propaganda, we are talking about bona fide medical health information on the practice of late-term abortion.

I am not going to go through the techniques associated with what is involved with respect to killing a fetus late term. I accept the argument that some people may bring those sorts of gruesome examples before a debate like this to try to politicise it but we have to understand the facts of what is being done in these terminations. With respect to the act of terminating a fetus in utero, there is a not uncommon outcome of that procedure not working. I will not go into the techniques but the one that is quite commonplace in Australia—and again this information can be found on the internet—does not always produce the desired outcome of killing the fetus in utero, a fetus of now more than 22 weeks, and then have it delivered through treatment to the woman of appropriate hormones and the inducement of what is in effect a miscarriage of a dead fetus. It does not always happen like that. The truth is that live foetuses that are intended to be killed are born alive.

At that point the doctors have realised that the practice or the procedure that they have engaged in has manifestly failed: the fetus has been born alive. I find it pretty rich that members are coming back to this table time and again and are almost pontificating and putting onto a pedestal RANZCOG and doctors organisations as if there are individuals within those organisations who may not always under every circumstance necessarily operate in the most professional way. Surely when it comes to the construction of a piece of legislation that is dealing with something as significant as the termination of life in utero and the consequences that flow from that, we must be mindful to the reality that fetuses are born alive when they are intended to be terminated, and it happens on a reasonably regular basis.

The question becomes: If a fetus is born alive and it was intended to be killed in utero, what happens to it? The Hon. Trevor Khan explains, it is simple. There is no debate about this. The "born alive" rule kicks in. The fetus is now alive. But using the old terminology of the old law judgements, it has been "extruded" from the woman's body. The fetus has been extruded from the woman's body, it is there, it is alive. It may or may not be connected to an umbilical cord but it is there and it is alive. The fact of the matter is that that is a failure by the medical practitioner. That obstetrician gynaecologist specialist was meant to have killed that fetus but it is alive. In those circumstances where the obstetrician gynaecologist who has been engaged professionally to terminate in utero a fetus that has been born alive has failed, the question becomes: What is to happen?

In the last few weeks I have spent a bit of time—I am sure others have done this—speaking to people in the medical field, including doctors, obstetricians and gynaecologists. I want to juxtapose what I have been told with the almost purist argument of the Hon. Trevor Khan that it is all very clear. He says that the "born alive" rule operates and—bang!—that is all that is required and the notion of having a provision that deals with care is superfluous to the reality of what goes on out there. I do not intend to use inflammatory language about what

might happen to a fetus that has been cut from the umbilical cord and born alive although it was not meant to have been born alive.

During this debate there has been language about what happens to a fetus that I refuse to use. I have been made aware that it is not uncommon that a fetus that has managed to survive an abortion procedure is wrapped up in a blanket and put to one side. I am not using the language about its being thrown here or tossed there, but the practice of ensuring that it does not survive is achieved by a rather soft method of wrapping it in a towel or a cloth or placing it to the side or in another room where it gets no medical attention. It is allowed to expire. That is quite contrary to the arguments of the Hon. Trevor Khan where, by virtue of the "born alive" rule applying, every obstetrician and gynaecologist knows what they must do—that is, to provide care and support.

I take the point about the language in the guideline but I make the point that it is a guideline, not the law. We are talking about a proposal to amend the bill, which will become the law. The people behind this amendment have brought it forward because they have spoken to people and developed some understanding. Those arguing on the other side say, essentially, "There is nothing to see here. Don't worry, the 'born alive' rule applies and we do not need to consider something like this." I submit that it is almost a twisting of logic to say that an obstetrician-gynaecologist who has failed in his or her objective to terminate the life of a fetus will, if it is born alive, flip over and all of a sudden apply fully the "born alive" rule.

I find it hard to comprehend that people think that it could work out there, given the subtlety of what I have described—namely, allowing a fetus or, at that stage a human being, because it has been born alive to not receive what they ought to receive in that positive obligation of care that would enable the child to survive, but, through the practice I have described, enable the child to gently expire. I find it very hard to believe that people think that the "born alive" rule would be clinically applied. That is my clear understanding of the motivation behind this amendment. I was not involved in its development but I fully support it because of what I understand to be the practice. I find it very difficult to think that there can be good and cogent reasons why an amendment that will facilitate the application of care, and make it law to ensure that care is provided for a child that has been born alive, could be seen as objectionable, unreasonable, unfair or unworkable.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): People in the public gallery will be courteous and observe in silence.

The Hon. WES FANG (23:04): Members come to this place with life experiences. I never thought that I would say my life experiences were directly relevant to this debate, but here I am. As members well know in my earlier life I was a pilot and part of my time as a pilot was served with Child Flight where I rescued sick and injured children. I also transported premature children to a neonatal intensive care unit at a tertiary centre, when needed. So my experience allows me to provide some insight into what the Hon. Trevor Khan said in his contribution to this debate. In particular, I refer to subparagraph (3) of the amendment.

The vast majority of the jobs were happy stories with happy endings, something I loved about that job. Other jobs, even though everything that could be done was done, were sad and I knew that the child may not or would not survive. We had to rely on the decision of medical practitioners at the hospital and the medical staff on board with us as to the best outcome for that family. Subparagraph (3) of the amendment states that the medical staff must, as soon as practicable, transport the child. We often could not transport the mother because she had just given birth. We would transport the child as soon as possible, but on other occasions we would decide that the best thing for that family was to comfort and hold that child while it slipped away.

That decision is for the doctors, not for members of this place. While I understand and respect that this amendment has been moved with the very best intentions, we have already dealt today with unintended consequences of amendments from the Legislative Assembly. I ask all members in this Chamber not to be in a position where they take away the right of a family to be together when they grieve because I can tell you, there is nothing worse than being 500 kilometres away from your loved ones when a child has passed away. For example, a father who accompanies the child because the mother could not be transported and the child passes away. Those are the unintended consequences that come from amendments like this. I ask members of this Committee to consider that before they vote on it.

If a termination has occurred late in a pregnancy it is likely because of a genetic abnormality or because the baby's condition may be incompatible with life. In the circumstance that the Hon. Greg Donnelly has spoken of, where a birth happens and the child is born with signs of life, as perhaps the termination has not gone as planned, then the prognosis for that child may not be a good one and it may be incompatible with life. To force the medical team to whisk that child away from the parents and family is not a sensible decision. Again I urge members to consider that when they vote on the amendment.

The Hon. SCOTT FARLOW (23:10): With all due respect to the Hon. Wes Fang and his experience, which I do appreciate, there is a great distinction between the termination of an unwanted pregnancy and the situation where a child is born where the parents were wanting the pregnancy. I return to the comments of the member for Pittwater in the other place. He said:

> While the rights of a pregnant woman are paramount we need to recognise that the rights of a fetus gradually increase as it develops. This gives rise to an incremental balancing of rights between the pregnant woman and the fetus from conception until birth so that after birth a new baby shares the same rights as its mother.

This baby has been born and should be afforded the same rights as any other individual, if we accept the assumption that there are competing balances and rights. We have heard from some members that this is misinformation. If we refer to the information we have from Victoria, we know that from 2009 to 2017 in more than 10 per cent of the 3,100 late-term abortions, 333, the baby was born alive. This is not some form of misinformation; it happens. There may be provisions within the NSW Health guidelines that deal with this and I take that evidence.

This bill is about legislating what the system should be and not leaving it to the Health guidelines—that would be leaving the situation as it stands. This place has determined to legislate in that way. So we should set out what the line markers and the provisions are for those babies who are born alive. I commend and respect Reverend the Hon. Fred Nile for bringing this amendment. We have heard about the difficulties this may present for families with transportation. I respect that difficulty, but we are talking now about a child born alive.

We are talking about a human life that should be looked at on its own, without any reference to the broader family. One that should be afforded its own value as a human being, as we all would hope to be. We have heard in the debate that we should not deal with changes to other Acts such as the Coroners Act 2009. The Hon. Damien Tudehope, during debate on a successful amendment put forward by the Hon. Niall Blair, raised provisions within the Guardianship Act and was told to discount that because this Act would take primacy. Therefore, it should be spelt out in this Act. I support subparagraph (5) of this amendment. We should be dealing with the Coroners Act and subsequent changes. I commend Reverend the Hon Fred Nile's amendment.

The Hon. ADAM SEARLE (23:13): I do not support these amendments. They are unnecessary and I think dangerous. If a child is born alive they are a human being; they have all the rights that any child born in any situation would have. In relation to the practice outlined by the Hon. Greg Donnelly, I think it is fair to say—trying to put it neutrally—that situation is a highly contested space. Essentially, it was outlined that where there is an intention to perform an abortion that does not work and a child is born, the proposition is that the medical practitioners engage in a conspiracy to take that life away.

The Hon. Greg Donnelly: I didn't say that.

The Hon. ADAM SEARLE: Well, that is as I understood it. We can come back to that. That might be simply through not providing treatment where it is necessary. If that is happening and it can be verified, then that is not only gross medical negligence—it is actually a crime. Section 20 of the Crimes Act provides that a child has been born alive "if it has breathed, and has been wholly born into the world whether it has had an independent circulation or not." Whether it is connected to the mother through the umbilical cord or it is not, if it has entered the world and has drawn its breath it is a human being. If you do not provide the medical attention that is necessary or you take some active step to deprive it of life, that is murder. That is already provided for in the law, as well as through medical protocols and the ethical and professional standards required of doctors.

I do not have an idealised conception of doctors. They are human—some are good, some are bad, some are indifferent. Most adhere to their professional obligations and it is accepted that some do not. Those who do not are guilty of medical negligence. Where that can be identified and verified there is a course of action provided for in the law about their professional registration. More than that, if the circumstances that have been outlined in support of the amendment can be verified it is murder, and the law deals with that pretty clearly. From my perspective, this set of provisions seems to draw its inspiration from a Republican campaign in the United States, in particular the "born alive" legislation put forward in the Nebraska Senate. The amendment contains very similar wording. I think it is based on a campaign designed to shame women, to discredit doctors who perform abortions and to stir up fear and concern in the community about a practice that frankly does not really exist in medicine or reality.

Reverend the Hon. Fred Nile: The member is misrepresenting the amendment.

The Hon. ADAM SEARLE: Reverend, you were heard in silence. Please extend me the same courtesy. I have not interrupted anybody else's contribution in this place.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! The Hon. Adam Searle will let me do the chairing. I do not want to call Reverend the Hon. Fred Nile to order. This is his amendment; he should observe the debate in silence. He can speak later. The member has the call.

The Hon. ADAM SEARLE: On any reasonable analysis—whether we are dealing with the conditions that govern medical registration and the supervision of professional ethical and medical standards or we are talking about the criminal law—the concern said to be the foundation of these amendments is already more than adequately dealt with in the law, if the facts can be verified in any given situation. This set of provisions does not enhance the law in any particular respect. I think it does harm and damage. It calls into question whether doctors are doing the right thing. If they are not doing the right thing, they should be reported to the medical authorities. They should be reported to the police if through negligence or active steps they are taking away the life of children who could survive.

My view is that this set of provisions is dangerous. I will not be voting for it. I urge honourable members in this place to also not support it. I note the contribution of the Hon. Niall Blair, who has recognised that there are concerns in the community in this space, which I do acknowledge. I will look at the amendments he moves to see whether or not they provide a way forward. However, the provisions before us in the amendment moved by Reverend the Hon. Fred Nile do not; they do harm.

The Hon. MARK BANASIAK (23:18): The Shooters, Fishers and Farmers Party supports the amendment moved by Reverend the Hon. Fred Nile. Unfortunately, I have not had the benefit of seeing the proposed amendment of the Hon. Niall Blair or the supposed amendment to the amendment by the Hon. Damien Tudehope. If I believe that this debate is being done in good faith and every amendment is being looked at individually and impartially, then I cannot possibly not support this amendment in the hope that another amendment that may be better might get up some time either tonight or tomorrow.

I believe the assertion that this amendment is somehow dangerous is a long bow. I respect the contribution by the Hon. Wes Fang about his experiences but subparagraph (3) is quite clear when it says "as soon as practicable". I think that gives the protection to the doctors to make that decision if it is practicable. If it is not practicable for the reasons that the Hon. Wes Fang has outlined, then they will not make the decision to transfer. The assertion by the Hon. Trevor Khan that we cannot possibly move this amendment because it amends another Act is a little nonsensical in my view. The whole rationale behind this bill is to amend the Crimes Act—the same Act he says we cannot move this amendment to because it will remove another section in that Act.

Reverend the Hon. Fred Nile: That is the reason they did it.

The Hon. MARK BANASIAK: That is the whole reason why we are here debating this amendment—to remove a section from the Crimes Act. To say we cannot accept another amendment as part of the bill because it will remove another section from the Crimes Act is completely nonsensical. I will support this amendment at the moment until I see whether the amendments proposed by the Hon. Niall Blair and the Hon. Damien Tudehope are better. I will make that decision based on the individual amendments.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): That is a good segue for me to give some guidance to the Committee because it is the master of its own destiny. My understanding is that the intention of the mover of this bill is to adjourn this debate at the end of the speeches and not go to a vote, so that those working on the amendment on sheet c2019-106D—for the benefit of the Hon. Mark Banasiak that is the amendment which has been circulated—can come back tomorrow. We will resume on this particular amendment, vote for it or otherwise, then move to the other amendment better informed. That is the intention. Do I have that right?

The Hon. Penny Sharpe: Yes, that is correct.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (23:21): At the risk of appearing to be inconsistent by joining and becoming an ally of the Hon. Niall Blair on another amendment, I start by saying I support this one. It is like having a bet each way.

The Hon. Niall Blair: It is always good to have a plan B.

The Hon. DAMIEN TUDEHOPE: That is right. The bill as it stands allows abortions to be performed after the stage of pregnancy at which an unborn child, if delivered alive and given the appropriate medical care, has a real chance of surviving and flourishing. I think that is generally agreed. This stage of pregnancy, often referred to as viability, is becoming earlier and earlier in pregnancy, thanks to significant developments in medical science. In November 2017, *The Journal of Pediatrics* published a case report on a female patient resuscitated after delivery at 21 weeks and four days gestation and at 410-gram birth weight—the most premature survivor documented to date. Courtney Stensrud and her truck driver husband, Paul, have since revealed that this case report refers to their daughter, Lyla Stensrud, who they describe as a happy, healthy four-year-old:

> She's a typical toddler who loves climbing on her brother, playing one-on-one, by herself or in a group and she interacts well with other kids. Apart from a moderate speech delay, Lyla has no other known disability or health issues. A 2015 study in *The New England Journal of Medicine* found that with active treatment babies born prematurely at 22 weeks have close to a one-in-four chance of survival, mostly without any severe impairment. This increases to a one-in-three chance of survival at 23 weeks; a nearly six out of 10 chance at 24 weeks; a nearly three out of four chance at 25 weeks; and over four out of five chance at 26 weeks. In its submission to the inquiry on the bill Women's Forum Australia said:
>
> Denying life-saving treatment to a baby born alive after an abortion is inhumane. There is no reason not to provide such a child with the same level of care as would be given to another child at the same gestation and in the same medical condition.

Women's Bioethics Alliance stated:

> Babies that survive [termination of pregnancy] must be provided with medical care. This is the only option for a humane society. Australia must take no part in infanticide. This is of special interest to us as traditionally and to this day the practice of infanticide has favoured the death of baby girls.

Law lecturer Anna Walsh observed:

> The 'my body, my right' line no longer applies after birth. It is a very strange situation that the person who wanted to terminate the person's life in the uterus, has a say in what happens if the attempt fails. Once born, even if damaged from the attempt to terminate him or her in utero, the baby is a legal person with legal rights.

Section 20 of the Crimes Act adequately recognises that. Her submission continued:

> It is surely a conflict of interest to permit the mother to decide the child's best interests in this unique situation [where she has in fact sought to terminate its life]. The state has a duty to emphasise the child's basic rights.

Annual reports from Victoria's Consultative Council on Obstetric and Paediatric Mortality and Morbidity on mothers, babies and children reveal that under Victoria's reformed abortion law—this was referred to by the Hon Scott Farlow—3,103 abortions were performed at 20 weeks or later between 2009 and 2017. In more than 10 per cent of cases these late-term abortions resulted in the delivery of a live-born baby. These 332 babies appear to have been given no medical care and simply left to die, effectively completing the abortion post birth—infanticide by neglect. Not all these children would have survived even if given the same medical care as was given to other premature babies delivered at the same stage of pregnancy, but some most likely would have.

In Manchester in February 2018 Mohammed Khan, who was the subject of an attempted abortion at 25 weeks of pregnancy, survived, crying and struggling for about one hour after delivery, despite feticide having been administered to stop his heart prior to the induction of labour. Melissa Ohden is another example of a person who survived an attempted abortion. Following an abortion performed in an Iowa hospital in 1977, she was born alive but placed with other medical waste for disposal. Melissa was rescued by a nurse who heard her faint cries and took her to a neonatal intensive care unit. She is now, not surprisingly, a pro-life advocate. In Oldenburg, Germany, in 1997 a boy called Tim was born alive following an abortion at 25 weeks performed because he had been prenatally diagnosed with Down syndrome. Despite being given no treatment for the first nine hours after his delivery, he survived. Tim lived until he was 21 years old. He died in 2018 due to problems with his lungs caused by his premature birth and the failure to give him immediate care after delivery. His foster mother, Simone Guido, described him as a unique, joyful son.

The current policy directive of the Ministry of Health already requires that where there is a likelihood that treatment will be of benefit there is an obligation to render life-saving medical treatment to a child born alive as a result of an attempted abortion. The Hon. Trevor Khan has eloquently outlined to this Chamber the requirements set out in that guideline. In the second reading debate on this bill the Hon. Trevor Khan referred those members who are concerned about the fate of a child born alive after a late-term abortion to "such decisions as *R v Taktak* (1988) 14 NSWLR 226". He suggested:

> If members have a read of it, all their concerns will be answered by a simple look at a Supreme Court case.

I was pleased to take his advice. I have refreshed my memory on that case and the key case on which it depends: *Jones v United States*. If I can take the liberty of the Committee, I will describe some of those cases because they go to this very amendment and say this should be the law. First, the principle in Taktak. On the question of a duty of care when it leads to the death of a person is sufficient to found a charge of homicide—that is what the Hon. Adam Searle was suggesting to us, so we are looking for the evidence of what is sufficient to found a charge of homicide—this case states:

> There are at least four situations in which the failure to act may constitute a breach of a legal duty. One can be held criminally liable:
>
> - first, where a statute imposes a duty to care for another—

that is what this amendment seeks to do; by a statute, create a duty of care—

> - second, where one stands in a certain relationship to another—

not the case where a doctor has the woman as his patient; there is no patient relationship with the child—

- third, where one has assumed a contractual duty to care for another—

not necessarily in this case, and—

- fourth, where one has voluntarily assumed the care of another and so secluded the helpless person as to prevent others from rendering aid.

That classification was affirmed by the High Court of Australia in *Burns v The Queen* in 2012, It uses a useful taxonomy that says *Jones v United States* should be regarded as exhaustive. One additional category where a duty of care may also arise was when a defendant has played a causative part in the sequence of events which had given rise to the risk of injury such that a duty to take reasonable steps to avert or lessen the risk may arise.

At the risk of appearing to be persecuting the Hon. Trevor Khan, I go to the case of *The Queen v Khan and Khan* where it was held to depend on the facts whether the two Khans owed a duty of care to call an ambulance to a 15-year-old girl who overdosed in their presence on drugs that they had supplied. It is uncertain whether this category would apply to a medical practitioner who is performing a lawful abortion that results in the birth of a live child. The third point in Jones clearly does not apply in this case as the only contractual duty the medical practitioner has undertaken is to terminate the pregnancy, not to provide care for the live born child. The fourth point in Jones requires a voluntary assumption of the care of the child and so by definition will not automatically apply. If none of the registered health practitioners takes any voluntary step towards assuming the care of the child, then the duty of care does not come into being.

In relation to the second point in Jones, the leading case on the duty of a medical practitioner to aid a person who is not his or her patient is *Dekker v Medical Board of Australia.* This case found that such a duty exists only if it is generally accepted by practitioners of good repute and competency in the medical profession in performing a termination of pregnancy with the intention of ending the life of the unborn child a medical practitioner is clearly not treating the unborn child as his or her patient. Given that in both Victoria and Western Australia, where we have information about babies born alive after late-term abortions, there is no evidence that any medical practitioner has ever provided resuscitation or other lifesaving medical care and that no doctor has been charged for failing to do so, it would be naïve to rely on an assumption that such a duty applies in New South Wales.

After eliminating any reliance on the second, third and fourth points we are just left with the first point in Jones—where a statute imposes a duty to care for another. That is what this amendment does. There is no such statutory imposition of a duty in these circumstances in the current New South Wales law and this amendment should be upheld so as to ensure that takes place. This amendment will remedy that defect and impose by statute a duty on every medical practitioner who performs an abortion that results in the delivery of a live born child, and every registered health practitioner who is present at the time of the child being born alive, to take all necessary steps to ensure that the child receives the same neonatal care as would be given to any other child born at the same stage of pregnancy and in the same medical condition. If the birth of the child has not taken place in a hospital that has a neonatal intensive care unit, this statutory duty will include ensuring that the child is transferred as soon as practicable. That is a complete answer to the concerns raised by the Hon. Wes Fang and to those who say that this provision is impracticable. It uses the words "as soon as practicable" and that relies on the clinical assessment of the doctor involved who, as a result of this amendment, will have a duty to that child.

The Children and Young Persons (Care and Protection) Act 1998 seeks to protect children who are at risk of significant harm, including where current concerns exist for the safety, welfare or wellbeing of the child because the child's basic physical or psychological needs are not being met or at risk of not being met, and where the parents have not arranged and are unable or unwilling to arrange for the child to receive necessary medical care. Could there ever be a greater case of a circumstance where a child is in need of care under the provisions of the Children and Young Persons (Care and Protection) Act than a child who is the survivor of an attempted termination of pregnancy? A child who has survived an attempted abortion is clearly a child at significant risk of harm. This provision in this amendment simply acknowledges that fact and will ensure that the appropriate protective steps can be taken as with any other child at risk. The amendment will also ensure that there is no doubt that when a child is born alive after an abortion and subsequently dies within the neonatal period of 28 days, then the death of that child is a reportable death under the Coroners Act 2009.

In Western Australia there have been 26 cases of babies born alive after an abortion since abortion was legalised there in May 1998. Initially the Coroners Court took the view that these deaths were not reportable deaths under that State's Coroners Act 1996. However, it was later clarified that the deaths were indeed reportable. This obligation to report such deaths is set out in the Review of Death Guidelines published by the Western Australian Department of Health in 2019. We do not want this confusion here and this subsection will make it clear for all concerned that these are reportable deaths for the purpose of the Coroners Act. Finally, in Victoria there have been 332 neonatal deaths of children born alive after an abortion reported between 2009 and 2017. A neonatal death is a death within 28 days of birth. The provision in the amendment addresses deaths of children

born alive after an abortion within that neonatal period. It is hard to resist this amendment and I urge the Committee to adopt it.

Mr DAVID SHOEBRIDGE (23:37): This amendment is not designed to fill a gap in the current law. This amendment is designed to shame pregnant people and the doctors who provide them with reproductive health services. Any reading of the current law—

Reverend the Hon. Fred Nile: I object to that.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Is that a point of order?

Reverend the Hon. Fred Nile: Yes, it is a point of order. Mr David Shoebridge is misrepresenting the objectives of the mover of the amendment, which is me.

The Hon. Adam Searle: To the point of order: That is a debating point. It is not a point of order.

Reverend the Hon. Fred Nile: I ask him to withdraw the allegation that this is being done deliberately to shame people.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): This will be the first time that I have not been listening; I was consulting with the Usher of the Black Rod. I am going to say to Mr David Shoebridge—

Reverend the Hon. Fred Nile: Get him to repeat it.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): No. I ask him to phrase his language carefully and to proceed with his contribution to the amendment.

Mr DAVID SHOEBRIDGE: This amendment is either ignorant of, or is deliberately ignoring, both the current clinical guidelines governing the delivery of medical services in New South Wales and the criminal law, especially as to homicide. I know that the Hon. Trevor Khan referenced the *Pregnancy—Framework for Terminations in New South Wales and Public Health Organisations*, which states the current rules under which terminations are provided in New South Wales, but given the raft of misinformation we have heard and the raft of cases that would be in breach of those guidelines and indeed in breach of the criminal law in New South Wales, it is worth repeating what that framework states in terms of a duty of care to a child following termination:

> For the purposes of this section "child" refers to a child who has been expelled or removed from the mother's womb alive. It should be noted that a fetus in utero is not recognised as a separate legal entity. However, once a fetus has been expelled or removed from the mother's womb, and is born alive, the child has the legal status of a person whose rights exist independently of the rights of the parents.

I stop there and say that that is the current medical practice. It goes on to state:

> Where a child is born alive and a responsible body of medical opinion considers that the burden of medical treatment is such that it would not benefit the child, because of previability of the child, prematurity, or the effect of a disease or condition—then a medical practitioner is under no duty to render overburdensome treatment. Healthcare professionals have an obligation to work together with families to make compassionate decisions. Conversely, where the likelihood of treatment will be of benefit, there is an obligation to render life-saving medical treatment.

That is the current status of play when it comes to terminations in New South Wales. The raft of emotional cases referencing highly contentious circumstances in other jurisdictions have no place in New South Wales. If any of that were to occur, it would be in breach of this current medical practice. I further say that this medical practice does not exist in the legal vacuum. The medical practice exists in a range of sanctions that would be applied to medical practitioners, but also in circumstances where, if a child is born alive, then that child, as the clinical guidelines make clear, has rights independently of the rights of the parent. Indeed, if there were any intentional act from a medical practitioner to terminate that life, that would be an act or a failure to act that results in the death of another person and would be classified as homicide under the existing law in New South Wales.

The amendment is not filling a gap. Indeed this amendment is seeking to put a whole series of additional, burdensome, inappropriate and wrong restrictions in an area that is already well regulated under both the medical arrangements and under the law of homicide. I note the contribution from the Hon. Wes Fang about the deeply inappropriate outcomes that we would see, especially for people in those circumstances in regional New South Wales, if the circumstances referred to in subparagraph (3) of the amendment prevailed. That subparagraph of the amendment refers to a requirement, when a child is born in a hospital that does not have a neonatal intensive care unit, for arrangements to be made for the child to be transferred, as soon as practicable, to a hospital that has a neonatal intensive care unit. In circumstances when the child's life may be entirely non-viable, fulfilment of that requirement would be deeply traumatic. Because of the reality of the pain and burden that that requirement would place on women and their family in those circumstances, I cannot believe that anybody would want to pass a law to create that.

The Hon. PENNY SHARPE (23:43): I indicate at the beginning of my contribution that when my speech concludes I will be moving for this debate to be adjourned until tomorrow. Therefore, there will be no vote taken in relation to this amendment as I understand discussions will be held overnight between the Hon. Niall Blair and the Hon. Damien Tudehope. I also indicate in relation to this amendment that I do not support the amendment. This has been quite an emotive debate in the manner in which members have dealt with it. We have had to talk about things that make us uncomfortable—things that, I again point out, are private, intimate and difficult, and that require parents and mothers who are terminating a late-stage pregnancy to make some very difficult decisions. I do not think it is our place to override some of those very difficult decisions.

I acknowledge the contribution of the Hon. Wes Fang. Children who are aborted are often already very unwell and will die whether or not they are born alive. That is tragic for everyone. It is tragic for the parents whose much-wanted pregnancy has not gone the way they wanted it to. The proposed amendment is not about providing care as soon as practicable. It requires that a child born alive be transferred as soon as possible, often a long way from the child's parents, when that child—whom no-one is denying is alive—is going to die. These are difficult, intimate moments. Unless we have experienced such a moment, none of us has the right to dictate how to deal with that moment.

Parents, mothers and other pregnant people are making these decisions on the best medical advice, after a great deal of thought and usually after a lot of counselling and discussion with their families and medical practitioners. Fundamentally, the proposed amendment is about thinking we know better than they do in these circumstances. If the bill is passed, late-term abortions will only be performed legally if they meet rigorous tests about what is in the interests of the woman and how that should be dealt with. I will not revisit the discussion we have had tonight, but there are serious tests around that and it is a serious matter. It is wrong to suggest that someone who has a stillborn baby or someone who has to terminate in these circumstances somehow has less compassion or less care for the baby they have been carrying. It is just wrong and it is probably one of the worst inferences made in the debate tonight.

Reverend the Hon. Fred Nile: Not by me.

The Hon. PENNY SHARPE: Did I say it was you, Reverend Nile? No, I did not.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! Members will direct their comments through the Chair.

The Hon. PENNY SHARPE: Some people have made those inferences. I have restrained myself from interjecting in relation to those. I would ask Reverend the Hon. Fred Nile to do the same. The idea that a person who makes an active decision to terminate is somehow negligent, or fails to care or feel or want the best for a pregnancy that has not turned out the way they wanted it to is simply wrong and goes against all the evidence that we hear from people who have late-term abortions. We must listen to them. For all the talk about legal cases outside New South Wales, we need to understand that there are clear guidelines. A baby who is born alive must get the best care that they deserve and need. That must be done in consultation with the baby's parent or parents and medical practitioners. Some of the inferences that have been made in relation to this and about the people who care about it have simply been wrong.

Subparagraph (4) of proposed section 7 proposed by the amendment is about mandatory reporting. Every day in New South Wales there are children at serious risk of harm whose welfare our system is unable to check up on. If a parent, a mother or other pregnant person has had to decide to terminate a late-term pregnancy, that person should not be reported to the New South Wales Department of Family and Community Services. It is deeply offensive to ask someone to do that. If the person already has children, it is simply wrong that medical practitioners should become mandatory reporters and have to report those people for making that decision.

When we conclude the debate on the amendment tomorrow, we will have to deal with it. I urge members not to support the amendment because it misconstrues the current arrangements. It fails to accept that it is murder if a baby is born alive and not cared for. It fails to understand the intimate, difficult and private discussions, and seeks to put ourselves in the middle of that, rather than the people who are dealing with these very difficult matters—uncomfortable matters that all of us accept we would rather not be in, but that actually happen. On that basis, 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. PENNY SHARPE: 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.

Rulings

NOTICES OF MOTIONS

The PRESIDENT (23:50): This afternoon the Hon. Mark Latham gave a notice of motion concerning United States President Donald Trump. A point of order was taken concerning paragraph 1 of the notice of motion, which begins by stating, "That this House regrets its resolution of 13 October 2016 …" Standing Order 91 (1) states:

> A member may not reflect on any resolution or vote of the House, unless moving for its rescission.

According to the *Annotated Standing Orders of the New South Wales Legislative Council*, Standing Order 91(1) expresses the principle that members must not reflect on or criticise the actions and decisions of the House or suggest that the House was wrong. In order to ensure that Mr Latham's notice of motion strictly complies with Standing Order 91(1), I have directed the Clerk to amend the notice as it appears in tomorrow's *Notice Paper* by omitting the word "regrets" and inserting in lieu thereof the words "notes community concerns about".

Bills

FINES AMENDMENT BILL 2019

First Reading

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

The Hon. DAMIEN TUDEHOPE: I move:

> That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

Motion agreed to.

The Hon. DAMIEN TUDEHOPE: I move:

> That the second reading of the bill stand an order of the day for a future day.

Motion agreed to.

Adjournment Debate

ADJOURNMENT

The Hon. DAMIEN TUDEHOPE: I move:

> That this House do now adjourn.

TRIBUTE TO BOB HAGAN

The Hon. NIALL BLAIR (23:53): Bob Hagan has done his last crossword. Bob was born in 1934 in Dubbo. He was raised in Junee, completed his national service and went to Wagga Wagga Teachers College to become a teacher. He was first posted to a one-teacher school at Pearson in the Riverina. He subsequently completed a degree at the University of New England to specialise in mathematics and became a high school teacher at Mount Austin in Wagga. In 1974 he was transferred to Goulburn where he became the maths master at Mulwaree High School, my old high school. He taught at Mulwaree until 1994, which was my final year at Mulwaree High School and the year in which I was school captain. He was not just a great teacher while he was at school. After retiring, he tutored many kids to prepare them for their HSC. In fact, his last student was last year, in 2018.

Bob Hagan was also a crossword champion, particularly cryptic crosswords. He was an inaugural founder and life member of the Australian Crossword Club and won over 37 prizes for his cryptic crosswords. In fact, he was also a cryptic crossword coach. His accomplished career as a teacher and the fact that he was such a good high school teacher has been credited to his start in a one-teacher school, where he taught children from the age of five or six and became a teacher of the pupil, rather than of the subject.

Bob Hagan was also the husband of Pam, the father to Robert, Terry and Heather, a grandfather and a great-grandfather. He was more than that to me and my family. Bob Pagan was my dad's boss at Mulwaree High School, where my dad was a maths teacher. He was my dad's close mate and drinking buddy. He was also my

mum's punting partner—on Saturday mornings mum would get the form guide and ring Bob to talk through the best punts of the day and Bob would put on the bets. As first generation Australians with grandparents living on the other side of the world, to me and my brothers Bob became our Australian grandfather.

Bob taught me how to fish. In fact, I caught my first fish in his boat down in Batemans Bay on the Clyde River and many nights were spent out at Pejar Dam, between Goulburn and Crookwell, trying to catch the elusive trout. He also taught me how to shoot a gun—it was only a slug gun, but he taught me how to shoot. Unfortunately last year Bob Pagan was diagnosed with lung cancer. It is fair to say that I had not seen Bob in quite a long time. Although he was very formative in my younger years, it had probably been close to two decades since I had seen Bob.

On Father's Day, when I went back to Goulburn to visit my dad, I got a chance to visit Bob. He had just been released from hospital and was frail, but his mind was as sharp as a steel trap. Yesterday at his service in Goulburn it was said that you knew that Bob liked you if he had a go at you with his sarcastic sense of humour and poked fun at you—he certainly did that as soon as I walked through the door. It is fair to say that he was proud of what I had done, as well as many other people who he had touched during his time as a teacher.

The world will be a lesser place because we have lost Bob Hagan. He has contributed to so many wonderful people's lives but, more importantly, he was an influential person in my life. It was a nice service yesterday to say goodbye. My dad, my brother and I had a beer to thank Bob for everything he had done for us. To my Australian grandfather, I say: Thank you, rest in peace and we will always remember you. Vale, Bob Hagan.

NRMA MANLY FAST FERRY WAGE DISPUTE

The Hon. MARK BUTTIGIEG (23:58): The NRMA, owner and operator of Manly Fast Ferry, is failing to pay its workers living wages and provide job security. The NRMA is a government contractor as Transport for NSW awarded Manly Fast Ferry the sole rights to operate fast ferry services between Manly and Circular Quay. The transport Minister was made aware of the issues in both 2018 and 2019, and has done nothing to stop the systemic wage theft that has been occurring. This is simply not good enough. Since September 2018 workers have been trying to reach an agreement with the NRMA to obtain pay rates that are in line with the industry and to gain job security.

Despite the Maritime Union of Australia [MUA] engaging in more than 120 hours of negotiations with the NRMA, the company is still refusing to pay its workers proper wages. To make matters worse, the NRMA has been busy lining the pockets of high-priced lawyers to engage in frivolous and unsuccessful legal action against the MUA, simply for using a logo showing a sinking ferry with the letters "NRMA" on materials such as flyers to draw attention to the wage dispute. Just this past Wednesday a Federal court judge found that the NRMA had failed to establish any cause of action and dismissed its proceedings against the MUA. The NRMA is estimated to have wasted more than $300,000 on the unsuccessful Federal court action. That amount is more than the cost of paying its workers what they are entitled to. The MUA has highlighted that it would only cost the NRMA $200,000 a year to fairly pay its Manly Fast Ferry employees, which is far less than the money it squandered on this one legal action. It is disgraceful that the NRMA would rather pay extremely high-priced solicitors from a top-tier law firm to engage in failed legal proceedings than pay its workers a decent wage.

This is not the first legal case the NRMA has lost. In December the Fair Work Commission rejected the NRMA's workplace agreement, finding that under the agreement ferry workers would not receive their rightful wages. Manly Fast Ferry employees are not earning the industry equivalent for the work they perform. They need to be paid the correct penalty rates. These workers are paid substantially less than their counterparts at Transdev, the French company that operates the government-owned fleet of ferries on the Parramatta River and Sydney Harbour. The MUA says there is a $30,000 wage difference. Last week a Federal court judge even noted, "They receive as little as half the pay of other workers doing the same work on the same harbour."

Approximately 95 per cent of the workforce are still employed as casuals. The NRMA has stated previously that it is prepared to examine converting half of the workforce to permanent employees; however, it said that will need to be phased in over a two-year period. The NRMA's position also includes unfair stipulations that would mean staff would not receive pay rates consistent with workers who work nights and weekends. This is not good enough. These workers need secure and permanent work now, including proper pay for weekend and night shifts. The NRMA has previously attempted to excuse its workers' low rates of pay by stating that Manly Fast Ferry is a small business. However, this excuse is completely invalid, especially when the NRMA is more than willing to pay hundreds of thousands of dollars on unsuccessful legal action. I am sure members would rather see fair pay and permanent jobs for ferry workers than highly expensive lawyers being paid for failed and meritless legal proceedings.

In April 2015 the New South Wales Government, through Transport for NSW, provided a seven-year contract to Manly Fast Ferry to operate fast ferry services between Manly and Circular Quay. Minister Andrew Constance should not allow a government contractor of transport services to underpay its workers. The Minister should also ensure that workers have job security. He should put a stop to the NRMA's avoidance of offering fair and permanent contracts to its predominately casual workforce. Manly Fast Ferry workers deserve a fair enterprise bargaining agreement that is in line with their industry counterparts that operate on the harbour and prevents workers from being substantially underpaid and employed only casually. The Government should not be contributing to systemic wage theft in this country.

NATURAL RESOURCES SUSTAINABLE MANAGEMENT

Mr JUSTIN FIELD (00:03): Australia is a country of extremes. It is a country of droughts and of flooding rains. The prospects of regional Australia have always ebbed and flowed with the seasons but the challenges we are facing today are not natural fluctuations. There have been two crippling droughts in 20 years, millions of fish are dying in drained rivers, fires are burning through rainforests and major towns are facing the prospect of running out of water as early as this year's end. These are the symptoms of a failure to live within the bounds of natural systems caused by an arrogance that we can just keep taking, taking and taking from the land. Something needs to change.

In late 2003 a suite of legislation designed to establish a "new model for landscape conservation in New South Wales" passed the Parliament. The reforms under the Carr Labor Government, at the height of the millennium drought, implemented a new regime to deal with the challenges facing regional New South Wales at that time—a new native vegetation Act designed to end broadscale clearing and repair over-cleared landscapes; catchment management authorities to assist farmers to marry production with environmental sustainability; the Natural Resources Commission [NRC] to provide natural resource management advice based on the best available scientific, economic and social information; and the Natural Resources Advisory Council [NRAC] to ensure ongoing collaboration between stakeholders.

The plan was the product of a working group chaired by the former Federal leader of the National Party Ian Sinclair and was made up of scientists, farmers, conservationists and government officials. It was often referred to as the Sinclair Group. The CEO of NSW Farmers described the legislation that resulted as a "great step forward for farmers". It was a bold accord between interests who had long been at loggerheads over the sustainable management of natural resources. The Coalition, in opposition at that time, guided by the National Party and its leader Andrew Stoner, opposed the legislation despite its origins and connections to their farming constituents. It was short-sighted thinking then and we know now just how short it was.

Fast forward to 2019, at the peak of a second one-in-100-year drought in less than two decades, and the New South Wales National Party's single-minded focus on dismantling the 2003 natural resource reforms is all but complete. The NRAC was the first to go in 2011 soon after the change of government. The catchment management authorities and the native vegetation Act were torn up under highly controversial 2016 "biodiversity" law changes and in the last month the New South Wales water Minister has launched an extraordinary attack on the Natural Resources Commission after it described the Barwon-Darling as "an ecosystem in crisis" and laid the blame squarely at the failure of water management.

The consequences of the National Party's decade-long obsession to undermine the Sinclair group reforms has not just been a failure of water management. The Nationals have fostered a dramatic increase in land clearing and loss of biodiversity in the landscape as well as the expansion of coalmining and the risk of coal seam gas marching across high-quality agricultural land, consuming critical water resources. The failure to implement an approach to natural resources management that reflects the science and the variability and vulnerabilities in our landscape has been an unmitigated disaster. Thankfully Liberal Ministers are defending the Natural Resources Commission and the science when it comes to reforming management of the Darling River but there is a big job ahead to restore sensible natural resource management in this State.

The drought will end but the impact of climate change makes it far more likely that the next unprecedented drought may be just a decade away. We need a new accord—an accord with the land and with the people who live on it. At its core must be sustainability because no industry and no communities have longevity in an increasingly degraded environment. We need a genuine coming together of those who care about country and regional communities to work to restore the State's landscape, to ensure that we can adapt to climate change and to continue to evolve primary production in our harsh and changing environment. We need that before the next drought and we certainly need it before the next election.

LEGACY WEEK

The Hon. NATASHA MACLAREN-JONES (00:07): I speak about Legacy Week 2019 and the fantastic work that Legacy does every year to help support the families of veterans who have given their life for the service of our country. Legacy Week was held from 1 September to 7 September this year. The annual appeal is run by Legacy to raise funds to support veterans' families whose loved ones have served our country. Legacy is dedicated to caring for the families of deceased and incapacitated veterans, including dependants of members of today's Australian Defence Force who lost their lives as a result of military service.

Legacy began following the First World War when men returned from the battlefield and felt that their fellow servicemen needed better support and assistance. One of them was General Sir John Gellibrand, who in 1923 founded the Remembrance Club in Hobart for the purpose of assisting and supporting returned servicemen with the support of other returned servicemen and businesses. Lieutenant General Stanley George Savige, who had helped General Sir John Gellibrand, visited the Hobart club and decided to also establish one in Melbourne, which would foster the task of caring for the families of deceased servicemen. This became the heart and soul of Legacy. For the past 69 years Legacy has continued to provide incredible service and assistance to the families of those who have served their country.

Legacy Week was established in 1942 and has become the symbol of our nation, our service men and women and their families. The appeal is a charity event where well over 6,000 volunteers across Australia will give up their time to raise funds for the families of deceased veterans. One of the key items is the purchase of the Legacy badge. The symbolic Legacy badge is a special emblem of support for Legatees. The torch is the undying flame of service and sacrifice passed on by those who gave their lives for their mates and their country. The wreath of laurel has its points inverted in remembrance and to honour those who have given their lives for service. It is a symbol that has become synonymous with Legacy and Legacy Week—a symbol that for the families of Legacy veterans is the hope and collective symbol that they are not alone and that those who have given their lives will be remembered and their families supported, guided and assisted.

There are many examples and stories of the support of Legacy helping the families of deceased veterans. As a former Junior Legatee whose father served in the Royal Australian Navy, I know firsthand the support that Legacy gives to so many, which is truly remarkable. Legacy's caring and compassionate service gives hope and assurance during the mourning and sadness of losing a loved one. I thank Legacy for its consistent support for nearly a century, assisting the families of deceased veterans who have paid the ultimate sacrifice for our country. I thank also the thousands of volunteers who give their time over the week to sell pins, badges and pens to raise funds and to make a significant impact on the beneficiaries of Legacy. They are the torch for so many that continues to brighten and support those who have had to experience heartache and turmoil. I commend each and every one of them for their dedication.

AUSTRALIAN CHINESE COMMUNITY

The Hon. SHAOQUETT MOSELMANE (00:11): The ongoing media demonisation of our Australian Chinese community must stop and it must stop now. It is indiscriminate, it is trashy and it is abhorrent. Who has any right to question the loyalties to Australia of any Australian, let alone 1.2 million Australians of Chinese heritage? The collective victimisation and depiction of Chinese Australians and anyone who associates with them as disloyal to Australia is shameful and must be condemned. In decades gone by we witnessed the terrible treatment and malign abuse many migrant Australians suffered as a result of rampant bigotry, much of it fuelled by trashy journalism. Muslim Australians, for example, suffered intense religious vilification as a result and it continues today.

With the election of President Donald Trump and the tensions around the United States-China trade war, the Chinese community in Australia has experienced intense media victimisation. The level of attack rose higher as the debate around Federal foreign interference laws raged. Whilst such laws are not intended to target any particular country, there is no doubt that they have been used to target China. It seems that they see a tree but they fail, intentionally or otherwise, to see the forest of influence peddling by many others. This deliberately orchestrated China panic, heightened by "reds under the bed" public discourse, is destructive and allows for targeted collective punishment of all Chinese Australians.

This is wrong and it has brought on anti-China hysteria that has given rise to so much hate, leaving many Chinese Australians living in fear. The last thing we want is to relapse into the era of the White Australia policy, allowing for a new wave of potential yellow peril fearmongering. I find it abhorrent that sections of the media can question Chinese Australians' loyalty to Australia. It is a despicable trial by media and I suspect there will be more of it following Prime Minister Morrison's visit to the United States next week. Ever since I entered this Parliament—almost 10 years now—a section of media has never ceased to vilify me.

Lately I was subjected to more grubby attacks because of my work and friendship with the Chinese-Australian community. The journalists who sifted through my register of disclosure would have seen that in my trips to China I have, for instance, gone there to deliver wheelchairs for disabled children in China. Did they report that? No, they did not because they do not want to let the positive facts come in the way of a good trashy story. In fact, I was in China to deliver four containers of wheelchairs, two of which went to an orphanage in Shanghai.

The official in the photo that *The Daily Telegraph* used to try to paint a sinister connection to the Communist Party of China is actually an official who received us and helped facilitate the distribution of the wheelchairs. This is the very definition of fake news. There is more to tell but time does not permit me. I take this opportunity to express my delight that I have now registered Kids-On-Wheels Alliance Incorporated, which is a charitable organisation that has received Australian Tax Office charitable status. Funds raised with the Chinese community through this charity will be used to manufacture wheelchairs in China to be distributed, first in China and then anywhere and everywhere I can deliver them.

I plan to travel to China to visit wheelchair manufacturers in the hope that I can produce the maximum number of wheelchairs at minimum cost for a maximum number of disabled children. I am proud of every one of the 1.2 million Australians of Chinese heritage. I admire their tenacity, their work ethic, their family and community values, their commitment to a fair and decent Australia and I greatly value and respect their friendship. The grubby attacks on my staffer, who is an Australian of Chinese heritage, is despicable. I thought better of *The Sydney Morning Herald* but this was yet another example of doormat journalism—you would not wipe your shoes with it. This paranoid hysteria, this China panic pedalling is injurious, it is hurtful, for which sections of our mainstream media should and must be held to account. [*Time expired*.]

WINTER LAMBING

The Hon. EMMA HURST (00:16): Over the next few weeks we will hear about the traumatic and painful procedure of mulesing, but there is another issue, one less spoken about, and that is the freezing of the lambs. Fifteen million lambs across Australia die within 48 hours of being born due to exposure to the bone-chilling cold of our Australian winter. One in four baby sheep—whose tiny dead bodies lined up head-to-tail would cover more than the breadth of Australia—die every year from exposure. These baby animals are suffering from birth and then dying a ghastly, grisly death all because of the demand for wool and meat. Why do farmers practice cruel winter lambing? For profit.

Ewes who give birth in winter produce the highest number of lambs at the lowest cost. Farmers forcibly impregnate mother sheep so that they give birth in winter months and their babies are weaned in spring, the idea being that those who survive the harsh winter grow faster and fatter than they would otherwise, but a quarter of those lambs do not survive. Instead, while we put on warm woollen mittens, a wool beanie over our heads or snuggle up under a blanket on our beds, those lambs will freeze to death on fields, receiving inadequate protection from the wind, rain, frost and predators.

Farmers know this. In fact, they have described it as "frosty paddocks littered with the rigid bodies of newborn white lambs that have not survived the night's wild winter storms". Not only do millions of lambs die every year but often their tiny bodies are left amongst those that have survived, luring foxes and birds of prey closer to the flock. This further endangers those who are already vulnerable due to difficult births, drowning, hypothermia, starvation, neglect or orphaning, adding to the growing number of casualties falling victim to the brutal wool industry. Farmers accept that millions of gruesome deaths are an inevitable consequence of their quest for bigger profits, but like a growing number of the community, I do not.

I do not accept that 15 million lambs need to die each year so that I can wear a wool jumper. I do not accept that these newborn baby animals are to be forced into a short and painful existence so that I can have woollen gloves. I do not accept that lambs and their mothers face the brutal elements of a harsh winter unprotected so that I may wear a woollen coat. So do not wear wool. There is now talk of introducing highly controversial methods of genetic manipulation into Australian flocks, causing ewes to give birth to up to six lambs at a time. This technology will push stressed mother sheep and their lambs to absolute biological limits, putting enormous physical strain on the mother, and producing lambs that are often smaller and even more likely to die of exposure. Allowing this cruelty to go ahead and to push for an increase in the winter body count is quite simply barbaric. We should be trying to protect these suffering animals, not forcing more lambs into an early death.

As Joaquin Phoenix says, cruelty does not suit me. Like a growing number of multinational clothing companies and people across the world, I do not wear wool and I will not wear wool. With the plethora of plant-based and synthetic fibres available today, why would you? In fact, wool alternatives are taking over the fashion world. Some of the alternatives include tencel, hemp and bamboo fibres. There was even a prize for the best vegan wool as part of a biodesign challenge, which partnered design students with biotechnology

professionals. The best animal-free wool, as awarded by People for the Ethical Treatment of Animals and designer Stella McCartney came from a group called Woocoa, which came up with an eco-friendly biofabricated material made from a blend of coconut fibres, hemp and mushroom. These high-performing fabrics are revolutionary, both in texture and eco-friendliness. The future of fashion is vegan.

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

Motion agreed to.

The House adjourned at 00:21 until Wednesday 18 September 2019 at 11:00.