



**New South Wales**

# **Legislative Council**

## **PARLIAMENTARY DEBATES (HANSARD)**

**Fifty-Seventh Parliament  
First Session**

**Tuesday, 22 October 2019**

Authorised by the Parliament of New South Wales



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## LEGISLATIVE COUNCIL

**Tuesday, 22 October 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.

### *Members*

#### **PLEDGE OF LOYALTY**

**The PRESIDENT:** At a joint sitting held on 17 October 2019 Samuel Jacob Faraway was elected to fill the vacant seat in the Legislative Council caused by the resignation of the Hon. Niall Mark Blair.

Mr Samuel Faraway took and subscribed the pledge of loyalty and signed the Roll of the House.

### *Bills*

#### **RACING LEGISLATION AMENDMENT BILL 2019**

##### **Assent**

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

### *Documents*

#### **INSPECTOR OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION**

##### **Reports**

**The PRESIDENT:** According to the Independent Commission Against Corruption Act 1988, I table the annual report of the Inspector of the Independent Commission Against Corruption for the year ended 30 June 2019.

**The Hon. DON HARWIN:** I move:

That the report be printed.

**Motion agreed to.**

#### **INDEPENDENT COMMISSION AGAINST CORRUPTION**

##### **Reports**

**The PRESIDENT:** According to the Independent Commission Against Corruption Act 1988, I table the annual report of the Independent Commission Against Corruption for the year ended 30 June 2019.

**The Hon. DON HARWIN:** I move:

That the report be printed.

**Motion agreed to.**

### *Motions*

#### **LEBANON BUSHFIRES**

**The Hon. SHAOQUETT MOSELMANE (14:34:23):** I move:

1. That this House notes that:

- (a) in the past week Lebanon has witnessed one of its most aggressive bushfire seasons with more than 100 fires erupting right across Lebanon, described by the Director General of Lebanon's Civil Defence as the worst fires to have hit the country in decades;
- (b) aided by strong winds and unseasonably high temperatures, the fires swept through dense forests and into residential areas destroying homes and property and causing injuries and loss of life as well as destroying hundreds of hectares of lush green forests; and
- (c) the latest rain has brought a little respite, however, the forecast of worsening weather conditions with strong winds of up to 45 kilometres an hour and temperatures of up to 35 degrees Celsius is of great concern.

2. That the President, on behalf of the House, write to the Lebanese Consul General, Sydney, expressing the House's sympathies with the people of Lebanon on their terrible loss of life and damage to property and the pristine bushlands of Lebanon.

**Motion agreed to.**

**KOORI KNOCKOUT COMPETITION**

**The Hon. TAYLOR MARTIN (14:34:52):** I move:

1. That this House notes:
  - (a) the 2019 Koori Rugby League Knockout was held at the Central Coast Regional Sporting and Recreation Complex at Tuggerah from Saturday 5 October to Monday 7 October;
  - (b) the 2018 winners of the knockout, the Newcastle All Blacks, hosted the tournament in partnership with the Central Coast Council, maintaining the tradition of the winning side from the previous year hosting the tournament the next year;
  - (c) more than 30,000 people attended the event and more than 140 teams from across New South Wales competed;
  - (d) the 2019 Koori Rugby League Knockout was a great success and a three-day celebration of Aboriginal talent, family and culture;
  - (e) since the knockout began in 1971, it has become an institution in the New South Wales sporting calendar;
  - (f) Kempsey were the first regional team to win the tournament in 1975, and since then the tournament has been held across New South Wales including Walgett, Armidale, Woy Woy, Dubbo, Moree, Bourke and Nambucca Heads;
  - (g) high-profile Indigenous NRL players return every year to play alongside people from their hometowns and inspire younger members of the community; and
  - (h) winners of the 2019 knockout were
    - (i) Men: South Coast Black Cockatoos;
    - (ii) Women: Wellington Wedgetails;
    - (iii) U17 Boys: Kempsey Sharks;
    - (iv) U16 Girls: La Perouse Panthers;
    - (v) U15 Boys: South Taree; and
    - (vi) U12 Boys: La Perouse Panthers.
2. That this House:
  - (a) congratulates and commends the Newcastle All Blacks on hosting a successful 2019 event; and
  - (b) wishes the South Coast Black Cockatoos well in hosting the 2020 Koori Knockout on the South Coast.

**Motion agreed to.**

**JAPAN AIRLINES**

**The Hon. NATALIE WARD (14:35:17):** I move:

1. That this House notes that:
  - (a) on 30 September 2019, Japan Airlines celebrated 50 years of operation in Australia;
  - (b) the 50-year reception took place at the Sydney Opera House; and
  - (c) the reception was attended by:
    - (i) the Hon. Gladys Berejiklian, Premier;
    - (ii) Mr Yoshiharu Ueki, Chairman of Japan Airlines;
    - (iii) Mr Seiji Takamoto;
    - (iv) Mr Reiichiro Takahashi, Ambassador of Japan;
    - (v) Mr Mark Lucas, General Manager Australia and New Zealand Japan Airlines; and
    - (vi) the Hon. Jonathan O'Dea, MP, Speaker of the Legislative Assembly.
2. That this House congratulates Japan Airlines on 50 successful years of operation in Australia and the Japanese community of New South Wales for their commitment to our harmonious multicultural society.

**Motion agreed to.**



**PORT STEPHENS-HUNTER POLICE DISTRICT ANNUAL AWARDS****The Hon. TAYLOR MARTIN (14:35:39):** I move:

1. That this House notes that:
  - (a) on 2 October 2019, the Port Stephens Hunter Police District Annual Award ceremony was held at St Brigid's Primary School;
  - (b) the awards ceremony was an opportunity to recognise serving and former police officers and civilian staff within the police district for their service and dedication to the NSW Police Force and the local community;
  - (c) the following awards were presented:
    - (i) National Police Service Medal: Sergeant Ryan Tillock, Sergeant Christopher Nash, Leading Senior Constable Mark Hulbert, Senior Constable Simon Chappell, Senior Constable Karlie Nicholson, Detective Senior Constable Lauren Park, Detective Senior Constable Tracey Tame, Senior Constable Duncan Arnold, Senior Constable Darren Fisher and Detective Senior Constable Jarrad Rudd;
    - (ii) National Medal: Sergeant Ryan Tillock, Sergeant Christopher Nash, Leading Senior Constable Mark Hulbert, Senior Constable Simon Chappell, Senior Constable Karlie Nicholson, Detective Senior Constable Lauren Park, Detective Senior Constable Tracey Tame, Senior Constable Duncan Arnold, Senior Constable Darren Fisher, Detective Senior Constable Jarrad Rudd, Chief Inspector Anthony Townsend (2nd clasp) and Sergeant Russell Lloyd (2nd clasp);
    - (iii) NSW Police Medal: Sergeant Christopher Nash (1st clasp), Senior Constable John Collins (1st clasp), Senior Constable Stephen Bennett, Senior Constable Andrew Worsley, Senior Constable Graham Baxter, Senior Constable Sean Smith, Senior Constable Robert Wylie, Senior Constable Jessica Stengord, Senior Constable Jason King, Senior Constable Leah Hughes, Senior Constable Andrew Wynne, Chief Inspector Anthony Townsend (5th clasp), Sergeant Russell Lloyd (5th clasp), Senior Constable Alyssa Willetts (2nd clasp), Sergeant Ryan Tillock (1st clasp), Leading Senior Constable Mark Hulbert (1st clasp), Senior Constable Simon Chappell (1st clasp), Senior Constable Karlie Nicholson (1st clasp), Detective Senior Constable Lauren Park (1st clasp), Detective Senior Constable Tracey Tame (1st clasp), Senior Constable Duncan Arnold (1st clasp), Senior Constable Darren Fisher (1st clasp) and Detective Senior Constable Jarrad Rudd (1st clasp);
    - (iv) NSW Police Medallion and Lapel Pins: Rebecca Taylor (Medallion 10 years), Vicki Thompson (Lapel Pin 35 years) and Joshua Reid (Lapel Pin 15 years);
    - (v) Commissioner's Commendation (Courage): Senior Constable Mitchell Parker;
    - (vi) Commissioner's Unit Citation: Senior Constable Phillip Hannah and Senior Constable Chantelle Hannah;
    - (vii) Commander's Certificate of Merit: Sergeant Kristen Marshall, Senior Constable Adam Burns, Senior Constable Peter Boys and Senior Constable Sean Smith;
    - (viii) Annual Detective's Board Award: Senior Constable Jessica Stengord;
    - (ix) Women in Police Certificate of Appreciation: Senior Constable Jessica Stengord; and
    - (x) Commander's Commendation: Senior Constable Troy Bulpett.
  - (d) those who attended as guests included:
    - (i) the Hon. Taylor Martin, MLC;
    - (ii) Northern Region Commander, Assistant Commissioner Max Mitchell, APM;
    - (iii) Northern Region Detective Superintendent Wayne Humphrey, APM;
    - (iv) Port Stephens-Hunter Police District Commander Superintendent Craig Jackson;
    - (v) Newcastle Police District Commander Detective Superintendent Brett Greentree;
    - (vi) Lake Macquarie Police District Commander Superintendent Daniel Sullivan;
    - (vii) Hunter Valley Police District Commander Detective Superintendent Chad Gillies;
    - (viii) Chief Inspector Tracy Chapman;
    - (ix) member for Upper Hunter Michael Johnsen, member for Port Stephens Kate Washington and member for Maitland Jenny Aitchison;
    - (x) Uncle John Ridgeway, elder of the Worimi people; and
    - (xi) family and friends of those receiving awards.

2. That this House congratulates all medal and award recipients for their outstanding service to the NSW Police Force.

**Motion agreed to.**

**PORT STEPHENS EXAMINER BUSINESS AWARDS NIGHT****The Hon. TAYLOR MARTIN (14:36:01):** I move:

1. That this House notes that:
  - (a) on Wednesday 16 October the *Port Stephens Examiner* held the 2019 *Port Stephens Examiner's* Business Awards night at Shoal Bay Country Club; and
  - (b) winners of awards included:
    - (i) Accommodation: Ingenia Holidays One Mile Beach;
    - (ii) Accountant: DJ Cooper Accounting;
    - (iii) Animal Services: Bark n Purr Pets;
    - (iv) Automotive Services: Tanilba Bay Tyres & Mechanical;
    - (v) Bakery: Saxby's Bakery Cafe;
    - (vi) Beauty Therapy: Barley Sugar Day Spa & Beauty;
    - (vii) Boating, Fishing or Camping: Let's Go Adventures;
    - (viii) Building, Construction and Renovation: East Coast Timber Floors & More;
    - (ix) Butcher: Guy's Choice Cuts;
    - (x) Cafe: Central Beans Cafe;
    - (xi) Children's Services: Angel Tots Early Learning Centre;
    - (xii) Club: Nelson Bay Golf Club;
    - (xiii) Dance Studio: Complete Performing Arts and Classical Coaching;
    - (xiv) Fashion or Footwear – Ladies: Totally Workwear;
    - (xv) Fashion or Footwear – Mens: Totally Workwear;
    - (xvi) Financial Services: Greater Bank Raymond Terrace;
    - (xvii) Fitness: Tomaree Aquatic Centre;
    - (xviii) Florist/Nursery: Salamander Village Florist;
    - (xix) Fresh Produce or Markets: Fat Wren Farm;
    - (xx) Furniture/Home Décor: Chalk and Willow;
    - (xxi) Gift Store: Lilly Hill;
    - (xxii) Hair Salon: Forever Hair & Beauty;
    - (xxiii) Health and Medical: Nurses Now;
    - (xxiv) Hotel or Bottle Shop: Spinning Wheel Hotel;
    - (xxv) Jeweller: Terrace Showcase Jewellers;
    - (xxvi) Learning, Training or Recruitment: Joblink Plus;
    - (xxvii) Legal Service: Sawers & Levonpera;
    - (xxviii) New Business (1st Year): Two Bobs Bakery;
    - (xxix) Newsagency: Shoal Bay Newsagency;
    - (xxx) Pharmacy: Lemon Tree Passage Pharmacy;
    - (xxxi) Real Estate – Sales: Century 21 Curtis and Blair;
    - (xxxii) Real Estate – Property Management: Century 21 Curtis and Blair;
    - (xxxiii) Restaurant – Australian Cuisine: Amanda Douglass Catering Service;
    - (xxxiv) Restaurant – International Cuisine: Mod Thai;
    - (xxxv) Shopping Complex: MarketPlace Raymond Terrace;
    - (xxxvi) Specialised Services: The Food War Inc.;
    - (xxxvii) Takeaway Food: The Oyster Shack;
    - (xxxviii) Technology Industry: Excel IT;
    - (xxxix) Tourist Attraction: Feet First Dive; and
    - (xl) Overall Business of the Year: Nurses Now.

2. That this House congratulates all winners of the 2019 *Port Stephens Examiner's* Business Awards.

**Motion agreed to.**

#### *Petitions*

### **RESPONSES TO PETITIONS**

**The Hon. SCOTT FARLOW:** I lodge responses to the following petitions signed by more than 500 persons:

1. Reproductive Health Care Reform Legislation—lodged 17 September 2019—(Reverend the Hon. Fred Nile)
2. Reproductive Health Care Reform Legislation—lodged 17 September 2019—(Reverend the Hon. Fred Nile)
3. Reproductive Health Care Reform Legislation—lodged 17 September 2019—(Reverend the Hon. Fred Nile)
4. Cat and Dog Meat Trade—lodged 19 September 2019—(The Hon. Emma Hurst)

I move:

That the documents 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. 7/57*, dated 22 October 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. 26 of the Selection of Bills Committee, dated 22 October 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:

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

- (a) Electoral Funding Amendment (Local Government Expenditure Caps) Bill 2019;
- (b) Electoral Funding Amendment (Cash Donations) Bill 2019;
- (c) Statute Law (Miscellaneous Provisions) Bill (No 2) 2019;
- (d) Music Festivals Bill 2019;
- (e) Water Supply (Critical Needs) Bill 2019;
- (f) Food Amendment (Seafood Country of Origin Labelling) Bill 2019; and
- (g) Government Information (Public Access) Amendment (Electronic Applications) Bill 2019.

**Motion agreed to.**

### **REGULATION COMMITTEE**

#### **Reports**

**The CLERK:** According to standing order, I announce receipt of report No. 5 of the Regulation Committee entitled *Local Land Services Amendment (Critically Endangered Ecological Communities) Regulation 2019* and *Local Land Services Amendment (Allowable Activities) Regulation 2019*, dated October 2019, together with transcripts of evidence, tabled documents, correspondence and answers to questions taken on notice, received out of session on 21 October 2019. Under the standing order the report has been authorised to be printed.

**The Hon. MICK VEITCH (14:39:30):** I move:

That the House take note of the report.

**Debate adjourned.**

**The PRESIDENT:** According to paragraph 4 (c) of the resolution establishing the Regulation Committee, the notices of motion relating to the disallowance of the regulations will now be listed as items of business of the House.

**PORTFOLIO COMMITTEE NO. 4 - INDUSTRY**

**Reports**

**The CLERK:** According to standing order, I announce receipt of report No. 41 of Portfolio Committee No. 4 - Industry entitled *Right to Farm Bill 2019*, dated October 2019, together with transcripts of evidence, tabled documents, submissions and correspondence relating to the inquiry, received out of session on 21 October 2019. Under the standing order the report has been authorised to be printed.

**The Hon. MARK BANASIAK (14:40:21):** I move:

That the House take note of the report.

I thank the committee secretariat for its work. I thank all the participants of the committee. The inquiry was done in good faith and in a collaborative fashion.

**The Hon. Trevor Khan:** As always.

**The Hon. MARK BANASIAK:** As always. As a new chair, not knowing what to expect, it was quite refreshing. I extend my thanks to members on both sides of the House for their conduct throughout the inquiry. I look forward to the debate on the bill in the near future.

**Debate adjourned.**

*Bills*

**RIGHT TO FARM BILL 2019**

**First Reading**

**Bill read a first time and ordered to be printed on motion by the Hon. Don Harwin.**

**The Hon. DON HARWIN:** 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. DON HARWIN:** I move:

That the second reading of the bill stand an order of the day for the next sitting day.

**Motion agreed to.**

*Petitions*

**PETITION RECEIVED**

**Death of Thomas "TJ" Hickey**

Petition requesting that the Government commit to establishing a parliamentary inquiry to examine the events leading up to and following Thomas "TJ" Hickey's death, and also support a review of the coronial inquiry and a comprehensive examination of all police involved as well as the subsequent internal police investigation, received from **Mr David Shoebridge**.

*Business of the House*

**WITHDRAWAL OF BUSINESS**

**Mr JUSTIN FIELD:** I withdraw business of the House notices of motions Nos 1 and 2 relating to the disallowance of local land regulations.

**Ms ABIGAIL BOYD:** I withdraw private member's business item No. 146 outside the order of precedence relating to the Central Coast Drinking Water Catchments Protection Bill 2019.

**Ms CATE FAEHRMANN:** I withdraw private member's business item No. 282 outside the order of precedence relating to an order for papers regarding koala conservation actions.

**POSTPONEMENT OF BUSINESS**

**The Hon. DON HARWIN:** I move:

That Government business orders of the day Nos 1 to 8 be postponed until a later hour.

**Motion agreed to.**

*Members*

**DEPUTY GOVERNMENT WHIP**

**The Hon. SARAH MITCHELL:** I inform the House that today the Hon. Sam Farraway was elected by The Nationals as the Deputy Government Whip in the Legislative Council in place of the Hon. Wes Fang.

*Committees*

**PORTFOLIO COMMITTEE NO. 5 - LEGAL AFFAIRS****Membership**

**The PRESIDENT:** I inform the House that this day the Clerk has received advice from the Leader of the Government of the following change in membership of the committee:

Mr Farraway in place of Mr Khan.

**PORTFOLIO COMMITTEE NO. 6 - TRANSPORT AND CUSTOMER SERVICE****Membership**

**The PRESIDENT:** I inform the House that this day the Clerk has received advice from the Leader of the Government of the following change in membership of the committee:

Mr Farraway in place of Mr Fang.

**STANDING COMMITTEE ON LAW AND JUSTICE****Membership**

**The PRESIDENT:** I inform the House that this day the Clerk has received advice from the Leader of the Government of the following change in membership of the committee:

Mr Farraway in place of Ms Cusack.

**PUBLIC WORKS COMMITTEE****Membership**

**The PRESIDENT:** I inform the House that this day the Clerk has received advice from the Leader of the Government of the following change in membership of the committee:

Mr Farraway in place of Mr Blair, resigned.

**REGULATION COMMITTEE****Membership**

**The PRESIDENT:** I inform the House that this day the Clerk has received advice from the Leader of the Government of the following change in membership of the committee:

Mr Farraway in place of Mr Franklin.

**SELECT COMMITTEE ON ANIMAL CRUELTY LAWS IN NEW SOUTH WALES****Membership**

**The PRESIDENT:** I inform the House that this day the Clerk has received advice from the Leader of the Government of the following change in membership of the committee:

Mr Farraway in place of Mr Blair, resigned.

**SELECT COMMITTEE ON THE PROPOSAL TO RAISE THE WARRAGAMBA DAM WALL****Membership**

**The PRESIDENT:** I inform the House that this day the Clerk has received advice from the Leader of the Government of the following change in membership of the committee:

Mr Fang in place of Mr Khan.

**COMMITTEE ON THE OMBUDSMAN, THE LAW ENFORCEMENT CONDUCT COMMISSION  
AND THE CRIME COMMISSION****Membership**

**The Hon. DON HARWIN:** By leave: I move:

That Mr Khan be appointed as a member of the Committee on the Ombudsman, the Law Enforcement Conduct Commission and the Crime Commission in place of Mr Blair, resigned.

**Motion agreed to.**

**The Hon. DON HARWIN:** I move:

That a message be forwarded to the Legislative Assembly advising of the change in membership of the joint committee.

**Motion agreed to.**

**PRIVILEGES COMMITTEE****Reports**

**The Hon. PETER PRIMROSE:** I refer to the report entitled *Citizen's Right of Reply (Mr Michael Eberand)* and move:

That the House adopt the report.

**Motion agreed to.**

*Pursuant to standing orders the response of Mr Eberand was incorporated.*

**Reply to comments by Dr Mehreen Faruqi MLC in the Legislative Council on 12 April 2018**

On 12 April 2018, Dr Mehreen Faruqi made a statement about me in the Legislative Council.

**Impact of statement**

The statement by Dr Mehreen Faruqi was made with the benefit of parliamentary privilege, and has had severe impacts upon my reputation, my public standing, the trading of my 25 year old successful professional services business, and has adversely impacted my mental and physical health and upon my family. The statement also made public what was a legitimate and private transaction, that, given there was no wrong doing on my part, served no public benefit in being detailed. I was a member of the Greyhound Racing New South Wales Board. This is a position that does not pay a remuneration level consistent with the workload nor risk involved. I offered my services to that board, to serve the public interest, because I thought I could provide a good contribution to the state, as I have professional skills, long business experience, and am passionate about the potential contribution of greyhound racing to the state of New South Wales by way of jobs, socio economic benefits and recreational opportunities (particularly including opportunities for the young, the elderly and those within country areas where activities are limited). To my knowledge, none of the other connections of the other 165 greyhounds mentioned by Dr Mehreen Faruqi, have been made public.

In terms of my reputation, the subject matter ultimately was reported adversely in mainstream media including the *Sydney Morning Herald*, and internationally across social media platforms, the latter where commentary was particularly vicious.

The whole matter has caused severe reputational damage, severe business disruption, and severe anxiety for myself and my family at the time, and it still does.

This Right of Reply request is intended to assist myself and my family obtain some closure of the matter by correcting the public record in terms of my reputation.

**Why the statement is incorrect**

This statement is factually incorrect because:-

1. The greyhound Wandering Mija was not sent to Macau as was stated by Dr Mehreen Faruqi. Macau is known as a destination reportedly very poor for greyhounds (any google search will quickly show the reporting of conditions for greyhounds in Macau).
2. The Greyhound Wandering Mija is in fact reportedly living in good conditions in Dubai:  
[https://www.gwic.nsw.gov.au/\\_data/assets/pdf\\_file/0008/272960/Eberand-decision-5-9.19.pdf](https://www.gwic.nsw.gov.au/_data/assets/pdf_file/0008/272960/Eberand-decision-5-9.19.pdf)
3. I have a strong knowledge of greyhound racing websites, and I do not believe that they provide ear brands. If Dr Faruqi had cross referenced greyhounds by their ear brands, the process would need to have involved the cross checking of the 166 greyhounds. Given the absence of ear brands on greyhound racing websites, Dr Mehreen Faruqi must have obtained that information from another source that she has not disclosed. It is important this be corrected, because I believe that as it is written, the statement made by Dr Mehreen Faruqi is not true.
4. The information given to Dr Mehreen Faruqi by Greyhound Racing New South Wales (a body created under the Greyhound Racing Act 2017) was wrong. In a subsequent press release, Greyhound Racing New South Wales noted that its subsequent investigations had identified the greyhound was in Dubai.
5. The statement infers wrong doing on my part, which is simply untrue. The fact is that my family and I have a deep affection for our greyhounds and that our practices are to lawfully sell, rehome or retain our greyhounds as pets. We

treat them as pets for life, before, during and after racing, regardless of how successful they are. We have very successfully rehomed many greyhounds as pets, both through the Greyhounds as Pets program, and privately.

On 5 September 2019, I was cleared of the allegations of breaches of the rules of racing in relation to the greyhound Wandering Mija by the independent Racing Appeals Tribunal, which in its deliberations noted (171) "A right thinking person would not condemn the appellant for his conduct".

(This finding can be read here;

[https://www.gwic.nsw.gov.au/\\_\\_data/assets/pdf\\_file/0008/272960/Eberand-decision-5-9.19.pdf](https://www.gwic.nsw.gov.au/__data/assets/pdf_file/0008/272960/Eberand-decision-5-9.19.pdf))

### *Condolences*

## **THE HON. TIMOTHY ANDREW FISCHER, AC, FORMER MEMBER FOR STURT AND FOR MURRAY, AND FORMER DEPUTY PRIME MINISTER**

### **Debate resumed from 16 October 2019.**

**The Hon. JOHN GRAHAM (15:02:30):** I am happy to add my remarks to debate on this motion concerning one of the best local members I ever had, Tim Fischer. I remember fondly him coming to our school—him turning up, cracking a few jokes and rolling on. It was a case of "Two-minute Tim" in that instance, but I can report that he was a very active local member when I was at school in Albury. But I did not just meet him in his local capacity; I had cause to run into him another time after his retirement. I was doing the beautiful Sydney thing of going for a quick bodysurf at Bronte on a sunny afternoon when out of the surf popped a recently retired Tim Fischer. He did not know who I was, but I had a chat to him for two or three minutes in the surf and he went happily on his way. It was a reminder of not only what a wonderful human he was but also how fantastic our country and politics are that someone who served with distinction at such a high level would be in the surf chatting away just a short time later. It is a very fond memory of mine.

The third thing in Tim Fischer's favour—and in my mind it probably carries the most weight—is that he was a music fan. I will speak of two great AM radio moments, one I can verify and one I have to admit I am a little hazy on the details about. I will assert the second one but I am happy to be contradicted should the record prove me not to be not entirely accurate. I fondly recall listening to AM radio one morning when Tim Fischer was being interviewed. He burst onto the news and said, "It's extraordinary news this particular day." He was talking about the merger of two of Australia's great bands, Silverchair and Spiderbait, into the merged band Silver Spiders. He said, "Hopefully their first merged concert will be somewhere between Newcastle and Finley, perhaps Canberra, perhaps Boree Creek." It took a moment for the slightly stunned interviewer to realise it was the morning of 1 April. Tim Fischer had not only confused the ABC news announcer but also a fair bit of the country at that point.

The other great AM radio moment that I cannot quite vouch for but I swear I can recall is an interview on the day he retired. He had some reflections about his time in office and some thoughts about his legacy. He was asked, "You have said often that you are a Rage Against the Machine fan. Do you really like their music?" To which he replied, "Barely". I commend the motion to the House.

**The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (15:05:59):** In reply: I thank all honourable members from all parties for their contributions to this debate. It shows the high esteem in which Tim Fischer is held. The Hon. Wes Fang spoke about how Tim was a mentor to him. At around the time of Tim's passing Steph Ryan, a Victorian member of The Nationals, put up a great note on Twitter about the advice that Tim gave her for political life. I encourage members to read it if they have not already done so. The advice included to be nice to your neighbouring MPs, even if they are of a different political persuasion, because they go to the same functions as you and to be nice about communities bordering your electorate because redistributions could put them into it. But he also said to enjoy it all. I think that is a great sentiment. I close this debate by thanking and again acknowledging Tim's family, particularly his wife, Judy, and their sons, Harrison and Dominic. I thank them for letting us and the people of this State enjoy the privilege of Tim's leadership, compassion, dedication and commitment to rural and regional New South Wales. I commend the motion to the House.

**The DEPUTY PRESIDENT (The Hon. Shayne Mallard):** The question is that the motion be agreed to.

**Motion agreed to.**

### *Bills*

## **GAMBLING LEGISLATION AMENDMENT (ONLINE AND OTHER BETTING) BILL 2019**

### **Second Reading Debate**

**Debate resumed from 7 August 2019.**

**The Hon. DANIEL MOOKHEY (15:09:43):** I lead for the Opposition in debate on the Gambling Legislation Amendment (Online and Other Betting) Bill 2019. I say at the outset that the Opposition will not be opposing this bill. The bill amends the Betting and Racing Act 1998 and the Totalizator Act 1997 to address problem gambling in relation to online betting. Gambling addiction is a significant problem. Findings from the Household, Income and Labour Dynamics in Australia Survey show that in 2014-15 Australians gambled around \$191 billion; total gambling losses in 2014-15 were \$22.7 billion, or roughly \$1,200 for every person over the age of 18; and an estimated 8 per cent of Australians—1.4 million people—experience gambling problems each year. As the policy statement of the Royal Australian and New Zealand College of Psychiatrists on problem gambling states:

The rise of interactive and online gambling is having devastating consequences; new gamblers are more easily recruited online and gambling sites are accessible 24 hours per day.

The bill addresses problem gambling by implementing aspects of the National Consumer Protection Framework, which was endorsed by the Commonwealth and all States and Territories in November 2018. The National Consumer Protection Framework was developed in response to a review of illegal offshore wagering, which was completed by former Premier Barry O'Farrell in 2015. The foreword to the National Consumer Protection Framework notes in relation to the O'Farrell review:

The Review found that online gambling is the fastest growing gambling segment in Australia, with over \$1.4 billion gambled online each year. Of concern to all governments is that the rate of online problem gambling in Australia is three times higher than all other gambling platforms.

The National Consumer Protection Framework further states:

The Review noted that one of the most significant changes to the gambling environment in Australia over the past 15 years has been the increased availability of online gambling. Research shows that online wagering is the fastest growing gambling segment, expanding at a rate of 15 per cent annually.

It continues by noting:

The Review identified that a key legislative challenge in protecting consumers of online wagering in Australia is the coordination required to align the administration of more than 60 pieces of legislation, related to licencing and or regulating online wagering. As a result, the regulatory framework for online wagering has been fragmented, inconsistent and led to increased compliance burdens for interactive wagering service providers in Australia.

The bill amends the Betting and Racing Act 1998 and the Totalizator Act 1997 in six ways. First, the bill will prohibit direct marketing to holders of betting accounts without express consent. Second, the bill will prohibit inducements being offered to people in order to encourage them to open a betting account. Third, the bill will require providers of betting accounts to establish schemes to allow people to limit their deposits, unless the person expressly opts out. Fourth, the bill will require providers of betting accounts to provide a simple process to close accounts, and require that requests for accounts to be closed be dealt with immediately. Fifth, the bill will make clear that offers of gambling products with incentives relating to better odds are prohibited inducements. Sixth, the bill will provide circumstances in which directors of corporations will be liable for betting account offences.

Labor does not oppose the introduction of those measures, and it will not oppose this bill. We note that the bill does not implement all of the measures which the New South Wales Government has undertaken to implement through the National Consumer Protection Framework such as the provision of activity statements, consistent gambling messaging and staff training. We ask the Parliamentary Secretary to confirm on behalf of the Minister that the New South Wales Government will implement those measures in accordance with the timetable provided by the National Consumer Protection Framework.

**Ms CATE FAEHRMANN (15:13:43):** I speak on behalf of The Greens in debate on the Gambling Legislation Amendment (Online and Other Betting) Bill 2019, which makes a series of amendments to the Betting and Racing Act 1998 and the Totalizator Act 1997 that are long overdue. It will prohibit direct marketing to the holders of betting accounts without their express consent, make it easier to close an online betting account and to create prohibitions around the use of inducements to bet, keep an account open or encourage someone else to open an account. It is encouraging to see the Government taking some action to try to reduce the harms caused by online gambling. This bill has come about as a result of the New South Wales Government's commitments under the National Consumer Protection Framework for online wagering. Those agreed measures are mandatory and came into effect progressively over 18 months, beginning from 26 November 2018. Scope exists for additional or more onerous measures to be introduced at the State or Territory level, which The Greens amendments are designed to do. I will speak about that later.

The National Consumer Protection Framework contains 10 measures that address the prohibition of lines of credit for wagering purposes; the discouragement of the use of payday lending for online wagering; a reduction in the customer verification period; prohibitions on specified inducements; greater and clearer accessibility and availability of account closure mechanisms; the implementation of a voluntary opt-out precommitment scheme;



the provision of activity statements to customers; consistent responsible gambling messaging—if there is such a thing—training of staff in the responsible conduct of gambling; and the development and implementation of a national self-exclusion register.

We needed a national framework because online gambling is the fastest growing form of gambling in New South Wales, and it is quickly becoming the most harmful. New South Wales has the highest levels of gambling harm in the country and it is one of the worst jurisdictions in the world for problem gambling. New South Wales is already saturated with poorly regulated poker machines at clubs and pubs that account for 76 per cent of the world's poker machines outside casinos. The only jurisdiction with more pokies than New South Wales is Nevada, home of gambling mecca Las Vegas. We must have lots of mini Las Vegases in pubs and clubs all around the State if we are second to it. According to Australian Gambling Statistics data from 2016, the people of New South Wales lost more than \$6 billion that year, accounting for nearly half of the nationwide total. The average annual loss by people harmed by gambling is \$21,000 and for every problem gambler six to 10 other people are affected.

Research by the Victorian Responsible Gambling Foundation showed that 85 per cent of harm caused by gambling is experienced by low- to medium-risk gamblers. The advent of online gambling has caused problem gambling to evolve into an epidemic. Online betting accounts have allowed gambling to move out of pubs, clubs and racecourses—actually it is still there; it is just expanding from those places—and into our workplaces, our homes and anywhere else people can conceivably use their smartphone. No longer do gamblers have to wait for the TAB to open or line up at the racecourse; online gambling is now available 24/7. Anyone who does not know that must be living under a rock. Sports gambling advertising now saturates our public spaces, as Sydneysiders going about their daily commute and anyone watching a screen over the past few weeks would have noticed in the lead-up to last weekend's Everest Cup. Online sports gambling is spiralling out of control in our State.

In the 10 years between 2001 and 2011 the amount wagered on horseracing via phone and internet increased 600 per cent, from \$625 million to \$3.71 billion in Australia, while face-to-face bookmakers' turnover halved from \$1.2 billion to \$610 million. It is not just replacing traditional betting, it is exponentially growing the gambling market. Online gambling companies are particularly committed to targeting young men. Advertisements are now prolific across all forms of media. Online gambling advertisements sit in every ad break for every sporting event. "Sportsbet", "TAB" and countless other logos are plastered across the jerseys of our nation's sporting heroes. Social media is teeming with supposedly clever and quirky advertisements from the likes of Tom Waterhouse. His suited diatribes offer up the prestige waiting for those willing to take a punt. The advertisements are primarily targeted at young men and have been found to employ strategies such as appeals to mateship, gender stereotypes, sporting rituals, sexualised imagery, power and control, and patriotism. They are typically fast paced and upbeat, and focus on outcomes such as winning, adventure and happiness.

In 2019 the Australian Gambling Research Centre published its "Weighing up the odds" study, which sought to better understand the sports-betting behaviour of young men. The results were shocking. One-quarter of betters surveyed reported being under 18 when they first placed a bet on sports. Online gambling companies' sponsorship of sports clubs is particularly effective. Australian Football League and National Rugby League team sponsors have been shown to be highly recognisable to children. A 2016 study found that three out of four kids could name at least one gambling company and one in four could name four. Most gambling promotions lack any messaging about a responsible approach to gambling and do an excellent job of normalising online gambling as an integral part of the experience of enjoying your favourite sport.

When someone joins an online gambling platform, the platform does its best to drive problematic gambling behaviour in its users in every way. The accessibility of online gambling apps helps to drive addictive behaviour in those who are vulnerable to a gambling problem. Participants in one study indicated that gamblers place bets almost anywhere they use their smartphones: 86 per cent bet at home; 55 per cent bet at work, school or university; 56 per cent bet in licensed venues; and 50 per cent bet at sporting events. Users are bombarded with promotions and direct messages designed to induce increasingly risky forms of gambling. Those inducements to bet include multi bet offers, stake back offers, match-your-stake or deposit offers, cash out early on a multi bet offers, sign-up bonuses, rewards programs and better odds and/or winnings offers. Those promotions have been found to drive gambling uptake, with young men viewing them as an appealing, low-risk or no-loss betting option.

That is why I will be introducing amendments on behalf of The Greens to expand on the Government's requirement to expressly opt in to direct marketing. One young man, describing the intensity of the promotions he received from online betting companies, said:

If you haven't put money in a certain account, they will start ringing you or they'll message you and they'll email you.

Over the spring racing carnival at least one of them will send you an email every day or send you a text message every Friday, Saturday, saying deposit money now - I'll give you this if you deposit money, so they're quite full on.

Those promotions lead to users signing up to multiple betting accounts to take full advantage of all promotions that might be on offer at any time. The end result is that users are constantly bombarded with offers too good to refuse, and constantly pulling them back in for one more bet. Although the bill does prohibit inducements to a person to keep an account open or to invite another person to open an account, it does not go far enough to stop the insidious promotional tactics of online gambling agencies. The Greens will move amendments that go further by prohibiting all promotions by gambling agencies to induce users to bet.

Participants in one survey reported having an average of four different accounts with online wagering companies. The accessibility of gambling apps and the temptation of promotions can lead to users doubling down on their losses, especially when 64 per cent of gamblers were found to bet whilst under the influence of alcohol. One problem gambler described his experience of trying to bet his way out of a loss at the races. He said:

So there were days when I'd probably lose, like, \$100, \$200 and I could've stopped at \$50 but I chased it because you might've lost your money at race 5 at the races and you're still there for another three or four hours, so you wanna keep betting and you probably start to increase your stakes slightly to try to win back some of the money you lost.

That illustrates why the bill's introduction of schemes to limit deposits into accounts is so important and why The Greens support it. Betting agencies make a fortune out of online betting. However, the maximum fine that a sports betting company can receive for an infringement is 500 units, or \$55,000—a mere drop in the ocean for betting companies. Almost always they are fined less than the maximum penalty. For example, Sportsbet was fined only \$10,000 for an illegal gambling advertisement posted on its website on 5 July 2018. The ad offered a \$100 bonus to any user who referred a friend to the service, which was clearly illegal under our existing laws.

In its 2018 annual report Sportsbet reported an underlying operating profit of roughly \$215 million and revenue of roughly \$740 million. The company was fined \$10,000 but even the maximum fine of \$55,000 would simply be a cost of doing business for Sportsbet. In sentencing Sportsbet, the magistrate said that there was a need for a penalty to act as a general deterrent for all operators in the industry and to ensure other companies are vigilant in complying with the law. That is why The Greens will propose an amendment to introduce additional fines for each day that an infringement occurs and a three-strikes system for repeat offenders. The Greens will support the bill. However, we hope that members in this place will recognise this as an opportunity to go further than the National Consumer Protection Framework and will support our amendments in Committee to strengthen measures to reduce harm from online gambling.

**The Hon. SHAYNE MALLARD (15:24:56):** I support the Gambling Legislation Amendment (Online and Other Betting) Bill 2019. I acknowledge the well-researched contribution of Ms Cate Faehrmann. It raised issues that we will always be dealing with in relation to gambling in our society. The bill will go some way towards addressing some of the issues that have emerged in recent times. In this debate I speak as a member of a family that has been deeply affected by gambling addiction in the past. I also speak as someone with some personal experience of the harm of online gambling. The bill contains a number of significant reforms that underline the Government's commitment to addressing gambling-related harm and to upholding community expectations about the behaviour of betting service providers. The reforms will ensure that customers have better tools to help manage their gambling activities and that the wider community is protected from the activities of betting service providers that promote gambling-related harm.

I will not address all the reforms proposed in the bill, all of which are equally important. Instead, I will restrict my comments to the provisions relating to gambling inducements that Ms Cate Faehrmann also spoke about. The bill inserts a new definition of "inducement" into the Betting and Racing Act 1998 and the Totalizator Act 1997. The definition contains two broad descriptors of inducements and inserts a regulation-making power to enable the Government to declare certain gambling products or conditions or other aspects of gambling products to be inducements for the purposes of those Acts. That is a sensible approach, given the evolving nature of this fast-moving industry. The amendments will ensure that all offers that induce people to gamble, or gamble more frequently, will be treated as unlawful gambling advertisements.

The Government's power to declare certain products to be inducements is designed to be used only where there is uncertainty as to whether a product falls within the broad definition inserted into the Acts. The provision ensures that the Government has the appropriate tools to enforce its ban on the advertising of gambling inducements. That is particularly necessary in the online wagering space, where betting service providers are incentivised to market their products aggressively and to develop new products that encourage people to gamble more and more frequently. Clearly, we need flexible enforcement powers that can respond quickly to issues arising in this dynamic and fast-moving industry. The definition of "inducement" in the bill is broad but does not prohibit all gambling advertising. Betting service providers have shown that they are able to advertise effectively, despite the existing restrictions on inducements, and will continue to do so after these changes.

Rather, the changes are about drawing a clear line in the sand that prohibits those advertisements when a body of evidence shows that they are harmful. Like Ms Cate Faehrmann, I also find the amount of online

gambling advertising during televised sporting events in New South Wales quite breathtaking. You cannot watch rugby league without seeing an advertisement for online gambling in every break. Clearly, those advertisements contain inducements that will be caught by this bill. However, we have more work to do to address the harm because those who are harmed are harmed badly. In my view, the vast majority of people gamble responsibly and are not harmed—I think people can do that—but certainly gamblers who are harmed are in a very dark place sometimes.

Given the breadth of the definition of "inducement", it is important to consider what an inducement to gamble is. Broadly speaking, it is an offer of a reward or benefit that encourages a person to participate or participate frequently in any gambling activity. The types of inducement offered by betting service providers include offers of free or bonus bets, offers of refunds, offers of bonus or special odds for a limited period or a bet amount—as seen in television ads—and cash-out features. There is no doubt that these products have been developed because of the competitive nature of the industry and that they are attractive to customers. However, the reason these types of offers are so harmful and ultimately why they have been prohibited for some time—not just in this bill but previously—is they influence people to gamble more frequently and to their own detriment, often betting more than they intend or can afford.

Offers that are limited to once per day encourage customers to make betting a part of their daily routine, as if placing a bet should be as automatic as getting out of bed and brushing your teeth. These inducements lead to problematic gambling behaviour and unrestricted advertising on these inducements allows betting service providers to reach non-gamblers and children. This is one of the reasons New South Wales constituents are concerned about the number of gambling advertisements and the offers they contain. It is disappointing that these amendments are necessary at all. It is clear that betting service providers continue to ignore the Government's strong message that advertising gambling inducements are harmful. These operators routinely ignore the clear intent of the Government's policy and find any loophole they can to exploit the rules in place. Where they cannot do this they will often wilfully ignore the law, factoring any penalties into their cost of doing business. It is outrageous.

Hopefully this bill closes any loopholes both now and in the future and sends a clear message to betting service providers that they are on notice and should not under any circumstances be advertising gambling inducements to the public. I am pleased with the other reforms in the bill—that is, prohibiting betting service providers from offering inducements encouraging anyone to open a betting account, referring another person to open a betting account, not closing a betting account, consenting to receive gambling advertising or not withdrawing their consent to receive gaming advertising. These measures show the Government is serious about cracking down on irresponsible conduct by betting service operators. I commend the Minister for responding to community concerns and expectations and for leading the way on tackling this important social issue. I commend the bill to the House.

**Reverend the Hon. FRED NILE (15:31:40):** I am pleased to support the Gambling Legislation Amendment (Online and Other Betting) Bill 2019. Other members have raised evidence of the harm being caused by excessive gambling in New South Wales and how these clever advertisements encourage people to take up gambling and to gamble more than they intended because of these inducements. Viewers face a tremendous level of advertising that encourages further gambling every time they turn on the television to watch a sporting event. Gambling is presented in such an attractive way that even someone not in favour of gambling could be encouraged, first, to take it up and then to go beyond their own planned expenditure. It is like a confidence trick. This has an impact on their family, their family expenditure, their loans and other financial responsibilities because they have wasted their money on gambling.

I am pleased to support this bill, which will prohibit direct marketing to holders of betting accounts without their expressed consent. It also prohibits inducements to open betting accounts. It also requires providers of betting accounts to set up schemes enabling holders to limit deposits into their accounts unless a holder expressly refuses. Furthermore, providers of betting accounts are required to provide a simple process to close accounts when an individual realises they are in deep water and finds it difficult to get out of the scheme. This legislation helps do that by improving the access of betting account holders to information about closing accounts and requiring requests to close accounts to be dealt with immediately.

This bill makes it clear that offers of gambling products with incentives relating to better odds and other advantages to betting account holders, whether by advertisements or otherwise, is prohibited. For those reasons, the Christian Democrat Party is pleased to support this bill and thanks the Minister for introducing this legislation.

**Mr JUSTIN FIELD (15:34:54):** The Gambling Legislation Amendment (Online and Other Betting) Bill 2019 seeks to do two things. First, it brings New South Wales laws into line with the National Consumer Protection Framework, requiring expressed consent from betting account holders to receive direct marketing, prohibit inducements to open betting accounts, make it easier to close accounts and make betting company

directors more accountable for breaches. These are generally good things. Secondly, the bill creates a definition of "inducement", making clear that offers of gambling products with incentives relating to better odds and other advantages will be prohibited. This is the result of a decision by the Court of Criminal Appeal that went to the issue of what inducements are. These changes are also good and I indicate that I will be supporting the bill.

However, I want to talk more broadly about inducements, in particular some of the gaps. In starting that discussion I will read from the contribution of the Parliamentary Secretary, the Hon. Scott Farlow, when introducing this bill to Parliament. The two changes outlined in the bill allow the Government to say that inducements to gamble are prohibited in New South Wales. It is a great sound bite during the Spring Racing Carnival. It is not actually true. The Parliamentary Secretary outlined in the second reading speech the Government's case as to why it is important that inducements to gamble are prohibited. He said:

While the court in the Ladbroke's decision determined that an inducement must be something additional to the gambling product being advertised—for example, tickets to a sporting event—the proposed definition clarifies that an inducement includes things that are inherent in the product itself. For instance, limited-use offers that allow customers to increase betting odds if they bet in a certain way or access the product over multiple days are designed to encourage users to log in and bet more frequently.

That is quite a directive from the Parliamentary Secretary. I think Ms Cate Faehrmann talked about some of the other ways in which betting account holders are induced to gamble. The intention is to capture that. The Parliamentary Secretary continued:

Products that strive to make gambling part of a person's daily routine can lead to increased gambling-related harm. Under the new definition, those products will be considered prohibited inducements. The proposed definition is designed to address the Court of Criminal Appeal's decision and prohibit the advertising of incentives that form part of betting products.

That sounds fantastic. These changes are hugely important because we know—and the Office of Responsible Gambling figures show—that the prevalence of online wagering, in particular, is growing exponentially in New South Wales. In 2014 it made up 40 per cent of gambling losses in Australia. Poker machines in New South Wales lead to losses of about \$6 billion each year in our community. When we add on top of that this huge growth in online gambling we get a sense of just how significant the harm is from gambling-related losses in New South Wales.

So this legislation is very important. But here are the most obvious gaps in the Government's plan. First, the bill requires the expressed consent of account holders to receive direct marketing—that is all sorts of direct advertising, not just inducements. But just last week I could walk into any train station in this city and hop on public transport and I would see blanket TAB advertising—online betting advertising—for The Everest horserace. The Government says one thing in legislation while it profits from the sale of advertising space on public facilities and infrastructure for the purposes of gambling advertising.

**Reverend the Hon. Fred Nile:** Shameful.

**Mr JUSTIN FIELD:** It is shameful. I have supported Reverend the Hon. Fred Nile's bills and motions calling out the issue of gambling-related advertising in New South Wales. It is all well and good to talk about trying to limit direct marketing online. I have researched the area. By the mere typing of something to do with gambling on Google I get bombarded on social media with unsolicited direct marketing from advertising companies. Clearly these laws are limited in their scope. I am not talking here about inducements to gambling; I am talking about the prevalence of marketing. There is much more work to be done. I have made this case before. At the very least, if we are going to acknowledge the harm done by making gambling a part of people's daily lives, let us get it off our public transport infrastructure where so many kids see it on a daily basis.

The second area where the legislation falls down is much more insidious. We have been here before. In 2018, among other laws related to gambling, changes were made to inducement-to-gamble provisions, particularly penalties. I became aware that the racing industry was trying to get special exemptions from the inducement provisions at that time. Under the Government Information (Public Access) Act [GIPAA] I was able to obtain quite a bit of information about the toing and froing between the racing industry, the Minister's office and Liquor & Gaming NSW. I will read a little bit of that correspondence on the record. I note that the Hon. Shayne Mallard said, "The industry out there continues to ignore the Government's strong message." Let me demonstrate just how weak the Government's "strong message" can be at times.

After the introduction of the Liquor and Gaming Legislation Amendment Act 2018, the CEO of Racing NSW, Peter V'landys, and the boss of racing.com and Seven West Media wrote to the Deputy Secretary of Liquor, Gaming and Racing, Paul Newson. They copied in the racing Minister, the Hon. Paul Toole, and the CEO of Racing Australia, Barry O'Farrell. The letter states:

We are very concerned that the recent changes in relation to the advertisement of inducements will cause significant harm to the racing industry. We believe that where the restriction is applied to racing the harm caused to the industry is disproportionate to any benefit, and we are therefore requesting that the legislation be amended to exclude dedicated racing content from the scope of the inducement restrictions.

The letter goes on:

We believe that wagering advertising within dedicated racing content (whether broadcast, print, radio or online) should be exempt from the inducement restrictions for the following reasons—

And these are most telling—

1. Wagering is thoroughbred racing's primary source of income and its *raison d'être*;
2. The sustainability and growth of our racing industry is highly dependent on media distribution and promotional support—and media coverage is dependent on wagering advertising. While sports like the AFL or the Olympics can attract advertising and sponsorship from a broad variety of businesses, television and radio distribution of racing events would not be possible without substantial investment from wagering sponsors and advertisers. Media distribution of thoroughbred racing is entirely dependent on the support of wagering advertising.

Those listening to the media during the past week could be forgiven for thinking that all trainers are involved in the racing industry because they love the animals and care about them. That is what we hear time and again. But the lobbying activities of Racing NSW make it very clear that that is not what it is about. It is about attracting gambling dollars and the insidious links between the racing industry, the gambling industry and the broadcasters. It is a neat little trifecta. That is how they all make their money. They have co-opted the Coalition Government of New South Wales—although I recognise that under its former leader Labor was particularly favourable to the interests of the racing industry as well—and the big media outlets, which rely on advertising from gambling, with racing at its core.

Racing has been dressed up as if it is glamorous for people to go along and have a drink and a punt; it is all fun and games. But actually the core business model is broken. One would think given the legislation that has been passed and the Government's claim about its important inducement-to-gamble laws, which have been reflected again in this bill, that the Government would have politely told the CEO of Racing NSW to go jump. But no, that is not what happened. What happened was a whole heap of toing and froing. In my office I have two folders of all the letters and emails that were obtained under GIPAA. Members can read them if they like. The end result was the introduction of a set of guidelines for horseracing exemptions. I will read from the very last provision in those guidelines, tacked on at the very end, about how the laws will work. It states:

The prohibitions against advertising inducements are not intended to be enforced by Liquor & Gaming NSW in relation to advertisements published or communicated on platforms which predominantly provide racing content and/or have the overriding purpose of providing racing content due to the strong link between wagering and racing, i.e. those who take an interest in racing do so to wager.

Liquor & Gaming NSW understands that people who watch racing content on racing media platforms tend to be existing customers of wagering operators. Therefore Liquor & Gaming NSW does not intend to take action against a person where:

an advertisement that includes an inducement has been published or communicated in NSW, and

the inducement advertised is only available for a bet placed on a racing event and not a bet placed on any other sport or fixture, and

the advertisement has been published or communicated on a platform which predominantly provides racing content or has the overriding purpose of providing racing content.

It continues for a little bit longer. Are the companies continuing to ignore the Government's "strong message" as asserted by a Government member? No, what we have is the Government providing a pretty clear, specific and thorough exemption to the racing industry from the inducement-to-gamble laws. I recognise it does not include all platforms that provide gambling options on horseracing and that it is particular to specific horseracing platforms but those guidelines are not clear exactly what they are.

I ask the Minister in his reply to address the following questions. First, why does racing have any form of exemption from inducement-to-gamble laws in New South Wales? Secondly, how can guidelines be issued that override legislation passed by both Houses of Parliament? Thirdly, which specific publications and outlets are exempted from prosecution under the current guidelines? Fourthly, when will the guidelines be reviewed? That commitment was given in media reporting on this issue in 2018. Fifthly, why is the exemption not made clear in the legislation and instead is being provided as a guideline? I assume that is because the Government does not want to ruin its good message about trying to deal with inducements to gamble.

The Government does not want to make it clear in this place that it has a specific exemption for the racing industry because it well and truly messes with its argument. Given the media coverage over the past week about the treatment of thoroughbred horses by the racing industry, it would be particularly unsavoury to the people of New South Wales if the Government is shown to have another special arrangement with the industry that allows advertising on the sails of the Opera House and our train stations to be blanketed with advertising, that allows for tax exemptions and special privileges to the industry and that allows the industry to continue to profit because its entire broken business model relies on gambling.

**Debate adjourned.**

**ELECTORAL FUNDING AMENDMENT (LOCAL GOVERNMENT EXPENDITURE CAPS) BILL  
2019**

**Second Reading Debate**

**Debate resumed from 16 October 2019.**

**The Hon. WALT SECORD (15:49:01):** As the shadow Special Minister of State, I lead for the Opposition in debate on the Electoral Funding Amendment (Local Government Expenditure Caps) Bill 2019. In the spirit of bipartisanship, I acknowledge the courtesy and prompt briefing on the legislation provided by the Leader of the Government's ministerial staff and the departmental staff. The Opposition will vote for the bill. However, I make some observations. The object of the bill is to amend the Electoral Funding Act 2018 to make further provision regarding the caps of electoral expenditure during local government election campaigns. The bill has been prepared in response to a report entitled *Inquiry into the Impact of Expenditure Caps for Local Government Campaigns*, prepared by the Joint Standing Committee on Electoral Matters, dated October 2018.

Caps on expenditure for local government elections were introduced for the first time by the Electoral Funding Act 2018. In the lead-up to the debate on this issue questions were raised about whether caps should further distinguish between local government areas and wards of different sizes. I acknowledge the comments of the Special Minister of State, the Hon. Don Harwin, in his second reading speech on 16 October when he said that the Government was receptive to these concerns. Consequently, the Premier made a referral to the Joint Standing Committee on Electoral Matters in October 2018 to address the matter. I also join the Special Minister of State in thanking the members of the Joint Standing Committee on Electoral Matters for providing these amendments.

Earlier this year the Local Government NSW association included as one of its 12 priorities fixing local government electoral expenditure laws. The key time line was to have those implemented well before the September 2020 local government elections. I understand from the ministerial briefing that the legislative package will be in place well before the elections and will take effect from assent. If there are any by-elections before that time the legislation will apply. However, that is unlikely to be exercised as we are less than a year away from the next local government elections and therefore a by-election is highly unusual. I refer to the Special Minister of State's comments on 16 October regarding caps for candidates and groups. He said that the current legislation:

... provides a two-tiered system of caps for candidates and groups depending on whether there were 200,000 or less enrolled electors at the previous general election for the local government area or ward or more than 200,000 enrolled electors at the previous general election for the local government area or ward. The main concern raised during the parliamentary committee's inquiry was that the current scheme fails to adequately distinguish between local government areas or wards of different population sizes ...

Labor supports the changes to create eight separate tiers because in doing this the amendment takes steps to address this inequity, creating funding caps that are more closely aligned to the amount of enrolled electors in the local government area or ward. I also note that the amendment recommends removing the differential between candidates who are endorsed by political parties and candidates who are not. Instead the tiers will apply equally to all candidates, removing the slightly higher expenditure caps available to candidates who are not endorsed by a party. Most party candidates still give up time at work and home and from their families to campaign for a cause they are passionate about, even if their chance of success is limited at best. We do not want elections to be contested solely by those with the personal wealth to fund their own campaigns.

I note the change to reflect the committee's recommendations on directly elected mayoral candidates. The recommendation is to give mayoral candidates 125 per cent of the funding available to a candidate for councillor within the same local government area or a candidate for councillor within a certain ward, depending on whether the local government area has multiple wards. The aim is to ensure that candidates do not make disingenuous attempts to run for a mayoral position to take advantage of the higher spending cap, which is at 125 per cent. As for requirements relating to third parties such as unions, property councils or employer groups, they will be restricted to spending one-third of the total cap in that respective ward. In conclusion, the Opposition supports the bill.

Prior to my contribution to this second reading debate I sought the advice and consideration of Local Government NSW President Linda Scott. She conveyed her personal support last week and asked that we support the legislation. I have known Ms Scott for a long time and she is a tireless representative of her local community and the rights of local councils across the State. Ms Scott urged me to support this package without amendment, which I am doing. I support the recommendations of the Joint Standing Committee on Electoral Matters in its endeavours to address the concerns of the Electoral Funding Act 2018. Finally, I acknowledge the encyclopaedic knowledge and expert analysis of the Hon. Peter Primrose, who was the previous local government spokesperson for Labor, and the Hon. Courtney Houssos, who has brought attention and insight into this area, as well as my

colleague and current Labor spokesperson for local government, the member for Campbelltown, Greg Warren. I thank the House for its consideration and commend the bill to the House.

**Reverend the Hon. FRED NILE (15:54:59):** I put on record the Christian Democratic Party's support for the Electoral Funding Amendment (Local Government Expenditure Caps) Bill 2019. It is a very practical bill, particularly in outlining the applicable cap for a candidate other than a mayoral candidate in the elections. I agree with the approach the Government has taken with the bill in outlining the amount of money—a cap—for a very small electorate or ward of only 5,000 electors or more, which will be restricted to \$6,000. Where the electorate or government area or ward for the election is more than 50,000 but fewer than 75,000 the cap is \$46,000. That is a very practical solution to a complex problem. I therefore support the bill.

**Mr DAVID SHOEBRIDGE (15:56:27):** I indicate on behalf of The Greens that we support the Electoral Funding Amendment (Local Government Expenditure Caps) Bill 2019. This is one of the occasions where the Government and the Minister who introduced the bill in this House have gone through good process. They have spoken with the Opposition, members of the crossbench and one of the key stakeholders, the Local Government NSW association, and they put it to the Joint Standing Committee on Electoral Matters. Although I largely disagreed with the Hon. Dr Peter Phelps on most political matters, I appreciated his engagement on this issue and on a couple of issues involving the functioning of electoral systems. He was a bit of a boffin in that regard. In his role as chair of the Joint Standing Committee on Electoral Matters, he took this matter on and consulted broadly.

Even though The Greens did not, and still do not, have representation on that committee, he engaged with us in that process by inviting representations and submissions from us. He went across the Parliament to try to look for a system that operated fairly and in a way that did not seek to entrench the privileges of existing parties nor to do anyone in the eye, if you like. It was a genuine effort to try to come up with a set of caps, expenditure caps in particular, for local government that will be effective in trying to limit the amount of money in local government election campaigns but will allow for a fair contest of ideas. To be frank, some of the figures are higher than The Greens would appreciate but going from an environment where local government candidates can literally be bankrolled by anybody and spend anything to a system whereby we have a series of graduated caps on expenditure that max out at \$72,000 for a ward or a council area—with some complications for mayors and the like—is a significant advance.

It takes us a very long way from where we were 12 months ago when a rubbish bill was brought into this place—which was totally unworkable—without consultation with local government. We have come a long way in 12 months. I rarely go out of my way to praise the Government but in this regard the Minister has done the right thing: He has consulted broadly and has brought a bill that I hope can be adopted without amendment.

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

#### *Questions Without Notice*

#### **SCHOOL CURRICULUM**

**The Hon. ADAM SEARLE (16:00:19):** My question without notice is directed to the Deputy Leader of the Government, Minister for Education and Early Childhood Learning. What is the Government's response to community concerns that the *NSW Curriculum Review: Interim Report* will lead to a reduction in course options for high school students?

**The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:00:42):** I thank the Leader of the Opposition for his question in relation to the *NSW Curriculum Review: Interim Report* which, as he mentions, has been released today for public consultation. This report was developed by the review lead, Professor Geoff Masters. It is a progress report and identifies broad directions for reform. In his question the Leader of the Opposition asked about what community concerns there might be about potential changes to subject choice. It is important to make the point that this is an interim report. On behalf of the Government, Professor Masters has come up with 15 reform directions around a range of areas in the curriculum, which includes decluttering, and he makes comments about the number of subjects that are available, particularly in the senior secondary years of school, and a better alignment between vocational and academic subjects—all areas that are important and worthy of discussion.

As part of this review Professor Masters has consulted broadly with members of the community in line with education, business and industry groups and focus groups. Roundtables have been held with parents, disability groups, multicultural communities and Aboriginal and Torres Strait Islander communities; workshops have been conducted with teachers in regional, rural and metropolitan New South Wales; Professor Masters has engaged with students and young people; and there have also been opportunities for online submissions. To this point there has been wide consultation, and that will continue. The interim report will be open for public comment

until, I think, 13 December to give more opportunity for feedback. If there are any concerns, questions or views on any part of the review—whether it is about what subjects will be available for senior years, decluttering or some of the other concepts raised—people will now have the opportunity to provide their feedback, which I certainly welcome.

I thank Professor Masters for the work that he has done so far. Many of his recommendations are quite bold and innovative, but this is the first comprehensive review we have done in over 30 years. We should be looking at opportunities for reform to ensure that our school system best suits the needs of students. I encourage people to read the interim report. I encourage all members of the community—teachers, principals, parents, students—to provide feedback so it can all be encapsulated as part of the final report, which is due to come to the Government early in the new year, and then there will be a Government response shortly thereafter. This is the period for further consultation and I welcome any feedback from anyone in the community who wants to have their say.

**The Hon. ADAM SEARLE (16:03:21):** I ask a supplementary question. I thank the Minister for her answer and ask her to elucidate upon those parts of her answer where she talked about feedback to the interim report closing on 13 December, a final report to the Government early in the new year and a Government response in due course. In elucidating those parts of her answer is the Minister able to give us more precise time frames or indicative dates for those other steps to be taken?

**The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:03:58):** As I said in my original answer, that report is available as of today. I have been on the website and had a look—the link is clearly there. There are opportunities for people to provide input that way. We have also asked Professor Masters to target consultation in the next stage in the same way as he did in the first stage of the report. In the way the report is written, after the different reform directions Professor Masters then poses a series of questions under each of those, saying that they are some of the areas that he could flesh out more in further consultation and he encourages people to think about those particular topics.

As I said, we have asked Professor Masters to continue that consultation not only with key stakeholders but also with young people. We have brought on board the Advocate for Children and Young People and I have had conversations with my colleague the Hon. Bronnie Taylor about the Regional Youth Taskforce as I would be very interested in its views as well. As I said, we are anticipating that consultation phase to be in place for the remainder of term four. I am fairly certain that 13 December is the end date for that consultation process and that the final report back to the Government will be provided in the new year. I am working towards an April time frame for the final response and the Government recommendation, and that is the current time frame that we are operating on, which I hope will satisfy the Leader of the Opposition.

**The Hon. WALT SECORD (16:05:16):** I ask a second supplementary question. Will the Minister elucidate her answer in regard to her use of the word "decluttering". What subjects or areas of the curriculum was the Minister referring to when she said that there was a need for decluttering?

**The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:05:40):** Again, I encourage those opposite to read the interim report because it goes into quite a bit of detail in relation to decluttering. Professor Masters talks about the public consultation that had occurred, confirming this is an issue that the community wants addressed by the review. Certainly, as Minister, when I visit schools, teachers and principals raise with me that they need to get through a lot of content within each of the subject disciplines. One of the questions that Professor Masters poses is: Could we look at a decluttering of 15 per cent to 20 per cent in certain subject areas and would that be applicable across the board? Is it more necessary in some subject areas than in others?

We need to ensure that we have got a greater focus on every student having core foundational skills in literacy and numeracy. Teachers have asked for a less crowded curriculum—it is quite a common call; teachers want more time and more space for effective teaching. I am not going to be prescriptive in what that might look like but I encourage people to read the report and I encourage teachers and principals to provide feedback about what it could look like. Professor Masters also talks about what has been added to the curriculum over the past five years in particular and whether that is an area to focus on for decluttering. It is all about ensuring that we are giving teachers the time to teach the core disciplines that they need to get across and the time to get into those elements. Rather than expecting them to cover a broad range of topics, we want to focus on making sure that students are getting the outcomes.

Professor Masters talks particularly about the early years and those foundational skills of literacy and numeracy. This is important work and it is an area in which we can have reform. The Government is doing a lot in this space already and, as I said, this is the first comprehensive review in over 30 years. It is incredibly exciting



because it is an opportunity to do some really great things with our education system and with our school curriculum, and I am looking forward to the review progressing.

#### **POWERHOUSE MUSEUM COLLECTION DIGITISATION PROJECT**

**The Hon. LOU AMATO (16:07:39):** My question is addressed to the Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. Will the Minister update the House on the Powerhouse Museum Collection Digitisation Project?

**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) (16:07:52):** I thank the Hon. Lou Amato for his question—it is a good one. I am very pleased to be able to inform the House that this week the Powerhouse Museum launched one of the largest digitisation projects currently being undertaken in Australia. As part of the project the Powerhouse Museum will be photographing 338,000 items from its extraordinary collection and making the collection available online. This project will ensure that for the first time the majority of the Powerhouse Museum's collection will be digitised, providing unprecedented community access to the greatest cultural assets in New South Wales: its collections. That is particularly important to regional New South Wales for those who cannot necessarily get to Sydney to see the collection as often as some of them would like.

The digitisation project also provides an opportunity for academics, researchers and the community to observe and analyse the collection. In a world where everything is getting smart, it is so important that our museum collections are brought into the twenty-first century. The digitisation project is a key component of the Powerhouse program, which includes the Powerhouse precinct in Parramatta; the expansion of the museum's discovery centre at Castle Hill, which will be the new home of the collection's storage; and the creation of a creative industries precinct in Ultimo. The Government's investment in the Powerhouse program will increase cultural participation in New South Wales and will underpin the future success of the Powerhouse across its multiple venues.

Over 2,000 textile items, ranging from Egyptian cloth dated back to 350 BC to a fabric sample from an Akira collection acquired in 2019, will be digitised—that is the breadth. The project will include objects from across the collection—from the Beechcraft Queenair B80 air ambulance to small precious gemstones. Yesterday it was my pleasure to launch the collection digitisation project with Powerhouse Museum CEO Lisa Havilah and to see the first five collection items to be digitised, which included Nancy Bird Walton's flying helmet from the 1950s. Once digitised, objects will be made available via the Powerhouse's website. As part of this project the Powerhouse will be collaborating with regional institutions to tour objects from the collection across regional New South Wales in 2021 and 2022, the period when Ultimo will be unavailable and before Parramatta opens. More information about these collaborations will be announced shortly.

#### **SCHOOL CURRICULUM**

**The Hon. WALT SECORD (16:11:03):** My question without notice is directed to the Minister for Education and Early Childhood Learning. Will the Minister guarantee that the new *NSW Curriculum Review: Interim Report* will not undermine the integrity of the HSC and the Australian Tertiary Admission Rank [ATAR]?

**The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:11:22):** Again, as I said in my first response, this is an interim report. The whole idea is that it comes out with recommendations and directions for government and community to consider. It would be too pre-emptive to say that we are not open to considering what is in the review. Interestingly enough, there was no consideration in the terms of reference for Professor Masters to look at ATAR, but he has included that as one of his reform directives, because there was strong feedback during public consultation regarding ATAR and whether there were opportunities to construct alternative non-ATAR pathways for students.

Within the interim report Professor Masters proposes consultation with the university sector to explore alternatives to the ATAR. He also makes comments around looking at a major project for year 11 and year 12 students. He poses questions around how many units of study should go towards the ATAR—it is currently 10; could that perhaps be reduced to eight? These are the sorts of topics that he has put up for discussion. As I said, a review of ATAR itself was outside the terms of reference but, given there was enough public consultation, he wanted that to be part of the discussion. And it is a discussion. It is something that we can now have community feedback on.

Another important area of the HSC and the senior years of study he goes into is a better mix between vocational and academic subjects. We are finding that students are often caught in this dichotomy of going down one pathway or the other. He talks about reform to the key learning areas rather than having separate subject disciplines within the HSC but also vocational education and training sitting separately. He talks about a better integration of that model—a better partnership between our school communities, business, vocational education

and training, and industry to give students the skill sets they need. Quite a lot of his report talks about the senior secondary years and ways we can improve those pathways. There are real opportunities particularly around the academic and vocational education mix, as I said. But this is an interim report. Now we will go out and talk to community about what they think and what their suggestions are. As I said earlier, I welcome the discussion.

**The Hon. WALT SECORD (16:13:42):** I ask a supplementary question. Will the Minister elucidate her answer in relation to the ATAR? In her answer she said that the Australian Tertiary Admission Rank was not part of the original terms of reference. Will she give a commitment to consider the views and recommendations of Professor Masters involving the ATAR?

**The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:14:06):** Again, as I think I said in my earlier answer, the fact that Professor Masters received so much feedback about it he wanted to include it as a reform directive shows that there was strong feedback from community consultations around ATAR. He proposes consultations with the university sector to explore alternatives to the ATAR. Ultimately, as I said, these are matters for the universities as well. It is important that they have external data they can consider in terms of admissions, but ultimately it is a matter for them. He talks about having discussions with the UAC—the University Admission Centre—as well. That is the whole point of this interim report—so we can have discussions with those bodies and others about what he has recommended and ultimately what the final report will look like and what government chooses to implement.

**The Hon. WALT SECORD (16:14:49):** I ask a second supplementary question.

**The PRESIDENT:** I indicate to the Hon. Walt Secord that I have ruled previously on this matter. My view is that under the sessional orders the member who asks the question is the only member who is entitled to ask the first supplementary question. The member who asks the question and is entitled to the first supplementary question is not entitled to ask a second supplementary question. I believe we have gone through this exercise before.

#### DROUGHT ASSISTANCE

**The Hon. MARK BANASIAK (16:15:20):** My question without notice is directed to the Hon. Bronnie Taylor, representing the Minister for Water, Property and Housing. The Minister's party leader, the Deputy Premier, has warned of a doomsday scenario where New South Wales' rural cities will be unable to survive if the drought continues and that the Government has done all it can and will be incapable of solving the problem, despite the Government knowing how severe this drought would be since mid-2017. Why has the Government waved the white flag of surrender, essentially "waiting for God to help us", as the Deputy Premier stated? If it has not, how many shovels are in the ground today building new dams and when can we expect the first new dam to come online?

**The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:16:10):** I thank the Hon. Mark Banasiak for his question about water and his reference to the Deputy Premier. The Deputy Premier is one man who will never, ever give up on regional and rural New South Wales. To make those sorts of accusations is quite ridiculous. The Deputy Premier has stated his commitment very clearly and he has demonstrated that by an enormous range of commitments in the country and in what the Government has done. In response to the difficult situations facing farmers across the State, the New South Wales Government has announced close to \$1.8 billion in drought assistance. That includes money for the highly popular Farm Innovation Fund. We have said very clearly that we are going to invest in rural and regional New South Wales. We are aware of the challenges facing us in terms of water in our communities and those we represent. If the honourable member requires further detail on that, as I represent a Minister in another House, I am happy to get that for him.

#### SCHOOL CURRICULUM

**The Hon. TAYLOR MARTIN (16:17:22):** My question is addressed to the Minister for Education and Early Childhood Learning. Will the Minister provide the House with an update on the *NSW Curriculum Review: Interim Report*?

**The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:17:39):** I thank the Hon. Taylor Martin for his question. As members obviously know, the Government is conducting a review of the curriculum from kindergarten through to year 12. The review was launched by the Premier and the former Minister for Education, the Hon. Rob Stokes, back in May last year. As I said, the review is being led by Professor Geoff Masters, who is the CEO of the Australian Council for Educational Research. After a very comprehensive public consultation process throughout 2018, I am pleased to announce that the interim report has now been released for further public consultation.

Here are a few facts for members who are interested: More than 2,100 submissions were received in the initial round of consultation. Professor Masters held 14 roadshows across regional and metropolitan New South Wales. More than 50 roundtables, focus groups and meetings were held across New South Wales with key stakeholder groups from the education sector and from the community more broadly. As I said earlier in question time, this is the first time in 30 years the curriculum has been reviewed in this way. The interim report identifies 15 directions for reform in the curriculum, including reducing the amount of content in the curriculum so students have time to build in-depth subject knowledge and develop the skills needed to apply this knowledge in the real world, such as critical thinking, collaboration and communication. This was a clear message from the submission: The curriculum needs decluttering.

The review also suggests using levels of attainment to organise syllabuses so student learning is recognised and challenged according to a continuum of learning. Parents and teachers need clearer guidelines on how students are tracking. In any school year students can be five years apart in their literacy and numeracy. The interim report does not propose that schools move away from the age-based classroom groupings typical in most schools but certainly engages the idea of looking at levels of attainment rather than year-based curriculum and syllabuses. We want to hear from our State's parents, employers, teachers and students themselves on the draft reforms, including the use of attainment levels. The review articulates the standards that every student is entitled and expected to have achieved by the end of their schooling, prioritising literacy and numeracy. That is incredibly important.

In the senior school curriculum the review proposes over the longer term to include advanced courses that integrate a mix of theory and application of knowledge to better prepare students for further study and work. It wants vocational pathways to be strengthened and valued for students in their senior years. The Government is committed to ensuring it gets it right when it comes to delivering a world-class education for New South Wales students. Further broad consultation will ensure that a diversity of views are captured from the community on the interim report and reform directions. I am looking forward to this next phase of work.

#### ERARING POWER STATION

**Ms ABIGAIL BOYD (16:20:45):** My question is directed to the Minister for Finance and Small Business, representing the Treasurer. In 2013 the State entered into the ash dam indemnity deed in relation to the sale of the Earing Power Station under which the Government agreed to reimburse Origin Energy for costs involved in extending its ash dam capacity in certain circumstances. Will the Minister inform the House how much the Government will be required to pay in connection with that deed in relation to Origin Energy's latest proposed extension of the Earing ash dam, which the Department of Planning, Industry and Environment has recently recommended for approval?

**The Hon. Shayne Mallard:** Point of order: I seek clarification on anticipation. There is an inquiry into the issue and government cost for remediation. I am not seeking to have the question ruled out of order. I want clarification as to whether you can ask the question.

**Ms ABIGAIL BOYD:** To the point of order: This is a completely unrelated issue. It is not connected to the ash dam inquiry.

**The Hon. Adam Searle:** To the point of order. The rule against anticipation applies only to legislation.

**The PRESIDENT:** Standing Order 65 (4) states:

Questions must not anticipate discussion upon an order of the day or other matter on the Notice Paper, except an item of private members' business outside the order of precedence or an order of the day relating to the budget estimates.

It does not talk about committees. The question is in order. The Minister has the call.

**The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:22:40):** I thank Ms Abigail Boyd for her question. Unsurprisingly, I do not have those particulars at my fingertips. I will refer the question to the Treasurer to provide an answer.

#### SCHOOL CURRICULUM

**The Hon. ANTHONY D'ADAM (16:23:13):** My question is directed to the Minister for Education and Early Childhood Learning. Given that the *NSW Curriculum Review: Interim Report* has detailed parental concerns about an erosion of TAFE by this Government, will the Minister inform the House what steps the Government is taking to guarantee the future of a strong and supported TAFE system in New South Wales as an alternative to university?

**The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:23:34):** Again, I reiterate some of the comments I made in an earlier answer in relation to what we want to

see regarding vocational education. Professor Masters makes some very strong recommendations in terms of reform for senior secondary years. He talks about a better alignment between vocational and academic subjects. That is incredibly important. This Government has always ensured that students have every opportunity available to them when they leave school. The Deputy Premier in particular, as a former Minister responsible for TAFE for a period, is very strong on vocational education. It is important to recognise that students have—

[*An Opposition member interjected.*]

**The Hon. Trevor Khan:** Point of order: Apart from outrage, my point of order relates to interjections from the Hon. Daniel Mookhey, who seems to be taking on the Voltz approach to question time.

**The Hon. Daniel Mookhey:** To the point of order: I think interjections are allowable if they add to debate.

**The PRESIDENT:** I had intended to warn the Hon. Daniel Mookhey but, following his contribution to the point of order, I have no alternative but to call him to order. I call the Hon. Daniel Mookhey to order for the first time. The Minister has the call.

**The Hon. SARAH MITCHELL:** As I was saying, the review talks about a better grouping of academic and vocational subjects integrating vocational education into the key learning areas. Professor Masters recommends nine key learning areas. As an example for the member, Professor Masters talks about bringing together engineering, construction and manufacturing as one suggested outcome and business, economics and financial services as another. The member should look at the nine recommendations because it is interesting reading. The report looks at opportunities for students while they are at school and what HSC-accredited subjects they can study around vocational education. Professor Masters speaks about a better combination between theory and applied learning and raises opportunities around a focal point of collaboration between schools, universities, vocational education training providers and industry to ensure that we are working with school students in terms of jobs that exist currently and jobs for the future.

**The Hon. Walt Secord:** Point of order: The point of order is relevance. The question was very specific. The question referred to "an erosion of TAFE by this Government". That appears on page 40 of the *NSW Curriculum Review: Interim Report*. I ask the President to draw the Minister back to the question before the House about what steps the Government is taking to protect and ensure the future of TAFE.

**The PRESIDENT:** The question talked about "parental concerns about an erosion of TAFE", but it does say, "what steps the Government is taking to guarantee the future of a strong and supported TAFE system in New South Wales as an alternative to university?" I believe the Minister was being directly relevant.

**The Hon. SARAH MITCHELL:** What we would like to see, and what Professor Masters talks about, is how there can be better career advice for students in terms of what their pathways might be. That can and should include looking at options for vocational education, including TAFE. These are the sorts of things that we want the interim review to stimulate for discussion. It is in line with community sentiment. Parents want to ensure that, in the senior years of school, students have pathways and options available to them. I was in Narrabri on Friday where I met with some of the current HSC students. I talked to them about what they wanted to do.

At the end of year 10 when they are making subject choices, knowing they have different options available with a better alignment of subject structure and course content provides the opportunity to go down a pathway that is right for them. Some people want to go to university and follow academic pursuits while others are inclined to vocational education. Indeed, there is a lot more opportunity for integration between both. I think people can be going to university and TAFE and back and forth. Lifelong learning is what we want to see. [*Time expired.*]

#### **RURAL ADVERSITY MENTAL HEALTH PROGRAM**

**The Hon. WES FANG (16:28:26):** My question is addressed to the Minister for Mental Health, Regional Youth and Women. Will the Minister outline for the House how the Government's investment in the Rural Adversity Mental Health Program is supporting people living in regional New South Wales through this very tough drought?

**The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:29:01):** People in rural and remote New South Wales face a number of challenges, particularly in this unprecedented time of severe drought. In addition to forging ahead with new dams and water infrastructure, the New South Wales Government is funding a number of mental health initiatives to support people in our regions. This includes \$4 million in core funding in 2018-19 for the Centre for Rural and Remote Mental Health for mental health promotion, research and providing important links to services in rural areas. Last Thursday at Parliament House in Canberra the centre won the National Mental Health Award, 2019 Organisation of the Year, which is

a terrific achievement. I offer huge congratulations to Professor David Perkins and the team on this impressive national accolade.

The centre manages the Rural Adversity Mental Health Program, known as RAMHP. This is a statewide program that connects people living in rural and remote communities in New South Wales to mental health services and resources. RAMHP coordinators are based in local health districts across regional and rural New South Wales. They provide training and workshops in mental health and wellbeing to rural communities, businesses, and to government and non-government agencies. In the past year RAMHP has linked over 2,700 rural and regional people to mental health care. It has delivered over 9,300 mental health training courses and attended 500 community events where it makes contact with those in the community who need help and promotes the availability of help. Recently in Dubbo I met with Camilla Kenny, one of the rural mental health coordinators. I was so inspired by the amount of work she does in her community to reduce the stigma of mental health issues and link people to care.

The New South Wales Government is committing \$900,000 in additional funds to RAMHP as part of the Emergency Drought Relief—Mental Health Package in 2019-20. This is providing five additional RAMHP coordinators, bringing the total to 19 across New South Wales. RAMHP also produces the *Glove Box Guide to Mental Health*, a fantastic magazine-style publication on the topic of mental health in rural and remote New South Wales. I am sure Mr President would have read about it recently in *The Land*. The magazine contains stories about coping with mental ill health, advice from medical professionals and ideas for increasing mental wellbeing. In recognition of its ongoing success, the *Glove Box Guide for Mental Health* recently won the Mental Health Services medal. This is the highest honour awarded at the annual conference, which was presented by Federal Minister for Health the Hon. Greg Hunt in Brisbane this year. Some 89 per cent of people who received the *Glove Box Guide for Mental Health* agreed that it encouraged rural people to talk about mental health more openly. That is a great outcome from an excellent program, which the Government is proud to support.

#### LAND CLEARING

**Mr JUSTIN FIELD (16:32:07):** My question is directed to the Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, representing the Premier. Is the Premier aware of recent evidence provided during sentencing hearings in the New South Wales Land and Environment Court by farmers being prosecuted for illegal land clearing that the former member for Barwon and former Minister for Natural Resources, Lands and Water, Kevin Humphries, advised multiple farmers to clear land in breach of the law, as the Government intended, and I quote, "to get rid of the native vegetation laws" and advised farmers that they would not be prosecuted for any illegal land clearing done before the laws were repealed? Will the Premier refer these allegations to the Independent Commission Against Corruption? If not, why not?

**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) (16:32:43):** Last Friday an article written by Anne Davies in *The Guardian* was drawn to my attention. Material contained in it requires a response. The question was directed to the Premier. I will take it on notice and seek a response to all aspects of it from the Premier.

#### MENTAL HEALTH FACILITIES

**The Hon. TARA MORIARTY (16:33:40):** My question is directed to the Minister for Mental Health, Regional Youth and Women. Given that a 13-year-old girl suffering from mental health issues and her mother recently waited at the emergency department of Queanbeyan Hospital for more than 24 hours due to a lack of beds, and she was then moved to Goulburn Hospital and then to Campbelltown Hospital, will the Minister guarantee that Queanbeyan and Goulburn hospitals have enough mental health beds?

**The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:34:09):** As this question refers to a specific individual, I will take it on notice and provide details to her. We have a robust mental health system with great acute beds, great step-up and step-down beds, and lots of things happening all the time. I will take this specific case on notice and get back to her.

#### SMALL BUSINESS

**The Hon. MATTHEW MASON-COX (16:34:52):** My question is addressed to the Minister for Finance and Small Business. How is the New South Wales Government working with local councils to get local businesses more work?

**The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:35:10):** I thank the honourable member for his question and concern for small businesses in New South Wales. All forms of

government need to make it easier for small businesses and agencies to come together and connect on new opportunities to allow small business to thrive. I hear it over and over again when I am speaking with businesses around the State that it is too hard to contract with government. We are working hard to change this, particularly through a new platform I have discussed in this place previously called Buy NSW, which will bring buyers and sellers together on a single platform to make it easier to do business with the New South Wales Government.

At a local government level as well, we want to simplify the process and give local businesses a hand up when it comes to getting work. Recently I, along with the Minister for Local Government, announced a new pilot program which will make it easier for small businesses to win work from their local council—boosting local economies and communities. The Local Procurement Pilot aims to increase direct contact between small businesses and councils by cutting red tape and simplifying the tender process. This six-month pilot will enable small businesses to operate on a more level playing field when securing contracts with their local council. A toolkit has been developed to help small businesses win council contracts, while providing tips to local councils on how they can become more small business friendly.

Further, in June 2019 the New South Wales Government changed the Local Government Act 1993 to increase the threshold for tenders from \$150,000 to \$250,000, which will provide more opportunities for councils to engage businesses directly without a tender process. Several councils have expressed an interest in this pilot program, including Georges River Council, Eurobodalla Shire Council, Campbelltown City Council and Central Coast Council. This pilot program is another example of how this Government is committed to supporting small businesses in New South Wales. In addition to the manner in which this Government is helping small businesses in relation to procurement contracts with the Government, which we are actively pursuing, it is endeavouring to work with local councils so that they, in fact, will support small businesses by contracting with them. I look forward to updating the House on the success of this pilot in the future.

#### PLANT-BASED MEAT ALTERNATIVES

**The Hon. EMMA HURST (16:38:13):** I direct my question to the Minister for Education and Early Childhood Learning, representing the Deputy Premier, Minister for Regional New South Wales, Industry and Trade. In 2018-19 Australian consumers spent an estimated \$150 million on plant-based meat products. Approximately half of those products were imported. Will the Minister advise in what ways the Government is promoting this opportunity to locally produce plant-based meat alternatives and capture a larger share of the domestic market?

**The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (16:38:49):** I thank the member for her question asked of me representing the Deputy Premier and for her interest in the matter. Recently I saw some plant-based meat products in a Sydney supermarket—I do not think they are in Gunnedah supermarkets, but I will check when I go home. It is an interesting topic and certainly one that a lot of people are talking about.

I have received information from the Deputy Premier in relation to this issue. In order to diversify our domestic agricultural production and capture more of the domestic market, we have to increase our agricultural competitiveness. People often talk about the potential of New South Wales to be the food bowl of Asia. Others say we should target the premium market. Regardless of direction, we can all agree that industry competitiveness is key to its continued success and to capturing a larger share of the domestic market.

We must address the issues of skilled labour, sustainability, waste management and access to markets if we want to increase agricultural production capacity. The industry faces enormous challenges in the context of the savage drought that is gripping our farmers and their families. Earlier this year, the Government launched the New South Wales food and beverage manufacturing industry development strategy to position New South Wales to tackle the challenges posed by a competitive business and investment environment.

To promote opportunities to the sector, the Government has established the Food and Beverage Manufacturing Connect program—a digital platform, events calendar and newsletter designed to share industry news and strengthen industry engagement and collaboration. Since its launch, the Government has delivered over 20 initiatives under the strategy to over 700 industry participants. The Government is supporting innovation in the area through grants to help start-ups in the pre-revenue stage to build and improve their product and get customer feedback and validation. The Government has supported alternatives to conventional meat production, such as North Parramatta start-up VOW that received a \$25,000 Government grant to develop its cell-cultivated meat technology. In a world first, VOW has created the first ever cell-cultured kangaroo meat grown from stem cells taken from a kangaroo.

To pursue these opportunities, the Government is supporting business by hosting 11 premium New South Wales food and beverage companies on its Flavours of NSW stand at the Fine Food Australia trade show in

Sydney. It is also supporting the industry to boost its access to international markets by hosting a trade forum in Wagga Wagga and by taking delegations to Dubai, Japan and South Korea.

Increasing market demand is driving investment growth in the global alternative protein sector. Consequently, Australia is witnessing growth in the availability and variety of plant-based meat options in food-service and retail outlets. That growth is driven by increasing consumer consciousness about the impacts of their choices. New South Wales has the second-largest alternative protein sector in Australia, with 29 per cent of the industry. The Government is exploring sector-specific action plans through the industry development strategy, including supporting the growth of emerging sectors such as alternative proteins. [*Time expired.*]

### MENTAL HEALTH FACILITIES

**The Hon. ROSE JACKSON (16:42:02):** My question is directed to the Minister for Mental Health, Regional Youth and Women. Given the Minister's previous answer, what is her response to community concerns that the 13-year-old girl was sedated, rather than treated, as there were no beds available for her?

**The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:42:26):** I thank the member for her question. As I stated in my previous response, I do not have the details. The member has asked about a specific case of a specific individual. She is now asking me about a specific clinical incident. I do not have the details with me. I will take the question on notice and obtain those details.

### WORLDPRIDE 2023

**The Hon. SHAYNE MALLARD (16:42:55):** My question is addressed to the Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. Will the Minister update the House on Sydney's bid to host WorldPride in 2023?

**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) (16:43:07):** I cannot let it pass: Sydney has done it again. This time Sydney has won the rights to host WorldPride in 2023, bringing the event to the Southern Hemisphere for the first time. Certainly, social media has lit up since the news that WorldPride—the premier international LGBTQI Pride event that takes place every two years—is coming to Sydney. New York hosted WorldPride earlier this year, coinciding with the fiftieth anniversary of the Stonewall riots. Copenhagen will be next in 2021.

Sydney will host the event in 2023, coinciding with the forty-fifth anniversary of the first Sydney Gay and Lesbian Mardi Gras held in 1978. I congratulate the team from Sydney Gay and Lesbian Mardi Gras, especially the many volunteers who have worked passionately over recent months to secure this global event for New South Wales. The Department of Premier and Cabinet has been delighted to provide assistance and support. I particularly congratulate and thank the Sydney Gay and Lesbian Mardi Gras co-chairs, Kate Wickett and Giovanni Campolo-Arcidiaco, and 78er and WorldPride committee chair Robyn Kennedy.

Sydney's representatives made a final presentation at the InterPride Annual General Meeting and World Conference in Athens over the weekend, alongside competitive bids from Montréal and Houston. Hundreds of Pride organisations from around the world voted to select the host city, resulting in a resounding win for Sydney in the first-round ballot with 60 per cent of the vote. I believe that the organisers were a bit worried at one stage about Montreal because the speculation was that Prime Minister Trudeau was going to lobby in Athens. But he ended up with a diminished capacity to influence international votes and was very busy, of course, with his election campaign.

I am confident that the reputation of New South Wales for delivering spectacular cultural festivals and world-class events helped secure Sydney's win. Who could ever forget the world's best Olympic Games, secured and delivered by two successive New South Wales governments? Since its beginnings as a protest in 1978, the Sydney Gay and Lesbian Mardi Gras has evolved. WorldPride will be a 17-day festival in February and March 2023, combining all the events of mardi gras with special WorldPride events. It will remind everyone—[*Time expired.*]

### URBAN CONGESTION

**The Hon. MARK LATHAM (16:46:17):** My question is directed to the Minister for Finance and Small Business in his own capacity and also representing the Treasurer. I draw the Minister's attention to the NSW Productivity Commission's finding, in its discussion paper, that for a Sydney family of five the annual cost of urban congestion is \$7,000, rising to \$10,000 in 2030. The Productivity Commission also stated, "Building new roads alone may not solve Sydney's congestion." In light of that evidence, why has the Government broken its election promise to halve the net overseas migration rate into New South Wales as a way to ease household

congestion costs, lower business transport costs and lift productivity in a more efficient and functional Sydney metropolitan area?

**The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:47:19):** The report of the NSW Productivity Commission is a very worthwhile document. It is interesting that questions were asked last week about the commission's recommendations relating to land tax and that questions are asked this afternoon relating to delivery of roads and infrastructure. It is great to have the opportunity to talk about the record of the Berejiklian-Barilaro Government in delivering infrastructure to this State.

In many respects the problem that the honourable member identifies—the amount of time people spend getting to and from work—has been at the forefront of the Government's obsession with delivering infrastructure to relieve the burden on families. I never tire of saying that the time people spend in traffic every single day is time stolen from their families. The Government owes an obligation to deliver infrastructure that reduces the amount of time people are taking to get to and from work each day. The announcement this week of the new Sydney Metro West from Westmead to the city is, in fact—

**The Hon. Rose Jackson:** Build it! Why did you delay it?

**The Hon. DAMIEN TUDEHOPE:** I welcome that interjection. The great builders on the other side of the House are telling us to build it! We love to talk to them about the stuff that they build because whenever the Government announces a new infrastructure project at a media conference members on the other side talk about the problems of delivering that infrastructure. When members opposite went along to announce infrastructure, people said, "We know you are not going to do it. You have not got the money to do it. In fact, if you build a train line you will probably only build half of it. When you want to go from Chatswood to Parramatta—no, we will stop at Epping." That is the Labor Party's approach to building—

**The PRESIDENT:** I remind the Minister that he is being directly relevant to the interjection. I am now asking him to be directly relevant to the question.

**The Hon. DAMIEN TUDEHOPE:** The Government's priority is to deliver the infrastructure that shortens the time people spend in traffic. The reduction of migration is not the answer. The answer is to ensure that we have a government that puts families first and puts infrastructure delivery first. [*Time expired.*]

**The Hon. MARK LATHAM (16:50:33):** I ask a supplementary question. Will the Minister elaborate on the infrastructure program he mentioned? If it is so successful, why will congestion costs rise for a family of five in Sydney from \$7,000 each year to \$10,000 over the next 11 years?

**The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:50:47):** That is a great question. Because when Labor was in government it did nothing. That is the answer. The congestion this Government is solving has arisen because when Labor was in government, it left us a backlog—

**The Hon. Mark Latham:** Point of order: Last week I said that the Minister deserves a performance bonus for defending the indefensible. My question was about the next 11 years, as identified by the Productivity Commission, not what happened during Labor's 16 years.

**The PRESIDENT:** The supplementary question contained some generalisation in asking the Minister why an event was occurring. The Minister was being directly relevant in his answer.

**The Hon. DAMIEN TUDEHOPE:** The point is well made. Over the next 11 years there will be a significant impact on congestion and delay. If members opposite, when they were in government, had delivered infrastructure rather than looking after their mates, we would not have the delay and congestion we are having to solve today. We are going through a catch up process. No other State is delivering infrastructure as we are in New South Wales. If Labor had delivered for the people—

**The PRESIDENT:** Stop the clock. I enjoy a robust question time. A fair supplementary question was asked by the Hon. Mark Latham. It is unacceptable for Opposition members to continue to interject. I am having difficulty hearing the Minister. If another member seeks to ask a second supplementary question, it will be difficult for me to rule on that second supplementary question if I have not heard the Minister's first answer or the answer given to the first supplementary question. I have made that clear previously. That is the difficulty with allowing continued interjections.

**The Hon. DAMIEN TUDEHOPE:** I acknowledge the seriousness of the member's question and the issue it raises. Members can be confident that those responsible for addressing the problem are on the Government side of the Chamber. That level of confidence should never be invested in those on the opposite side of the Chamber.

**The Hon. MATTHEW MASON-COX (16:54:16):** I ask a second supplementary question.



**The PRESIDENT:** Standing Order 64 (5) (b) states:

- (b) one further supplementary question may then be immediately put by another non-government member to elucidate the same answer.

A Government member cannot ask a second supplementary question.

#### **BIRUNJI YOUTH MENTAL HEALTH UNIT**

**The Hon. DANIEL MOOKHEY (16:54:59):** My question is directed to the Minister for Mental Health, Regional Youth and Women. Why was the Birunji Youth Mental Health Unit in Campbelltown left without a full-time clinical psychologist for more than 2½ years from 20 October 2016 until 10 June 2019? Has the Minister investigated this?

**The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:55:47):** I thank the honourable member for his question about the Birunji Youth Mental Health Unit. The New South Wales Government is committed to providing the right support and services to mental health patients in both inpatient and community settings. New South Wales mental health services provide comprehensive care across inpatient and community settings for consumers in the Macarthur region. Two part-time clinical psychologists have been appointed to fill the role of psychologist at Campbelltown Hospital's Birunji Youth Mental Health Unit, which delivers specialised care to young people aged between 18 and 25.

One clinical psychologist started in June 2019 and the other will commence after returning from maternity leave. The Birunji Youth Mental Health Unit has a complete multidisciplinary team providing care to consumers. It has access to psychiatrists, social workers, occupational therapists and diversional therapists, as well as nursing staff 24 hours a day, seven days a week, who also provide care to consumers in the unit. The team of medical, nursing and allied health staff provide therapeutic care to people admitted to Waratah House at Campbelltown Hospital. This includes individual and group therapy, along with mindfulness and wellbeing activities, provided in an environment designed to support recovery.

Inpatients at both units have access to a psychiatrist, social workers, occupational therapists and diversional therapists, as well as nursing staff for 24 hours a day, seven days a week. A clinical psychologist with the Macarthur Mental Health Service visits Waratah House each week. If the mental health team identifies a need for further psychological care, a psychologist is sourced from the community mental health service. The New South Wales Government is investing more than \$34.2 million on inpatient and community mental health services in the Campbelltown area in the 2019-20 financial year. Mental health services will be significantly expanded as part of the \$632 million stage two redevelopment of Campbelltown Hospital. The New South Wales Government has invested approximately \$9.9 million on inpatient and community mental health services for children and adolescents in the Campbelltown area in the 2018-19 financial year.

**The Hon. DANIEL MOOKHEY (16:58:16):** I ask a supplementary question. Will the Minister elucidate on her reference to the current engagement of one part-time clinical psychologist by detailing how many appointments are available for patients to see the one part-time clinical psychologist each week? Will the Minister tell us how many people are currently waiting for an appointment?

**The Hon. Trevor Khan:** Point of order: That is a new question and does not arise from the Minister's answer.

**The Hon. DANIEL MOOKHEY:** To the point of order: It passes the President's three tests. Firstly, it relates directly to the question asked. Secondly, it arises from the answer given—namely, the Minister informed us that there is one part-time psychologist currently, with another due to start at the completion of her maternity leave. Thirdly, it seeks further detail in that respect—namely, how many patients that person is currently seeing and how many people are waiting to see that person.

**The Hon. Don Harwin:** To the point of order: There are Presidents' rulings to the effect that questions of particular detail, such as that one, which a Minister cannot be expected to have an answer for in the Chamber should be placed on notice.

**The Hon. Walt Secord:** To the point of order: It is clear that the Minister does have the answer and material relating to the specific case. In fact, we saw the material being brought into this Chamber. I approached my colleagues and said that. We were surprised, but she has the specific details of the question.

**The PRESIDENT:** The point of order taken by the Hon. Trevor Khan is valid, but the counterargument—if I can use that expression—made by the Hon. Daniel Mookhey is also valid. In my view, asking the Minister about the hours of availability of the part-time worker whom she mentioned in her answer is clearly in order, but asking about patient waiting lists tends to go outside of what would be considered. I will allow the supplementary question. I note what the Leader of the Government and the Hon. Walt Secord said.

However, it is open to the Minister to answer the question as she deems fit. It is also open to her to take on notice the specific information that is being sought from her. The Minister has the call.

**The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (17:01:46):** I thank the honourable member for his question. I praise health services for allowing people to work part time. It gives men and women tremendous opportunities to meet all of their other commitments.

**The Hon. Daniel Mookhey:** I agree, yes.

**The Hon. BRONNIE TAYLOR:** Yes, I know, but the insinuation—I will not have a debate. I am pretty good, Mr President. I am pre-empting you getting cross with me.

**The PRESIDENT:** It would have been better if you had not mentioned that.

**The Hon. BRONNIE TAYLOR:** I have told the member that there are two part-time positions that equal one full-time position. One person is working in one part-time position and the person in the second position is on maternity leave, as I said in my earlier answer. If the honourable member wants me to use the time of the local health district to find out the specifics of how many appointments there have been—rather than actually seeing people and doing other things—I am very happy to take that part of the question on notice.

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

### DROUGHT ASSISTANCE

**The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (17:03:12):** Earlier in question time the Hon. Mark Banasiak asked me about drought and water funding. Since 2017 to 2018 the Government has provided over \$130 million for emergency town water projects. That includes \$5.3 million for immediate emergency works for Tamworth to extend its water supply and a commitment of \$38 million for the construction of a new pipeline from Chaffey Dam. The Government has provided \$30 million for Dubbo to expand its bore network. The Government is working closely with regional towns to sustain their potable water supplies. Where necessary emergency funding is being provided for water carting to towns including Murrurundi, Guyra, Menindee, Pooncarie, Tibooburra and to several other small villages and rural landholders. I am pleased to say that the pipeline to Guyra is now complete and is providing a secure supply. The question also asked when the first new dam was expected. That will depend on whether the Shooters, Fishers and Farmers Party chooses to support our legislation to fast-track dams.

### *Supplementary Questions for Written Answers*

### CLINICAL PSYCHOLOGISTS

**The Hon. TARA MORIARTY (17:04:39):** My supplementary question for written answer is directed to the Minister for Mental Health, Regional Youth and Women. How many mental health inpatient care units across New South Wales do not have full-time clinical psychologists on staff? Will the Minister provide a list?

### *Questions Without Notice: Take Note*

### TAKE NOTE OF ANSWERS TO QUESTIONS

**The Hon. MARK LATHAM:** I move:

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

### SCHOOL CURRICULUM

**The Hon. MARK LATHAM (17:05:19):** I continue the debate on the Masters *NSW Curriculum Review: Interim Report* because the questions raised and the answers given during question time were informative. This subject is vital for the future of all young people in the State. I think the objective of the review to declutter or improve the focus of the curriculum is great. There were two things in the report in that regard. I agree very strongly with one of them and raise concerns about the other. The first issue is the statement at page 11, which reads:

Ongoing changes in Australian society are requiring schools to take on broader roles and responsibilities than the implementation of a set of syllabuses. Schools are increasingly focused on students' social and emotional development, physical and mental health and wellbeing, and a range of personal skills and attributes, including resilience, optimism, and the ability to communicate and collaborate with others.

What a mouthful! It basically means schools must be teachers, parents, social workers and doctors combined—an impossible task. Schools cannot possibly concentrate on their core academic tasks if they have to take on all those other functions. Professor Masters has raised that concern. He walks a bit back from it later in the report,

but I am glad to see the concern raised. It is a challenge for the Government to ensure the wellbeing of students while they are at school but the number one priority for a school must always be academic and vocational attainment to help students later in life. Parents, social workers and health workers have responsibilities elsewhere in society and a school cannot be all things to all people at all times.

The second aspect of decluttering goes to the very valid questions that Opposition members raised about the future of TAFE and vocational education. I do not agree with the direction that Masters has set out on. He is basically saying that every single subject in the senior years needs a heavy emphasis on theory and application. That signals the end of what we would call vocational courses that are set up to help 15-year-olds, mostly boys, who are disengaging from the school curriculum and who want to learn by doing with their hands. In moving into what we now know as vocational subjects, those students will have to take on a heavy theoretical load in those subjects—the thing that they are trying to get away from.

It is embarrassing that currently New South Wales has only a couple of thousand school-based traineeships and scholarships. I thought the Government's goal was to improve that and set up valid streams for those students disengaging from their academic curriculum to get into high-quality vocational education to give them the skills to work in the trade of hospitality and other important areas. I also worry about what this means in the areas of academic subjects. What is the application if you are studying ancient history? What can that possibly mean? Does it mean economic theory is reduced to just business studies? These are all major worries that Professor Masters must address in his review. I hope the Government takes account of them. This is serious work—[*Time expired.*]

## BUILDING STANDARDS

### AGENT-GENERAL FOR NSW

**The Hon. PETER PRIMROSE (17:08:22):** I again point out that Ministers in this House are serial offenders when it comes to not producing directly relevant answers to questions that are put on notice to them. I fully expect and understand that Ministers in the other place, despite being part of the Executive, take no interest in what happens in this place and do not understand our sessional orders. But all of the questions are put on notice to Ministers in this place as they represent Ministers in the other place. It is the Ministers in this place who respond to those questions. I know from talking to other members that we are receiving responses that deliberately flout the decision of this House to have and request answers that are directly relevant to questions. I will give one example. I asked the Special Minister of State the following question to be referred to the Premier and separately to the Treasurer:

Since the 2019 election, which local councils, peak building industry bodies, and related organisations have you met with to discuss building safety, including but not limited to the issues of the use of and register of dangerous product materials (such as combustible cladding), building standards, licensing of building professionals, and concerns about the state's construction industry?

I think that is an issue of concern to the community. It is certainly of concern to me and I suggest that it is of concern to many members of this House. It is not unreasonable to ask the Premier and Treasurer who they have met with. Inter alia, the first sentence of the answer reads:

We are taking strong action to address issues in the building industry and protect homeowners.

There is not one mention in the next two sentences of the response about who they met with, which councils they met with or anyone else. It is simply a trite, generalistic, advertising blurb and in no way directly relevant to my question. Another example is not as critical, but I was interested in the recent statement about the proposal to re-establish the Agent-General for New South Wales in London. I wanted to know the Government's actual position and asked who was the last agent general for New South Wales and why was the position abolished, et cetera. The answer, which is no answer at all, states:

The NSW Government will always promote our State domestically and internationally.

**The Hon. Taylor Martin:** Hear, hear!

**The Hon. PETER PRIMROSE:** I would expect the "Hear, hears!" to come. The problem is that it is not directly relevant. It does not abide by the sessional orders of this place.

## SCHOOL CURRICULUM

**The Hon. WALT SECORD (17:11:37):** I make a very short contribution relating to the questions involving the *NSW Curriculum Review: Interim Report* and the answers provided by the education Minister. I am particularly concerned about the lack of clarity involving decluttering the curriculum. The Minister said that 15 per cent to 20 per cent were topics or areas that could be decluttered. Therefore, I would like to know what areas she is looking at removing. The last thing I would like to see is a reduction in courses that involve rigour.

I fear that with this Government there will be an emphasis on the wrong policy areas. I wish that the Minister had spelt out the areas she had concerns about. She hid behind the fact that she said that it was a consultation.

As a member of Parliament I would like to know the direction or get the slightest indication of where the Government is going on this. If we get a response from the community, we would like to be guided by what direction the Government is taking. It seems that education under this Government has lost its way and there is no direction. Again, I would like to have had a clear spelling out of the areas she had concerns about that were "cluttering" the curriculum and which areas she would like removed. Again, 15 per cent to 20 per cent is a significant area.

## MENTAL HEALTH FACILITIES

### BIRUNJI YOUTH MENTAL HEALTH UNIT

**The Hon. TARA MORIARTY (17:13:20):** I take note of answers provided by the mental health Minister today in relation to mental health. I said it last week, I will say it again today and I will keep saying it: We need to do better in this space. I fully acknowledge that it is well within the Minister's rights to take the details of the questions in relation to the treatment of a child in Queanbeyan and Goulburn hospitals on notice and come back to us. What happened with that girl was appalling. But the follow-up part of the question was really about whether there are enough beds in Queanbeyan and Goulburn hospitals for the treatment of mentally ill people. The truth is that there is not. We heard nothing from the Minister about that and it is not good enough. We need more services to be available for mentally ill people when people need those services in the places they live. It is not acceptable to not even attempt to provide some information to the House on that issue.

In answer to the question about Birunji Mental Health Unit, we heard some information about the supporting of part-time work. Well, great. Everyone in this House supports part-time work. But there is a service in Campbelltown where people were without a full-time clinical psychologist for over 2½ years. Frankly, it is not good enough to not provide information or to take these issues seriously. There is now a backlog and it is a really big local issue in the area. We are not unaware of it; it is not unknown. We need to be getting better answers, better information and, frankly, better services provided across the State for people in those situations.

## SCHOOL CURRICULUM

**The Hon. MARK BUTTIGIEG (17:15:33):** I make a brief contribution on one of the answers to a question regarding the *NSW Curriculum Review: Interim Report* and the concern raised by parents in that review about the weakening of TAFE as an alternative to university. This is an important issue that this Parliament and this Government need to deal with. TAFE used to be the pre-eminent institution for people who did not necessarily want to further their learning in an academic sense but wanted the practical skills to go out and gain a livelihood. I remember the day I started at St George TAFE in 1982—I did a first-class apprenticeship with first-class training and got a good electrical trade for almost nothing. To get that same trade these days you would be paying in the order of \$6,000 or \$7,000. That is unacceptable.

I admit that in a previous time the Opposition was part of this problem. The idea that a private market can be set up in education so the private sector can somehow provide a public good just does not work. Why? Because if we pay people to get an outcome in education then the people in those institutions—and I am talking about organisations such as Train N Trade and other third-party providers—will tick a box. If we pay them \$10,000 for a qualification guess what they will do? They will tick the box and give a recognition of prior learning. As a result the poor kids going through the system and getting substandard educational outcomes. Parents are concerned in the curriculum review because their kids who do not necessarily want to go to university are not getting the alternative that they need provided by the technical and further education department.

We cannot unscramble the egg; I understand that. We cannot go back to a fully publicly funded system—we could in theory but it would cause issues. We need to have standards of examination that bring the private sector up to the mark so that when someone goes to a third-party institution for a qualification those providers know that if they do not provide the training and bring that person up to speed, they will not get the business. That will bring people up to the mark. TAFE needs to be fully funded to previous levels. It is an absolutely essential institution that needs to be supported so that our kids have a decent future and can gain a livelihood.

## TAKE NOTE OF ANSWERS TO QUESTIONS

**The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (17:18:22):** I will comment on the contribution by the Hon. Tara Moriarty on two counts. Firstly, I talk about Birunji. I specifically said that the clinical part-time psychologist role at Campbelltown Hospital started in June 2019. On the other side of that full-time position there was someone on maternity leave. That is now looking at being filled. To come in here and say that there are no services and it is not happening is very disingenuous.

Birunji has a 24 hours a day, seven days a week mental health facility with psychiatrists, mental health nurses, psychologists and peer support workers. In mental health we need a whole paradigm of people providing services and that is exactly what is provided there.

Members should not come into this House and insinuate that things are not happening. Yes there was an issue when that maternity leave vacancy came up, but do those opposite think that the local health district sat and did not try to fill positions? Is that what those opposite think of the people who work in our mental health system? They are absolutely trying to fill those positions but, in the meantime, a multidisciplinary care team is caring for people there. Members on the other side of the House should be congratulating those people on the fantastic work that they do. In the second part of the question I was asked about a specific incident, followed by a second question on that specific incident that was asked by the Hon. Rose Jackson. I cannot comment on particular incidents, nor will I pass judgement on clinical decisions that are made at the time by expert—

**The Hon. Tara Moriarty:** We are talking about beds. There are not enough beds.

**The Hon. BRONNIE TAYLOR:** I listened to you, you need to listen to me now.

**The PRESIDENT:** Order! First, interjections are disorderly at all times. Secondly, I indicate to the Minister the old rule that it is not necessary for her to comment on interjections. All it does is encourage more interjections. I do not want to take any more of the Minister's time. The Minister has the call.

**The Hon. BRONNIE TAYLOR:** I say to the honourable members who are asking questions and obviously have great concerns about those clinical issues that that is absolutely fair enough. They should come and see me and I will find out the answers to those questions. But if members ask specific questions on things I do not have information on, of course I am going to take the questions on notice.

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

**Motion agreed to.**

*Written Answers to Supplementary Questions*

**MURRUMBIDGEE REGIONAL HIGH SCHOOL**

In reply to **the Hon. WALT SECORD** (17 October 2019).

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

In the event of teacher absences, supervision is always provided by a qualified teacher.

To teach in New South Wales public schools, including on a casual basis, three distinct but related processes are required:

- Gain qualifications by completing teacher education studies;
- Gain accreditation through the NSW Education Standards Authority (NESA); and
- Gain approval to teach by the NSW Department of Education.

To gain the above approvals individuals must first obtain New South Wales's Working with Children Check clearance from the NSW Office of the Children's Guardian.

Casual teachers in New South Wales public schools are required to have completed the department's mandatory anaphylaxis and e-emergency care training modules.

All non-teaching staff employed in New South Wales public schools are also required to hold a valid Working With Children Check.

Further, as a part of the department's probity processes, all employees are subject to a national Criminal History Check before they are eligible for employment.

School principals are required to have appropriate procedures in place to confirm the above conditions are met prior to employing both teaching and non-teaching staff at the school.

*Personal Explanation*

**THE HON. WALT SECORD CONDUCT**

**The Hon. WALT SECORD (17:21:15):** By leave: I wish to make a personal explanation. I will take responsibility for my actions and apologise when I transgress. During question time today I sat quietly. Last week, as I said in my contribution to the debate on Harmony Day, I made a vow that I would be more courteous in this Chamber, and I intended to keep that vow. I will take responsibility for things that I do but I will not take responsibility for things that I have not done. The video of today's proceedings will show that I have been very quiet and very courteous. However, during the last question asked in the Chamber today, without any context, the Hon. Bronnie Taylor shouted "That was rude" to me. I sat quietly throughout the entire question time. I ask that

she apologise. At no point was I rude to her in question time. I take responsibility for things that I do and when I transgress, but I will not be stitched up.

### *Committees*

## **PUBLIC ACCOUNTABILITY COMMITTEE**

### **Reports**

#### **Debate resumed from 8 May 2019.**

**Reverend the Hon. FRED NILE (17:23:27):** I am pleased to speak in the take-note debate on the Public Accountability Committee report No. 3 entitled *Scrutiny of Public Accountability in New South Wales*, dated January 2019. The committee, of which I was chairman at the time, made only one recommendation: That the Legislative Council re-establish the Public Accountability Committee in the Fifty-Seventh Parliament, which it has done as the House accepted our recommendation. Chapter 1 of report No. 3 outlines public accountability in New South Wales and the role of parliamentary committees in delivering it. Our committees in this House play a very important role, which is outlined in our report on pages one and two. But the most relevant aspect of the report is on page three, relating to the Legislative Council Public Accountability Committee and giving background to the committee and what the committee has achieved as encouragement for the House to continue to support the establishment of a public accountability committee in this House.

On 15 March 2018, for the first time, the Legislative Council resolved to establish a public accountability committee, and, under the resolution, the committee would comprise seven members from the Legislative Council—being three Government members, two Opposition members and two crossbench members. The resolution establishing the committee was moved by a former member, the Hon. Robert Brown. In his motion the Hon. Robert Brown specified that the Chair would be me and that the Deputy Chair would be the Hon. Matthew Mason-Cox, which was upheld by the House and both of us were voted into those roles. The functions of the Public Accountability Committee were set out within the resolution of the House as follows:

... to inquire into and examine the public accountability, financial management, regulatory impact and service delivery of New South Wales government departments, statutory bodies or corporations.

The functions resolved by the Legislative Council were modelled on those of the Legislative Assembly's Public Accounts Committee. The resolution establishing the Public Accountability Committee is contained in our report in appendix 1. The resolution provides that the committee may examine the Auditor-General's opinions and reports and financial reports of State authorities which have been audited by the Auditor-General. The committee can also examine the consolidated financial statements and general government sector financial statements transmitted to the Legislative Council by the Treasurer, and inquire into expenditure by a Minister made without parliamentary sanction or appropriation or otherwise than in accordance with legislation. The committee can receive further referrals from the House and it can also self-refer. The committee can examine, inquire into or report on estimates of any proposed expenditure by the Government or a government authority.

The committee plays a very important role. The motion to appoint the committee stated that the committee was critical to ensuring proper oversight of government administration and the many reports of the Auditor-General tabled in the Legislative Council. As I said, the report concluded with a recommendation that the Public Accountability Committee be reappointed in this session, which has been done. During debate on the motion, Minister Harwin advised that the Legislative Council Select Committee on the Legislative Council Committee System had not recommended the establishment of a public accountability committee, which was a disappointment. But the House itself rejected that advice, given on behalf of the Government, and in the ensuing debate the Opposition, The Greens, the Christian Democratic Party, the Shooters, Fishers and Farmers Party, and the Animal Justice Party all voted for the motion to appoint the committee, with the Government voting against it. The motion passed on division 21 votes to 18.

Since its establishment the Public Accountability Committee has completed two inquiries regarding the public expenditure and service delivery involved in two significant infrastructure projects in New South Wales: WestConnex and the CBD and South East Light Rail projects. The outcome of these inquiries are discussed further in chapter 3 of the report, with the committee's view on the future of the Public Accountability Committee. The committee's only recommendation was that the Legislative Council re-establish the Public Accountability Committee in the Fifty-Seventh Parliament, which has happened. I am pleased that recommendation was adopted by the House. I urge all members to study report No. 3 and to give their support to the ongoing work of the upper House Public Accountability Committee in the future.

**The Hon. MATTHEW MASON-COX (17:30:20):** I endorse the comments of the former chair of the Public Accountability Committee. I was the deputy chair during that tumultuous time of about a year when the committee was established in the last Parliament. I reflect on that time and the work of the committee with some

fondness. In a very limited period of time, it proved itself a worthwhile committee of this House. This report rolls through that period of time, reflects upon what was done and, as the Reverend the Hon. Fred Nile mentioned, directly looks at the two inquiries that the Public Accountability Committee dealt with—the WestConnex project and the CBD and South East Light Rail project—which have been the subject of some discussion in this Chamber.

These inquiries were of great importance as these controversial projects, which the committee reviewed, had significant impacts upon the people of New South Wales in various ways. The report before the House on the role of the Public Accountability Committee reflects upon the experience in other jurisdictions and is worth some discussion. In particular I note that a joint parliamentary committee exists in the Australian Parliament and that is also reflected in Victoria, Tasmania and Western Australia. In South Australia there is only a lower House committee. Queensland and the Australian Capital Territory are unicameral parliaments and as such do not have a second Chamber.

**Reverend the Hon. Fred Nile:** Sadly.

**The Hon. MATTHEW MASON-COX:** Sadly for Queensland but not for the Australian Capital Territory. The Australian Capital Territory should not have a Legislative Assembly, it should be a local government area. That is a debate for another time. Regarding the issue of how the Public Accountability Committee should manifest in this Parliament, we have seen the reality with the re-establishment of the committee under the chairmanship of Mr David Shoebridge. The committee is already doing some wonderful work. As the chair Mr David Shoebridge may reflect upon that, no doubt. I am pleased to again be a part of the committee in this Parliament.

The current inquiry into the building industry and the recently established inquiry into the funding of this Parliament and other great institutions of this State will be worthwhile contributions by the committee. However, I did want to reflect particularly on the controversy surrounding the establishment of this committee in this Parliament. There was a lot of debate in the previous Parliament on whether this committee should be established as a joint committee with the existing Public Accounts Committee in the other place. I have been on the record on more than one occasion recommending that course of action.

The committee saw a preference for it in the report but also acknowledged that it was going to be unlikely in this Parliament should the Government be returned—which we are very fortunate to have seen happen. It was the Government's strong view that there should be a Public Accounts Committee in the other place but that a committee in the Legislative Council would be a matter for this House. I am gratified to see the re-establishment of the committee in this place in this Parliament but I would have preferred a joint committee as we have seen at the Commonwealth level and in all other States except South Australia, which has a single committee in the lower House. That was a missed opportunity.

It is worth reflecting back to the last Parliament. Government sector reform legislation that was introduced by the Treasurer in the other place was amended by this House to establish a joint parliamentary committee for public accounts. There was discussion between the Houses when the amendment went back to the other place and legal advice was sought. This House was advised by the eminent Clerk who sought advice from Bret Walker, SC, as to the manner in which this House could be incorporated into a joint public accounts committee. There was some conjecture because of advice that was sought by the other place. Professor Anne Twomey advised that because of the customs of the day and historical precedents the other House was the pre-eminent institution to deal with budgetary matters. That is based on history. I will not bore the Chamber by recounting that history.

**Mr David Shoebridge:** Take it back to the 1930s.

**The Hon. MATTHEW MASON-COX:** We have come a long way since the 1930s. The sophistication of the parliamentary role to review finances has deepened considerably. In that time we have seen the establishment of estimates committees in this House as well as the development of a whole range of inquiries and the committee system more generally. The Government was afforded the opportunity to establish a parliamentary joint committee to inquire into parliamentary accounts but that was rejected after some debate. It is always open to the Government to revisit that decision. I would encourage it. I know that previous chairs of the Public Accounts Committee in the other place have been of that view. There have been a number of parliamentary inquiries, joint and otherwise, which have come to the same conclusion. This report seeks to traverse some of that ground but acknowledges that it is not going to be the case in this Parliament. I am very pleased to see the re-establishment of the Public Accountability Committee for the duration of this Parliament and I look forward to being a part of the committee and the good work it will do.

**Mr DAVID SHOEBRIDGE (17:37:27):** I speak to the report on the scrutiny of public accountability in New South Wales. As chair of the Public Accountability Committee, which was established in accordance with

a recommendation from this inquiry, I thought it was probably important that I do so. At the outset I note the work of the Hon. Matthew Mason-Cox, the Hon. Robert Brown, the Hon. Robert Borsak and other crossbench and Opposition members. In the last calendar year of the last Parliament there was a reawakening of this House. For the first three years of that parliamentary term this House largely operated as a rubberstamp. Then in 2018 there was a re-emergence of this House as a genuine House of review and a number of things happened.

**The Hon. Matthew Mason-Cox:** A renaissance.

**Mr DAVID SHOEBRIDGE:** Yes, a renaissance. For example, we held the Government to account on the production of a number of important documents, not least of which was the Tune report, a landmark review of the child protection system, which had been hidden by the Government for a number of years. Many stakeholders were saying, "Where is that report?" We eventually got the numbers to force the Government to produce it. If members remember, it was a bit of a stand-off. On the last day, when a motion was about to be moved to censure the Leader of the Government in this House for failing to produce the report in accordance with an order, the Government blinked and produced the documents. Since then the powers of this House have been much more clearly established and more regularly exercised to force the production of Government documents.

We also saw the establishment of the Public Accountability Committee. It was acknowledged that parliament needs to be separate from the government of the day. Public accountability in the other place is controlled by a Government majority. It has trouble distancing itself from the government of the day and undertaking some of the hard tasks of holding the Government to account. When the Public Accountability Committee has taken a more courageous step and has made recommendations that the Government is uncomfortable with—for example, recommending that the Auditor-General have the power to follow up and audit the expenditure of public moneys, sometimes in the hundreds of millions or billions of dollars, by private entities and non-government organisations—it has been roundly ignored by the government of the day. There is no mechanism to hold the Government to account.

The establishment of the Public Accountability Committee in this Parliament, with a non-Government majority, is extremely important for this House to do its job of holding the Government to account and scrutinising not just expenditure but the implementation of government policy or the failure to address key issues of public accountability. In that regard the committee has as best as possible been operating collaboratively in the inquiry into building and construction industry standards. I hope members feel that it is a genuinely collaborative project to try to get to the bottom of what has gone so horribly wrong and to come up with recommendations to fix it.

The inquiry in December is looking at the funding of key accountability bodies such as the ICAC, the Law Enforcement Conduct Commission, the Electoral Commissioner, the Auditor-General, the Ombudsman and this Parliament itself. I hope that as far as possible it is another collaborative project. The committees that I have sat on in this House that are committees established by this House and populated by members of this House, with the assistance of staff and the secretariat from the upper House, operate fundamentally differently to the joint committees staffed by the other place and run according to the rules and customs of the other place. A key example is the Legislative Review Committee. It has committee meetings that run sometimes for two or three minutes. In dealing with detailed agendas it frowns upon the exchange of ideas and coming to a considered opinion. It is a brutal application of the numbers.

The Public Accountability Committee, which is established under the rules of this House with the support of the extraordinarily capable secretariat of this House and using the customs of this House, can do much better than that. It is important to note that it did not come out of nowhere. It was a political arm wrestle last year to get this committee established and I think it took political courage from a number of members. It was easy for The Greens to stand up and say we need greater political accountability, tougher accountability measures and more oversight but for Government members or those on the crossbench that have a much more comfortable relationship with the Government it took an acknowledgment that this House needs to be independent of the Government.

The Public Accountability Committee is the result and I hope it continues to do good work. I appreciate the assistance provided by the committee members and most particularly I appreciate the work of the secretariat. I note that the secretariat is massively overworked at the moment. The second inquiry by the Public Accountability Committee relates to adequate funding of this Parliament. It is not about making the job easier for MPs. It is about ensuring adequate resources so the secretariat does not feel broken by the amount of work we are giving them through the committee process and so that the secretariat can continue to provide the high degree of professionalism and competence that all of us have experienced in committee reports to date.

**Reverend the Hon. FRED NILE (17:44:57):** In reply: I thank all members who have participated in this debate and the Government's acceptance of the reality of numbers when agreeing to work with the Public



Accountability Committee. I look forward to the committee producing positive reports in the future. I commend the report to the House.

**The ASSISTANT PRESIDENT (The Hon. Shaoquett Moselmane):** The question is that the House take note of the report.

**Motion agreed to.**

#### STANDING COMMITTEE ON LAW AND JUSTICE

**Debate resumed from 8 May 2019.**

**The Hon. NATALIE WARD (17:46:23):** I speak to the debate on report No. 67 entitled *2018 Review of the Workers Compensation Scheme*. As the former chair of the Standing Committee on Law and Justice I asked the House and honourable members to take note of the report. I thank the committee members for their participation and input. In particular I thank the Hon. Trevor Khan, the Hon. Daniel Mookhey and Mr David Shoebridge, former member the Hon. David Clarke and then deputy chair Lynda Voltz, now a member in the other place, for their work on the committee.

The committee received the terms of reference from the Legislative Council on 19 November 2015 that in accordance with section 27 of the State Insurance and Care Governance Act 2015 the Standing Committee on Law and Justice be designated as the Legislative Council committee to supervise the operation of the insurance and compensation schemes established under New South Wales workers compensation and motor accidents legislation. That came about as part of the reforms in this area and the mandate of this House to have an ongoing supervisory role. The schemes included the Workers Compensation Scheme, the Workers Compensation (Dust Diseases) Scheme, the Motor Accidents Scheme and the Motor Accidents (Lifetime Care and Support) Scheme. In exercising its supervisory function the committee does not have the authority to investigate a particular compensation claim. Its role is one of oversight. The committee cannot delve into particular claims. Part of the supervisory function requires the committee to report to the House at least once every two years in relation to each scheme. That was part of the mandate of the original reforms.

Following on from the committee's 2017 review of the Workers Compensation Scheme, this review focused on the feasibility of establishing a consolidated personal injury tribunal for workers compensation and compulsory third party [CTP] disputes. This was reflected in the committee's resolution of 1 May 2018 in which the committee determined that the 2018 review of the Workers Compensation Scheme should focus on the feasibility of a consolidated personal injury tribunal for compulsory third party and workers compensation dispute resolution matters, as per recommendation 16 of the committee's first review of the Workers Compensation Scheme. It included where such a tribunal should be located and what legislative changes were required and focused particularly on recommending a preferred model to the New South Wales Government.

During this review the committee received evidence about the similarities between the workers compensation and CTP systems, highlighting how a single jurisdiction may provide certainty, efficiency and better streamlining of decision-making for claimants. Part of our focus was to put claimants at the centre of these schemes. So streamlining and efficiency in our view were positive things to assist with that. Some stakeholders sought reassurance that a consolidated approach would not dilute the expertise that is particular to each of those jurisdictions. We recognised that they are separate jurisdictions and have separate peculiarities but they share some commonalities also. The committee heard views about the need for the proposed tribunal to be independent, with a judicial head and an appeal mechanism, and also the need for transparency of decisions for review and for access to legal advice and representation for claimants.

There was general consensus that a judicially led, independent tribunal such as the Workers Compensation Commission was an appropriate vehicle for this jurisdiction and that it could successfully operate with two streams of expertise under its purview but operating separately and distinctly. On this basis the law and justice committee has recommended that the New South Wales Government consolidate the workers compensation scheme and the CTP insurance scheme dispute resolution systems into a single personal injury tribunal by expanding the jurisdiction of the Workers Compensation Commission but retaining the two separate streams of expertise. The committee heard evidence of stakeholders' views about the need to preserve the role of the Workers Compensation Independent Review Office and the Independent Legal Assistance and Review Service in the workers compensation scheme and how those services might be expanded to claimants in CTP insurance scheme disputes.

I will briefly reflect on the recommendations, together with the Government's response to each of them for clarity. A take-note debate on that will occur later. I note that the Government response was received by the Clerk, Mr Blunt, on 9 August 2019. I thank the Government for its timeliness in responding to the committee's report and recommendations. Recommendation 1 was that a single personal injury tribunal be established and the

Government consolidate the workers compensation scheme and CTP insurance scheme dispute resolution system into a single personal injury tribunal but retaining two streams of expertise. The Government responded that it supports in principle the establishment of a consolidated tribunal and that it will commence consultation with industry stakeholders on the operation of the model, the scope and jurisdiction of the proposed tribunal and, importantly, the provision of support for injured people, including by the proposed tribunal, and the provision of legal support, which was important to our committee. The Government also responded about aligning with core tribunal values of the Council of Australasian Tribunals, as published in the Tribunal Excellence Framework.

Recommendation 2 was that the New South Wales Government ensure that if a single personal injury tribunal is established, as outlined in recommendation 1, that it be independent and judicially led. Being judicially led was important to committee members and to those who gave evidence to ensure that it has that stringent and robust process around it—in that case that it have statutorily appointed presiding officers and, as is the usual course in that sphere, that it provides a judicial appeal mechanism and equally that it publish its decisions and allow claimants to have access to legal representation. Briefly the Government response was that it supports in principle the establishment of a consolidated tribunal with those characteristics and it will again consult with industry stakeholders in that sphere.

Recommendation 3 was that the Workers Compensation Independent Review Office be retained and preserved and that the Independent Legal Assistance and Review Service and the services to claimants in disputes be retained also, which I understand the Government supports in principle. The Government also supports the functions and services provided by the Workers Compensation Independent Review Office which has since its establishment proven to be a very useful mechanism to provide claimants with another source of information, advocacy and resolution, which is what we all want in this space. The Government supports that in principle and I understand that the Government will consult to consider the feasibility of any expansion into the Compulsory Third Party Insurance Scheme, including options for improving customer service while protecting the affordability of green slips, which this Government has made eminently affordable.

Recommendation 4 related to weekly entitlements, which has received some coverage and has been a matter of some conjecture in this area. The recommendation is that the Government assist injured workers who have lost or will lose their weekly entitlements under section 29 of the Workers Compensation Act 1987 to transition quickly to the disability support pension, where eligible, and investigate other support mechanisms for those who are ineligible for those payments. They will transition from that system. The Government has been very clear about its intention in that space. The Government has supported that recommendation that it provide assistance to injured workers who have lost or will lose their weekly entitlements under that regime.

The State Insurance Regulatory Authority [SIRA] presently provides information on its website and works directly with insurers to provide appropriate assistance to injured workers. This assistance includes vocational support services for injured workers approaching 260 weeks of weekly benefits, such as employment assistance of up to \$1,000 for an injured worker commencing work with a new employer; funding for workplace equipment or modification that may assist an injured worker return to work; covering costs associated with training to develop new skills and qualifications; financial assistance to assist with the cost of job seeking or accepting a job with a new employer; and up to \$27,400 over a 12-month period for an employer to employ an injured worker who cannot return to their pre-injury employer. All of that is designed to get people back to work in the best capacity that they possibly can and providing referrals and assurance around that.

SIRA and insurers also provide referrals to programs providing financial support, housing support, disability support and mental health support, including programs such as Ability Links, the National Disability Insurance Scheme and the Human Services Network. The committee is pleased that the Government will consider those. Recommendation 5 is that the State Insurance Regulatory Authority give consideration to resolving legislative ambiguities, including issues of back pay following the resumption of weekly payments. I understand that is supported by the Government equally and that the Workers Compensation Dispute Resolution Reform Steering Committee Review, convened by SIRA, will actively consider and identify those ambiguities.

On behalf of the committee, I thank all participants in this inquiry. The committee's regular oversight review is a valuable opportunity to engage and assess these important schemes and, as I mentioned, was part of the original agreement on the reform process to ensure that all participants have an opportunity to provide feedback to the House and to those oversighting this scheme. I thank my committee colleagues in this Chamber for their considered contributions to this inquiry and the committee secretariat for their professional support on an ongoing basis. I acknowledge and put on the record the achievements of Minister Dominello, who built on the reforms of Ministers before him. There are good intentions in this place to ensure that injured workers are provided with a robust scheme and I am pleased that the Minister has continued to do that. I thank the Hon. Greg Pearce and members of this House who worked through difficult reforms in 2011-12, sitting to the wee hours of the morning.

They did not give up on ensuring that these reforms saw the light of day. I thank them for their very hard work in this place. I commend the report to the House.

[*Business interrupted.*]

#### *Visitors*

### VISITORS

**The ASSISTANT PRESIDENT (The Hon. Shaoquett Moselmane):** I welcome to the gallery members of the public who are attending A Little Night Sitting, a program conducted by Parliamentary Education. I hope you enjoy your stay here tonight and enjoy the rest of the program.

#### *Committees*

### STANDING COMMITTEE ON LAW AND JUSTICE

#### Reports

[*Business resumed.*]

**The Hon. NATALIE WARD (17:59:59):** In reply: I thank members for their indulgence and for their support of the report entitled *2018 Review of the Workers Compensation Scheme*. I commend the report to the House.

**The ASSISTANT PRESIDENT (The Hon. Shaoquett Moselmane):** The question is that the House take note of the report.

**Motion agreed to.**

### STANDING COMMITTEE ON LAW AND JUSTICE

#### Reports

**Debate resumed from 8 May 2019.**

**The Hon. NATALIE WARD (18:00:40):** I speak as the former chair of the Standing Committee on Law and Justice. I ask that the House and honourable members take note of the committee's report No. 68 entitled *2018 review of the Compulsory Third Party insurance scheme*. This was the committee's first review of the compulsory third party [CTP] insurance scheme since legislative reforms were implemented on 1 December 2017 through the Motor Accident Injuries Act 2017. I thank the committee members for their work on the committee: the Hon. Trevor Khan; the Hon. Daniel Mookhey; Mr David Shoebridge; former member, the Hon. David Clarke; and then member and Deputy Chair, Lynda Voltz.

In accordance with section 27 of the State Insurance and Care Governance Act 2015, the Standing Committee on Law and Justice is designated as the Legislative Council committee to supervise the operation of the insurance and compensation schemes established under the New South Wales workers compensation and motor accidents legislation. As I have previously outlined, that legislation includes the workers compensation scheme, the dust diseases scheme, the motor accidents scheme and the motor accidents lifetime care and support schemes. In exercising that supervisory function, firstly, I emphasise the committee did not have power to investigate particular compensation claims but had a general oversight task and, secondly, it must report to the House at least once every two years in relation to each scheme.

This review focused on a range of matters including how the new scheme is performing in relation to the Government's stated objectives of reducing the time taken to resolve claims; making this a scheme that works efficiently to deal with claims so that people can get on with their lives; increasing the proportion of benefits provided to the most seriously injured road users so that the scheme focuses on those who need it most; reducing the cost of green slip premiums, which, of course, affects just about everybody who uses a car or is aware of some of the reforms in this place—reducing cost has been front and foremost in these reforms; and reducing opportunities for claims fraud and exaggeration, which has been a concern in relation to the scheme.

The review also looked at whether there has been a reduction in claims frequency since 1 December 2017 and, in particular, the impact of the new definition of "minor injury", among other things. As the new CTP scheme only came into effect on 1 December 2017—it seems a while ago now but at the time of the inquiry it had only been in place for just under a year—it was felt that it was probably too early to comprehensively assess the performance of the scheme against those objectives. The committee felt that it was an opportune time to carry out the review as best it could on the limited information available.

However, it appeared that there were positive signs that the new scheme was enabling a greater proportion of benefits to be paid to seriously injured road users and that processes had been put in place to support the faster resolution of claims and disputes; we get the money going where it is needed most and we get people through the system as quickly and efficiently as possible. The committee also found that there had been a substantial reduction in the cost of green slip premiums for most road users.

To ensure that the committee remains informed about the progress of the new scheme, the committee has recommended that the State Insurance Regulatory Authority [SIRA] provide its file review of the first 1,000 claims of the scheme. The committee took a comprehensive evidence-based approach to the review. The committee also recommended that SIRA expedite its work on the development and distribution of educational resources on the definition of "minor injury" and develop comprehensive criteria to measure insurer performance and publicly report this data annually. It is important to people who use and deal with the scheme that the data is available. The committee felt strongly that it was important that it measure insurer performance and ensure that the data is publicly available.

The first recommendation of the committee is that the State Insurance Regulatory Authority publish its evaluation of the CTP Legal Advisory Service provided by the scheme as soon as possible. I understand that that recommendation is supported and SIRA will publish its evaluation upon completion. The second recommendation is that SIRA provide the Legislative Council Standing Committee on Law and Justice with its file review of the first 1,000 claims. That recommendation has been supported by the Government. The third recommendation is that SIRA expedite its work on the development and distribution of educational resources. I am pleased to say that is also supported.

It currently provides information on its website for road users, injured people and their families as well as medical and allied health providers, the legal profession and insurers. That information includes fact sheets about minor injury—it is important to know what that definition is—as well as injury advice support and recovery guidelines for injured people and guidance notes for the medical and allied health profession. I understand that SIRA regularly updates and publishes case studies based on decisions of its dispute resolution services, which is important as a guide for other claimants throughout that process. It will use those as part of the educational resources on minor injury.

The fourth recommendation concerns data. SIRA worked with scheme insurers to develop a less onerous approach for insurers to provide real-time data to the authority. The committee heard evidence about the difficulty of providing updates daily and sometimes more often than daily. While real time is great in theory, sometimes it can be clunky in practice. The committee heard that information in evidence and thought that that was not necessarily providing great outcomes for claimants and should be improved. I am pleased to say that the Government has supported that recommendation and that SIRA is working with CTP insurers to ensure data and information processes are as efficient as possible without being unduly onerous. The committee was pleased to hear that SIRA has a continuous improvement program that seeks to improve the collection and quality of data and information to ensure that it undertakes appropriate regulatory and injury-prevention activities for road users. I understand that that support will be provided through the Department of Customer Service Data Analytics Centre.

The fifth recommendation was that SIRA, in consultation with the legal profession and insurers, develop comprehensive criteria to measure insurer performance in the scheme and publicly report. The committee is pleased that the recommendation is supported because it is important that, in continuing to provide a great scheme, there is a supervision and performance management framework in place that continues to be enhanced in consultation with stakeholders. I understand that a comparative performance report will be developed in consultation with key stakeholders and published on the SIRA website. The sixth recommendation is that the New South Wales Government investigate the cost of amending the Motor Accident Injuries Act 2017 to ensure that foreign tourists who are injured on New South Wales roads receive the same medical treatment benefits as Australian residents. In particular, we heard from some stakeholders about their concerns that tourists who are injured here are unable to claim and that they should be included. I understand that is being investigated.

In conclusion, on behalf of the committee members I sincerely thank all those who participated in the inquiry. The committee received comprehensive written submissions and oral evidence at the public hearings. Given the relatively short time that had elapsed since the reforms, it was interesting to hear the feedback so far. I thank members and stakeholders for their submissions. Again I thank my committee colleagues for their engagement and once again recognise and thank Minister Dominello for his achievements in this area—in particular, premium reductions—building on the reforms of those before him. CTP was not an easy area to tackle when we first came into this place but it was an unsustainable scheme that was expensive and indeed on the brink of collapse. It needed urgent reform and I thank members in this place before my time for their hard work in this

area. Again, my colleagues and I appreciate the support of the committee secretariat staff. I commend the report to the Parliament.

**The ASSISTANT PRESIDENT (The Hon. Shaoquett Moselmane):** The question is that the House take note of the report.

**Motion agreed to.**

## **PUBLIC WORKS COMMITTEE**

### **Reports**

**Debate resumed from 8 May 2019.**

**The Hon. TAYLOR MARTIN (18:10:54):** I speak to the Public Works Committee report entitled *Impact of Port of Newcastle Sale Arrangements on Public Works Expenditure in New South Wales*. This was a worthwhile inquiry that allowed a significant private proposal to be presented and for the Government to outline how it makes its decisions and where to prioritise investment. In 2014 the Port of Newcastle was leased to a private sector operator for a period of 98 years. The entire proceeds from the long-term lease were allocated towards much-needed infrastructure across New South Wales, with a substantial portion used for the revitalisation of Newcastle itself.

The revitalisation of Newcastle is now substantially complete. No longer is the railway dividing the city. A new station, Newcastle Interchange, has been constructed on the western side of Stewart Avenue at Wickham, meaning traffic now flows freely where it was previously held up by a level railway crossing. Passengers are able to interchange from trains to light rail to complete their journey into the city. The light rail has more stops and an increased frequency, meaning that travel into Newcastle by public transport is now easier than ever before. The revitalisation has also spurred significant private investment in Newcastle, which is great news. How good is asset recycling? This is the outcome. As the Government submission stated:

Proceeds from the Government's asset recycling program are supporting the Government's unprecedented infrastructure program. Many of the projects that will improve the movement of people and goods in NSW have been planned for some time but only now have been able to be delivered due to asset recycling.

At the heart of this inquiry was the proposal from the Port of Newcastle to develop a container terminal at the Port of Newcastle. My default position is to be supportive of anything that will increase private investment and jobs within the Hunter region. So when a private company comes to the Government and promises to invest around \$1.8 billion, we listen. On the surface it seems like a great proposal. Unfortunately, beyond that it does not hold up to much scrutiny. In his opening statement the CEO of the Port of Newcastle said, "I am not here today asking for public money." This assertion is true to a certain extent in that the Port of Newcastle is not seeking any direct Government investment for a container port in Newcastle. However, the fact is that a significant sum of money would need to be spent upgrading road and rail to support the new container operations at the Port of Newcastle and the Port of Newcastle would obviously be looking to the Government to finance that public infrastructure. The Port of Newcastle acknowledged as much in its submission, which stated that its container port would:

...render much of current and planned transport infrastructure investment in 'decongesting' metropolitan Sydney redundant and unnecessary, freeing up public resources and contributing to the development of an optimal freight and ports system in New South Wales.

In other words, the Port of Newcastle would be built at the expense of the Sydney Gateway, the Port Botany rail line duplication, the Maldon to Dombarton rail line upgrade and other major infrastructure projects. I am all for projects that create jobs, especially in the Hunter, but when those jobs come at the expense of existing jobs in other regional areas like the Illawarra or even western Sydney then the proposal should go back to the drawing board—especially when they require the large public spend that would be needed in this case.

The Government's submission is that any suggestion that a large number of infrastructure projects being delivered in Sydney could be deferred or avoided by having a containerised freight terminal in Newcastle does not reflect the realities of current infrastructure investment, how supply chains currently work and the impact that a new container terminal would have on landside transport networks. The committee noted in its report that it was not persuaded by the arguments of the Port of Newcastle that infrastructure investments in Sydney could be avoided or delayed due to the development of a Newcastle container terminal. Instead the committee stated in its report:

The committee believes that the impact of the ports transactions on public works in Sydney has been overstated, as these works are primarily aimed at addressing challenges associated with Sydney's growing population and the burgeoning state economy.

It is worth considering what impact a container port at Newcastle would mean to local communities across the Hunter in the context of no government funding being required, as has been asserted in submissions. What would

that mean? What would that look like? For starters it would mean that somewhere between 2,700 and 4,000 additional vehicle movements per day, and these are not small vehicles—these are B-doubles. At a minimum, an additional 2,700 B-doubles all travelling along Industrial Drive in Mayfield. That is an extra B-double every 30 seconds in addition to existing traffic.

These trucks would directly pass Mayfield East Public School and the Hunter Christian School as well as homes in Mayfield. Even if we take the optimistic view of 2,700 vehicle movements instead of 4,000, that only accounts for half of the container traffic. The rest would need to be moved by rail. One of the routes that this additional traffic would travel along would be the Sydney to Newcastle rail line through the Central Coast. The viability of this as an option was canvassed during the inquiry by Rodd Staples, the Secretary of Transport for NSW. He said:

We spent a lot of time with the Commonwealth investing in Sydney to get dedicated freight so that they can run 24 hours a day and we have that from the port into Western Sydney, and that has come with a lot of challenge but it has been able to be achieved ...

He spoke of some of the challenges of increasing freight traffic along the line:

It is a beautiful train ride but it is very challenging to sort of upgrade, invest and provide more capacity. So we are very constrained; we have got limited train paths, we run intense passenger services there, so we cannot run freight through 24 hours a day. There certainly are a number of paths in the middle of the night; obviously that presents noise issues, but it also presents the fact that the industry needs to be able to travel at various times of the day and not just be travelling in the middle of the night. So we see significant challenge in relying on that corridor from a rail point of view in the long term.

As a Central Coast resident I agree with Mr Staples that it is indeed a beautiful train ride. But I also know that one of the most frustrating things for commuters is the delays caused by freight trains that break down on the steep incline at the Hawkesbury River. Additional freight trains taking containers from Newcastle to Sydney would just be an unnecessary burden for commuters. The committee also inquired into the Government's strategy and policy regarding container ports in New South Wales. The Government's policy, planning and planned infrastructure reflects the opportunities and realities of current and projected supply chains.

This policy and planning is based on a number of key factors including—and this is a crucial statistic—that 90 per cent of container freight passing through Port Botany remains within 60 kilometres of the port itself and the fact that one million additional people will be living in western Sydney by 2036. That is important so I will say it again: A total of 90 per cent of container freight passing through Port Botany remains within 60 kilometres of the port that it departs from. For that reason, Port Botany is the most obvious location for the Government to concentrate its investment in infrastructure to support container operations, with Port Kembla providing for any overflow due to its proximity to where the demand is.

The Government must ensure that there is certainty in the sector, which provides confidence for investment. It is that certainty which has meant that there has been considerable private investment in freight operations around Sydney. The Government submission highlights some \$3.5 billion worth of investments. As I said earlier, this was a worthwhile inquiry that examined issues relating to the Port of Newcastle container terminal proposal as well as the port commitment deeds which formed part of the Port of Newcastle, Port Botany and Port Kembla transactions. Ultimately the inquiry showed that this was a case of much ado about nothing, with the inquiry finding:

That the limitations on Newcastle container port operations following the ports transactions have not significantly impacted expenditure required on transport infrastructure projects in Sydney.

I commend the report to the House.

**The ASSISTANT PRESIDENT (The Hon. Shaoquett Moselmane):** The question is that the House take note of the report.

**Motion agreed to.**

## **PUBLIC WORKS COMMITTEE**

### **Reports**

**Debate resumed from 8 May 2019.**

**The Hon. TAYLOR MARTIN (18:21:40):** I speak on the Public Works Committee's report entitled *Scrutiny of public works in New South Wales*. I thank the Hon. Robert Brown for his chairmanship of the inquiry. The committee received four submissions from the Institute of Public Works Engineering Australasia, the City of Sydney, Professionals Australia and the New South Wales Government. The committee made one recommendation that the Legislative Council re-establish the Public Works Committee in the Fifty-Seventh Parliament. I am very pleased to see that the recommendation has been adopted.

**The ASSISTANT PRESIDENT (The Hon. Shaoquett Moselmane):** The question is that the House take note of the report.

**Motion agreed to.**

## STANDING COMMITTEE ON LAW AND JUSTICE

### Reports

**Debate resumed from 8 May 2019.**

**The Hon. NATALIE WARD (18:22:49):** I speak in debate on the report of the Legislative Council Standing Committee on Law and Justice report entitled *2018 Review of the Dust Diseases Scheme*—its second review of the dust diseases scheme since icare assumed administrative responsibility for the scheme through its service line, Dust Diseases Care. I thank the committee members—the Hon. Trevor Khan, the Hon. Daniel Mookhey and Mr David Shoebridge MLC—for their participation. I also thank former member the Hon. David Clarke and the then member and then Deputy Chair, the Hon. Lynda Voltz, for their work on the review. The inquiry was part of the reforms brought into this space. In 2015 the terms of reference that were referred to the committee for oversight were that the Standing Committee on Law and Justice be designated as the committee to supervise the operation of the schemes established under the legislation: the workers compensation scheme, the dust diseases scheme, the motor accidents scheme and the motor accidents lifetime care and support scheme.

I emphasise that the supervisory function does not include the ability to investigate particular compensation claims and that the committee must report to the House at least once every two years on each scheme. The dust diseases scheme has its own jurisdiction and court. That is indicative of the importance of this area. The committee was well aware of that in the inquiry. Evidence received by the committee suggested the scheme seems to be performing well and is providing personalised care and support to past and present workers with dust diseases, as well as to their families. This was at the time the scheme was reviewed.

While the scheme's operative performance seems to be sustainable, some concerns were raised with the committee that silicosis is a serious emerging health issue, particularly in the manufactured stone industry. We are aware of that in the committee's present inquiries, which this review led to. To ensure that the issue is accorded priority in New South Wales, the report recommended that icare and SafeWork NSW conduct a case-finding study for silicosis with a focus on the manufactured stone industry and that the New South Wales Government urgently undertake targeted awareness and education initiatives into the dangers associated with working with those materials.

Given the importance of this issue the committee recommended that the next review of the dust diseases scheme, which is presently underway, focus on silica dust and silicosis, particularly in the manufactured stone industry. That is exactly what is happening now. In this inquiry, stakeholders noted that the implementing a dust diseases register is an important priority. While a national register is the optimal solution—and I understand States are taking steps to work towards that—the report recommended that if a national register is not established by the end of 2019, then New South Wales should establish its own register. I will briefly reflect on the recommendations together with the Government responses to each of those to update the House. Recommendation 1 states:

That icare and SafeWork NSW conduct a case finding study for silicosis in the manufactured stone industry in New South Wales.

The Government recognised committee and stakeholder concerns that silicosis is a serious emerging health issue and that steps need to be taken to actively look for cases of silicosis. The Government response was that icare will work with government agencies to determine the best way of identifying instances of silicosis in the manufactured stone industry. Recommendation 2 states:

That the Standing Committee on Law and Justice's next review—

which is presently underway—

of the Workers Compensation (Dust Diseases) Scheme focus on silica dust and silicosis ...

This was supported by the Government and is presently being undertaken in the manufactured stone industry. Recommendation 3 states:

That the NSW Government urgently undertake targeted awareness and education initiatives into the dangers associated with the manufactured stone industry, including a focus on non-English speaking background workers and employers.

It was important for us to identify the gaps in education and communication with people utilising these products. I am pleased to report to the House that the Government supported that recommendation and that agencies have been undertaking activities and will continue to do so in the manufactured stone industry. The Government will utilise the capabilities available through the Department of Customer Service Behavioural Insights group and

other services such as Service NSW to ensure that the awareness and education activities are appropriately targeted to particular industries.

SafeWork NSW and icare have worked with the manufactured stone task force to improve awareness into the dangers associated with working with silica-containing products including manufactured stone. SafeWork NSW has a five-year chemical strategy until 30 June 2022 consisting of four components for SafeWork NSW intervention: awareness, interactions, research and legislation. We are very pleased to hear that the project has included public awareness and road shows. The present committee inquiry will make an assessment of the effectiveness and room for improvement in the undertaking. Recommendation 4 states:

That, if a National Dust Diseases Register is not established by the end of 2019, the NSW Government establish a New South Wales Dust Diseases Register.

The Government supported that in principle, which is pleasing. The committee had evidence from medical professionals which supported the view that we would be assisted by such a register. Recommendation 5 states:

That icare review the past two years of medical assessment decisions made by the medical assessment panel to check for consistency and conformity with current medical evidence and ensure that international best practice is being followed.

The Government supported that recommendation in principle. Recommendation 6 states:

That the State Insurance Regulatory Authority liaise with key stakeholders, including the Thoracic Society of Australia and New Zealand, regarding updating of the list of dust diseases contained in Schedule 1 of the *Workers' Compensation (Dust Diseases) Act 1942* ...

There are a number of other recommendations. I will speak briefly on those but they have been supported in principle. Recommendation 7 states:

That the NSW Government make a regulation that the payment of reasonable funeral expenses in the Workers Compensation (Dust Diseases) Scheme be increased to not exceed \$15,000, in line with the Workers Compensation Scheme statutory maximum.

That has been acknowledged. Recommendation 8 states:

That the NSW Government, through the Council of Australian Governments, liaise with the Commonwealth Government to ensure that periodic compensation payments paid to Workers Compensation (Dust Diseases) Scheme participants are not treated as income by Centrelink ...

We heard some evidence and that recommendation was also supported in principle. In conclusion, on behalf of the committee members I sincerely thank all those who participated in the inquiry via written submissions and oral evidence at the public hearings. I was appreciative of the support, particularly by the secretariat staff. I commend the report to the Parliament.

**Debate adjourned.**

**The ASSISTANT PRESIDENT (The Hon. Shaoquett Moselmane):** I will now leave the chair. The House will resume at 8.00 p.m.

### *Bills*

## **ELECTORAL FUNDING AMENDMENT (LOCAL GOVERNMENT EXPENDITURE CAPS) BILL 2019**

### **Second Reading Debate**

**Debate resumed from an earlier hour.**

**Mr DAVID SHOEBRIDGE (20:03:35):** The Greens support the Electoral Funding Amendment (Local Government Expenditure Caps) Bill 2019. There is no question that the current legal framework for local government electoral expenditure is amateurish, inconsistent, unprincipled and unworkable. The Greens welcome spending caps for local government elections and support the implementation of these reforms. We also appreciate that this has been a collaborative approach. Indeed, the way this bill has been delivered and the consultation that went into it is a useful model for how laws can be made. The Greens fundamentally believe that ideas, local connections and community engagement should be the driving force behind local council elections, not money. However, there must be sufficient capacity to produce materials and engage with local residents to allow ideas to be communicated.

That is not just a political belief. It recognises the constitutional limitation on restricting political communication in election campaigns. There are clearly some fixed costs that all candidates are likely to incur. As campaigns scale up to meet the needs of larger council wards there are then some economies of scale that can be achieved in producing campaign materials. Caps that are set too high will inevitably favour wealthy candidates with wealthy donors and/or corporate support. This can happen to the detriment of local democracy and the ability



of communities to be competently and relevantly represented. A party's expenditure is aggregated and needs to be aggregated with the expenditure of any endorsed groups or candidates.

The proposed caps in this bill range from \$6,000, where the number of electors for a local government area [LGA] ward is 5,000 or fewer, to \$10,000, where the numbers range from 5,000 to 10,001 electors, all the way through to \$72,000 where the number of enrolled electors for the local government area ward is more than 125,000 electors. It is the kind of graduated scheme that The Greens presented as amendments when the current unworkable provisions were rammed through this Parliament at the end of last year. From the perspective of The Greens, the proposed caps in the bill are broadly supportable, although we would support them being lower. We accept that we have achieved a broad consensus and we will not move amendments to the bill to lower the caps, despite believing that in a number of cases they should be lower.

Detailed reports will be necessary following the September 2020 council elections in order to judge how this worked in practice and whether our theories and proposed architecture worked. We raised concerns in our submission about the possible risk that mayoral allocations would allow some candidates to effectively buy councillor positions by deploying significant resources in mock mayoral campaigns that are really intended to secure ordinary councillor positions. The 25 per cent increment for each additional ward I believe recognises the fact that there are additional costs for running a mayoral campaign but it does not provide such a significant increase that it will be an excessive incentive for false mayoral campaigns designed solely to increase the gap for political expenditure. There will need to be a close review after it is tried and tested at the September 2020 council elections.

It will be useful to understand the number of mayoral candidates in comparable councils that stood at the last election compared with the numbers for the 2020 election in order to determine if there was an intention to abuse the cap by way of double dipping. The cap on third-party campaigners is set at one-third of the applicable cap for that ward or LGA applying to candidates or groups of candidates. This reflects the right of community groups, organisations such as unions, and other NGOs, among others, to have a say in local elections. It limits this influence to ensure that no one third party can effectively buy a local council election. We will see if the measure of one-third is the appropriate measure in a review following the September 2020 council elections. Based on the material presented to date and following discussions across the Parliament, the fact that we have managed to land on a figure that has broad consensus is a genuine achievement. Again, let us see how it works in practice.

It is a pity that we did not have more time to consider the amendments moved by my party the last time we were discussing this. We could have tried to put in place a sensible arrangement rather than the ridiculous one that the Government put forward for council elections last year. Last year was an example of how to do it badly. In fact, the legislation that the Minister's predecessor presented was utterly contemptuous of local government, with discrepancies in electoral expenditure. In a very small remote or rural council area the expenditure cap was something in the order of \$100 per elector whereas in the City of Sydney it was 21c per elector. It was contemptuous of local government. It was not even a pretence that they were making legislation fit for purpose. I have to say I think this legislation is fit for purpose and The Greens will be supporting the bill.

**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) (20:10:34):** In reply: I start by paying tribute to the Hon. Dr Peter Phelps and the members of the Joint Standing Committee on Electoral Matters that produced the report which is the basis of the legislation. A number of honourable members have been kind about the consultative approach that my office has taken to this legislation. But to be fair and forthright about the position, we stand on the shoulders of some really fine work that was done by the Hon. Dr Peter Phelps, in consultation with a number of members who participated in the process, including Mr David Shoebridge and representatives from all the parties. I was not one of them.

I am pleased that the Joint Standing Committee on Electoral Matters is working well. The record will show that I called for a joint standing committee on electoral matters in my inaugural speech. I had the great pleasure of being part of the motion moved in this House to set it up. It was initiated in this House, not in the other place, even though it is now administered by the other place as a joint standing committee. But I am pleased it went well. I thank honourable members, particularly the Hon. Walt Secord and Mr David Shoebridge, for their thoughtful contributions. Reverend the Hon. Fred Nile gave his usual succinct and on point contribution as well, which we also appreciate. I particularly commend the work done by the Department of Premier and Cabinet legal team, who assisted in this process and provided me with high-quality advice over the period of the drafting of the bill. I certainly believe that the proposed changes will further the objects of the electoral funding scheme of fairness and transparency. To borrow the phrase of Mr David Shoebridge, they are fit for purpose as well. I commend the bill to the House.

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

**Motion agreed to.**

### **Third Reading**

**The Hon. DON HARWIN:** I move:

That this bill be now read a third time.

**Motion agreed to.**

## **ELECTORAL FUNDING AMENDMENT (CASH DONATIONS) BILL 2019**

### **Second Reading Debate**

**Debate resumed from 16 October 2019.**

**The Hon. WALT SECORD (20:14:31):** In my capacity as the shadow Special Minister of State, I lead for the Opposition in debate on the Electoral Funding Amendment (Cash Donations) Bill 2019. This bill amends the Electoral Funding Act 2018 to make it unlawful for a person to make or accept a political donation of more than \$100 in cash. In its recent report the Legislation Review Committee noted that the intention of the bill was to improve the traceability and transparency of donations, promote compliance and improve the integrity of the electoral system, all of which I agree with.

In the spirit of bipartisanship, I again acknowledge the courteous and prompt briefing on the legislation provided by the Special Minister of State's ministerial staff, especially Mr Jack Pinczewski and the departmental staff. It was concise and appropriate. Furthermore, I acknowledge the comments of the Special Minister of State in his second reading speech on 16 October when he stated that the changes proposed in these amendments will make it easier to trace and account for significant political donations, thus removing potential opportunities to disguise their true source.

This is to be supported, as it is important to strengthen the ability of the Electoral Commission to identify potential contraventions of the disclosure requirements, caps on donations and prohibited donor provisions. Improving the traceability and transparency of donations should make it harder to mask the source of a significant political donation. In his second reading speech the Minister explicitly mentioned the Independent Commission Against Corruption ongoing investigation into allegations concerning political donations, known as Operation Aero, as being a key motivator for the Government to create and pass this amending bill.

As shadow Special Minister of State and as a member of Parliament, I am unequivocal in denouncing corruption, including the kind of corrupt behaviour associated with political donations that we have seen emerging from the ICAC recently. My denouncement is a matter of public record. I have been forthright in my comments about the activities of the former General Secretary of the New South Wales Australian Labor Party, and do not step away from them. Furthermore, I support the tough stand taken by NSW Labor leader Jodi McKay, and Federal leader Anthony Albanese, on the activities of the former general secretary. Ms McKay has previously proven herself to be strong against corruption, standing up against it when she was the member for Newcastle, so it is not surprising that she takes an uncompromising stance while leading the New South Wales Labor Party.

On 17 October Ms McKay said Kaila made a terrible error of judgement and that she has no further future in the Labor Party. She also went on to say:

I am outraged on behalf of our thousands of loyal, decent party members that it has been such a drawn-out process.

Federal Labor leader Anthony Albanese captured the sentiment of rank and file individuals on 13 October when he said:

... there is something fundamentally wrong when people running a political party office think it's normal to behave this way. Party officials have let the party membership down.

That is why I also support the review into the position of the General Secretary of the New South Wales branch of Australian Labor Party by the former Federal Attorney-General Michael Lavarach. I know that there are some who were uncomfortable about the comments of Jodi McKay and Anthony Albanese, but if we are to restore confidence we have to face what happened. I am also reassured by the appointment earlier this week of Mr Bob Nanva as the General Secretary, and I offer him my support. We also want to have a robust Independent Commission Against Corruption that is investigating allegations into political donations. I was very disappointed this morning to discover that there has been a \$4 million cut to the commission.

On that note I acknowledge that on 18 September the Leader of the Opposition gave notice of a bill to amend the New South Wales Ministerial Code of Conduct to prohibit property developers from serving as Ministers and parliamentary secretaries. If the Berejiklian Government is serious, it will support the bill when it

comes on for debate in the Legislative Assembly later this month. I urge the Premier to support it. In his second reading speech, the Special Minister of State stated:

The Electoral Funding Act 2018 already establishes a rigorous framework for political donations ...

The Act already prohibits donations from property developers and tobacco, liquor or gambling industries. Strict penalties already apply to those who contravene the Act, including those who deliberately seek to circumvent the caps on donations, prohibited donor provisions and disclosure requirements. I understand that Canada, which has had an election today, caps political cash donations at \$20. I also understand that there is some speculation about reducing the amount to \$50. I think \$100 is appropriate but if there is discussion about that, I am willing to consider any proposed amendments. Accepting a cash donation in contravention of new section 50A of the Electoral Funding Act 2018 will carry a maximum penalty of \$44,000 or imprisonment for two years, or both. Furthermore, penalties for attempting to circumvent the rules governing the political donations process could also apply, resulting in a maximum of up to 10 years in prison.

In conclusion, Labor does not oppose the changes to the Electoral Funding Act. As I said earlier, the reforms strengthen the ability of the NSW Electoral Commission to identify potential contraventions of the disclosure requirements, caps on donations and prohibited donor provisions and improves the traceability and transparency of donations. It makes it harder to mask the source of a significant political donation, which is to the benefit of transparency and accountability in all political parties. In the fullness of time I hope that the Government is able to make announcements involving real-time disclosures of donations but that is a matter for the Government. I thank the House for its consideration.

**Mr DAVID SHOEBRIDGE (20:21:42):** The Greens have a longstanding position of opposing single-use plastic bags, which is why we support corporations like Aldi and others that have multiple-use bags. For the record, it is not only the nature of the bag that is important but also what is in it. That is why The Greens are supporting the Electoral Funding Amendment (Cash Donations) Bill 2019, which will make it unlawful for a person to make a political donation in cash that exceeds the value of \$100.

I particularly note the work of Lee Rhiannon and Dr John Kaye—two Greens MPs who both worked for years to clean up the political donations culture in New South Wales. I credit Lee Rhiannon, in particular, with putting on the agenda the corrupting influence of property developer donations and eventually getting this Parliament to move—admittedly after she left the Parliament—to prohibit property developer donations. I credit the work of John Kaye, in particular, in expanding those prohibitions to the for-profit gambling industry. I know he would also have liked to pick up registered clubs as prohibited donors, and I joined with him in that wish. But he succeeded in prohibiting the for-profit gambling, tobacco and alcohol industries from contributing funds to political parties. We know that so much of their corporate profit depends upon the regulatory activity done by this Parliament. We cannot allow those kinds of interests to literally buy the best democracy they can get.

In the most recent ICAC hearings those efforts to ensure transparency and impose limits on the corrupting influence of sectors of the economy, like property developers and gambling interests, have been proven to be ineffectual or hard to enforce when the system also allows for large, untraceable cash payments. The evidence before ICAC indicated that assertions are made in signed declarations that X thousand dollars was from a particular individual. In some cases I feel extremely sorry for the waiters and staff at restaurants that have obviously been set up and put in those impossible situations, facing humiliation and shame, when we know what is happening. There is an appalling power dynamic between them and their employer. They are literally carrying the can for the principals in those transactions. We should not only focus our media resources and political wrath on those principals but also focus serious criminal investigations on them to put those kinds of people behind bars.

We have seen the use of cash as a way of subverting those prohibitions and subverting transparency. It is surprising that the Act has not had a provision of this kind before now. I do not know the explanation for that. I do not think there has been a conspiracy of silence; we have simply not turned our collective mind to the corrupting way in which cash can be used. Now we are doing so. I commend the work of Lee Rhiannon. I commend her bravery in putting these issues on the political agenda. I commend the work of my former colleague Dr John Kaye in continuing to press the case. Obviously there is still work to be done.

As I said in an earlier debate, ensuring that our laws remain robust or fit for purpose will be a never-ending struggle because money wants to find a way to subvert these laws. Power and influence will look constantly for ways to subvert whatever regime we put in place. For the moment we are closing a cash loophole. Maybe we will come back in two years and be closing a bitcoin loophole, or maybe bitcoin will blow up—I do not know—but money and influence will be looking for fresh ways to be heard and to have an influence that is the antithesis of democracy. The Greens support the reforms but we also support constant vigilance in the area.

**The Hon. ANTHONY D'ADAM (20:27:02):** I make a brief contribution to the debate on the Electoral Funding Amendment (Cash Donations) Bill 2019 primarily to seek clarity about its operation. In particular, I seek

clarity on how the provisions interact with the requirements in relation to aggregation and the relevant disclosure period. In his second reading speech the Minister said:

The \$100 limit allows for political donations to continue to be made in certain circumstances where a non-cash alternative might not be feasible, such as buying raffle tickets at a fundraising event. The prohibition will not affect the application of existing provisions in the Act, which ensure that multiple donations from the same source are to be aggregated for the purpose of the caps on donations and disclosure requirements.

The Minister continued:

The current aggregation provisions will continue to apply to cash donations, subject to the existing exemption in section 57 of the Act for certain small donations of \$50 or less.

My concern is that it is unclear whether it is possible for a person to make a cash donation of \$100 within a disclosure period and then, still within that disclosure period, to make another cash donation. I hope that the Minister is able to clarify how the bill will apply in those circumstances.

**Mr JUSTIN FIELD (20:28:40):** As we have heard, the Electoral Funding Amendment (Cash Donations) Bill 2019 amends the Electoral Funding Act 2018 to prohibit the making or acceptance of political cash donations that exceed \$100. Members know where the bill comes from. It is a response to the revelations in the media of a \$100,000 illegal cash donation made to the Labor Party. Mr David Shoebridge stole my joke from budget estimates about Labor's plan to reduce single-use plastic bags by using them twice. That may be a joke, but it is no joke to the people of New South Wales.

They are sick and tired of these issues dragging the political process through the mud, ruining any hope they had that the activities of political parties in this State were turning around. It has been repeatedly demonstrated that people are here to serve their own political interests and serve vested outside interests in the public space. I recognise the contribution of Mr David Shoebridge and significant gains have been made in this policy area, mostly by The Greens. I acknowledge that and hope I played a small role previously as a member of The Greens in advancing these issues.

At the end of the day what happened was that it was an illegal donation made by a prohibited donor. It was above the cap, it was not disclosed properly and it was not recorded properly. This law does not change the cultural problems within political parties. I recognise this is subject to an ICAC inquiry and I do not know any of the specific facts other than what have been reported in the media. How do you work for an organisation where a handful of people, maybe 10 or more, know that this has happened and it takes a corruption inquiry at the highest level for it to come out. It says something about an organisation. But this is not something that has not come up before.

This is a political response from the Government to a political problem. I understand there will probably be unanimous support in the House, partly because it cannot be argued against. But we have been through inquiries over the last few years about this issue. An expert panel into political donations considered the previous round of ICAC inquiries. One of the paragraphs in that expert panel's report talks about Mr McCloy and what he said to the ICAC. The ICAC heard that Mr McCloy gave envelopes containing \$10,000 in cash to Newcastle MP Tim Owen and Charlestown MP Andrew Cornwell. The ICAC also heard that Mr McCloy gave \$1,500 to Swansea MP Garry Edwards.

Members will recall the media at the time reporting the cash was in a brown paper bag handed through a window in the case of at least one of those MPs. They were Liberal MPs. We did not have this sort of response back then. An expert panel was convened to consider how the ICAC revelations should inform our consideration of reforming this area of the law. There was a response from the panel and the Joint Standing Committee on Electoral Matters considered those recommendations and the Government response. It did not recommend introducing a cash limit or a cash ban. It recommended a heap of other things which have not been implemented in law in New South Wales.

What is more interesting about this legislation is what is not in it and what could make a real difference to improving the lot of the political class in New South Wales in the public's mind. We need to improve the public's expectation that they can trust the system of political donations and election funding and the conduct of elections. The expert panel recommended moving to real-time disclosure of political donations. That was supported in principle by the Government. The expert panel's specific recommendation in 2014 was that online, real-time disclosure of political donations of \$1,000 or more be introduced for the six-month period before an election. The Government supported that recommendation in principle. That was in 2014.

The inquiry by the Joint Standing Committee on Electoral Matters that considered the panel's recommendations and the Government's response found, after talking to all of the stakeholders in New South Wales, that there was "broad support for this recommendation from various stakeholders". The panel further found that the "NSW Electoral Commission says this recommendation, if implemented, will allow the commission to

perform certain activities more efficiently and Unions NSW suggests that real-time reporting of donations is the best way to regulate donations and prevent corruption."

It is now 2019. We have had another election. We will have a local government election next year and a State election not long after that. We are nowhere on real-time donations. Given the very narrow long title of the bill, I have indicated to other parties that I would seek a direction to the Committee of the Whole to consider amendments to move towards real-time disclosures in New South Wales. In discussions with the Government I have been informed there are plans to announce a move to real-time disclosures. I ask the Minister to clarify in his response what that will entail and confirm to the House and the people of New South Wales that there will be a program of real-time disclosures in New South Wales before the 2023 State election. If that is the case, I am happy to hold firm on my amendment and I look forward to that important reform, which will have a much bigger impact on the efficacy of the next State election in New South Wales.

**Reverend the Hon. FRED NILE (20:35:25):** I support the Electoral Funding Amendment (Cash Donations) Bill 2019. The bill amends the Electoral Funding Act to prohibit the making or acceptance of political donations in cash exceeding \$100. I support the bill and its proposition about the \$100. But the question in my mind is whether that figure of \$100 is realistic. Does it take account of the deviousness of human nature, as we have seen with the controversy over the \$100,000 cash donations to the Labor Party? Will this legislation stop people with those human weaknesses from finding a way around the bill? I hope so, but it means the ICAC has to be vigilant in ensuring the bill is supported in spirit and in activity as well.

The bill before the House establishes a comprehensive framework for political donations, including caps on donations, disclosure requirements and prohibited donor provisions. For example, the Electoral Funding Act says the maximum donation a single donor can make in one year to a registered party is \$6,400. Political donations of \$1,000 or more are required to be disclosed to the NSW Electoral Commission. Donations from property developers and members of the tobacco, liquor and gambling industries are banned. I remember the debate we had on amendments to previous legislation to include those categories that were banned from making donations.

I moved an amendment to the legislation to include donations from the brothel industry—the prostitution industry—and I was disappointed when on that occasion the House voted against that amendment. I still do not understand why some people were so strong in opposing that amendment. It made me question whether hidden donations are going to political parties from the brothel and prostitution industries, which have hundreds of thousands of dollars going through them daily from the many brothels operating in Sydney, both legal and illegal. I still believe that the brothel industry should be added to the banned list of the tobacco, liquor and gambling industries.

Prohibiting cash donations of more than \$100 will make political donations more traceable and transparent. That is what the Government and the ICAC hope but I believe individuals intending to circumvent this will find a way around it. That is why the ICAC and other bodies must remain vigilant. The political parties receiving donations have to make sure that staff handling those donations are totally trustworthy. We saw in the previous debacle with large donations that party officials were well aware of what was happening and cooperated in that. There must be a very high standard in every political party about the staff who are in the category of receiving and recording donations.

A contravention of the proposed prohibition will be an offence under the Electoral Funding Act, which carries a maximum penalty of \$44,000 or imprisonment for two years or both. Hopefully that might be a deterrent but they have to be caught. The penalties are consistent with maximum penalties for comparable offences with respect to prohibited donations. The offence in the Electoral Funding Act for schemes to circumvent the political donation requirements of the Act, including the proposed cash donations provision, will continue to apply. That offence carries a maximum penalty of up to 10 years in jail. I have goodwill towards the legislation but human nature being what it is we will have to be vigilant to ensure that the legislation works. I support the bill.

**The Hon. JOHN GRAHAM (20:40:42):** I will contribute briefly to debate on the Electoral Funding Amendment (Cash Donations) Bill 2019. I will not canvass it at length as we are in the expert hands of my colleague the shadow Special Minister of State. I will confine my remarks to my strong support for the bill. I have been a supporter of some of the reforms in the past. I believe tight regulation in New South Wales around these matters is important for one reason only: It goes to public trust about democracy. That is fundamental. It is very hard to rebuild when that trust has been shattered. All political parties are conscious of it when dealing with these issues.

I place on the record that I am a strong supporter of the measures. I have advocated for some of them in the past as a party official and I am happy to do so now as a parliamentarian for the specific measure to take cash out of the system in the modern world. Given the way in which transactions now can easily occur, there is simply

no reason to not have traceable means for much of the money that comes into the political system. I support the comments that my colleague has made in speaking to the bill. I commend the bill to the House.

**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) (20:42:27):** In reply: I thank honourable members for their contributions to the debate. An appropriate place to start is the contribution of Reverend the Hon. Fred Nile. He made the most important point of all: If someone sets out to game the system there is not very much we can do in terms of legislation. We can try but it is hard to shut every loophole. Members who were not here during the contribution of Mr David Shoebridge would not have understood how The Greens have managed to single-handedly—irony added for the benefit of *Hansard*—fix the problem all by themselves. They have had no help whatsoever from anybody else. They seem to have forgotten Reverend the Hon. Fred Nile.

**Reverend the Hon. Fred Nile:** I'm the unmentionable.

**The Hon. DON HARWIN:** I moved to set up an inquiry of which Reverend the Hon. Fred Nile was the chair and I was the deputy chair between 2000 and 2011. That is when we kicked it all off by shining the light on the issue. The Greens seem to have overlooked the role of the Joint Standing Committee on Electoral Matters, chaired by the former member for Lakemba Robert Furolo. I served on that committee as well. The Greens forgot the brave stand by Premier Rees in taking on people who did not want change. That all seems to have escaped Mr David Shoebridge. Nevertheless I will not labour the House with a long lecture in the recent history of electoral funding. Reverend the Hon. Fred Nile made a reasonable point: People have to want to do the right thing.

It will always be difficult to deal with people who are determined to game the system and do the wrong thing. We have tried. We have come up with a system that we are now making increasingly more complex to deal with those loopholes. The bill is another move forward. I have avoided the temptation to make a political point in the debate because it is the right thing to close this loophole and make the system more transparent and traceable, as I have said on a number of occasions. It is a small but necessary reform to strengthen the integrity of the system. I think it is worthwhile.

Two matters were raised in the debate which I will comment on. The Hon. Anthony D'Adam raised the issue of aggregation. The reality of the bill is that none of the provisions relating to caps or aggregation is altered. The principal purpose of the Act is to recognise that not everyone can make a donation through a cheque or credit card. We should still allow for cash because we are not yet in a cashless society. In order to have a high-quality legislative regime the bill says that if ever a donation is to be given in cash it can never exceed \$100 at a time but there is no change to the aggregation or cap in the disclosure period.

Presuming the donation is as high as it can be under the \$100 and if more than 10 of them are made, then they become a reportable donation, which is aggregated and has to be declared. If a large number of them are made, then they have to become reportable and they cannot exceed the cap of \$6,400 in one year. Some people might say that perhaps is curious. But the reality is that the laws will have to have a balance because they have to be capable of being administered and enforced. Trying to have a different regime for cash in relation to aggregation or the total cap during the disclosure period would make the bill too complex and too difficult to administer.

The Government has sent out a signal about what is unacceptable. Equally we are not making a change to the exemption about the \$50 donations that the honourable member referred to in his contribution. We have had to strike a balance and I believe it is a balance that everyone can live with. At the end of the day we have to be a little practical about how the laws work. I think that is the best way to go. Mr Justin Field raised the issue of online disclosure, of which I have always been a fan. During that period, which I referred to earlier, when Reverend the Hon. Fred Nile chaired a committee upon which I served, under my own steam I made a very intense examination of the laws in Canada. Many of our laws are in many respects based on the laws in Quebec, the Quebec model.

**The PRESIDENT:** Order! If members wish to have a loud discussion they can take it outside the Chamber.

**The Hon. DON HARWIN:** Canada has a premium on so-called real-time disclosures and I am a fan of it. It is not my role to give my personal opinion; it is my role to put this bill through the House. But Mr Justin Field raised it and so I say this. The reforms that are being dealt with tonight are complemented by steps currently being taken by the Electoral Commission to develop an online disclosure system, including a portal for political participants to make their disclosures of political donations and expenditure themselves. When implemented, an online portal and enhanced disclosure system will allow for enhanced timely publication of political donation disclosures.

I heard what the honourable member said and I accept that some of the observations he made are valid but he should be assured that it is budgeted for. The Electoral Commission has the allocation and I am advised that the procurement is imminent and at an advanced stage in terms of pushing the button to go on procurement. I have absolutely no doubt whatsoever that it will be in place before the next State election. Mr Justin Field should take that assurance because that is the advice I have had from the Electoral Commissioner. With those two observations about matters raised in debate, I thank honourable members for their contributions and commend the bill to the House.

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

**Motion agreed to.**

### Third Reading

**The Hon. DON HARWIN:** I move:

That this bill be now read a third time.

**Motion agreed to.**

## FINES AMENDMENT BILL 2019

### Second Reading Debate

**Debate resumed from 16 October 2019.**

**The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (20:52:58):** In reply: I thank members for their contributions to the second reading debate on the Fines Amendment Bill 2019. The fines system plays an integral part in our community to enable offences to be efficiently dealt with outside the court system. The New South Wales Government is committed to ensuring that our fines system is modern and easy for people to interact with. To that end, the bill makes five key improvements to the fines system, which remove outdated and inefficient provisions to better support a system built for our customers in the twenty-first century. I discussed these improvements in the second reading speech and now turn to the issues raised in the second reading debate.

The Hon. Daniel Mookhey indicated that Labor would not oppose the bill. I thank him for his contribution and first address some general observations made by him and his colleagues. The first of those was about economic modelling of reforms, which the Hon. John Graham also raised. The member asked for economic modelling regarding the bill's impact on revenue. Let me assure the House that the reforms in this bill are not driven by revenue considerations; they are about making it easier and simpler for people to deal with their fines. Making it easier for people to pay off their fines and not avoid paying altogether could have a positive revenue impact.

The Government makes no apology for introducing measures that will help people to pay off their fines. However, because the bill is also designed to avoid fines escalating to the enforcement stage, for example, through expanding time to pay arrangements, we could see a reduction in the additional enforcement costs that would otherwise flow to the State. So either way there may be revenue impacts but overall we expect the financial impact on the State to be negligible. The key point is that the bill is not about revenue. It is about the customer experience and making it easier for customers and saving them enforcement costs.

The final query raised by the member was in relation to consultation. The reforms in the bill arose out of a project in 2017-18 to improve the penalty notice system in New South Wales. The project was led by a steering committee of government and non-government bodies. Two community organisations, Youth Off The Streets and the Shopfront Youth Legal Centre, were represented on the committee. The NSW Council of Social Service, the Law Society of New South Wales and the NSW Legal Assistance Forum were also consulted. In September the Minister for Customer Service met with Community Legal Centres NSW to discuss their observations on the bill. The Minister and I thank them for their interest and feedback on the bill.

I now address the issues raised by them and the member on specific elements, firstly, electronic service. At present penalty notices and other associated documents can only be sent electronically by email or text message, that is, the document must be in the email or text or attached to it. The bill broadens the electronic service of penalty notices and associated documents to make available the type of service that is available to people who pay utility bills where a person is notified of the bill and then views it by logging onto a secure portal. As with the existing provisions for electronic service, a person must voluntarily agree to the use of this service. The bill provides for electronic service through an online system that allows customers to securely access and view the document—for example, through the Service NSW mobile app or a customer's MyServiceNSW account, which can be accessed through the Service NSW website.

The bill will enable a document to be served by sending the customer a penalty notification. For example, a customer could receive a short email, mobile text message or app notification alerting them that they have received a penalty notice and how they can access it. The member alluded to concerns raised by the Community Legal Centres NSW that those who are vulnerable or disadvantaged may have difficulty receiving and accessing documents sent electronically. That is why I stress that electronic service will continue to be used only on an opt-in basis, where a customer has consented. In implementing these electronic service systems, we will work hard to make sure customers make informed decisions and choose a method of service that is right for them.

The member suggested that the proposed additional methods of electronic service may be vulnerable to scams. I reassure members that the New South Wales Government is working across agencies and jurisdictions to protect people against scams that impersonate government agencies. Revenue NSW and other agencies regularly use their communication channels to warn and educate the community about such scams, what they look like and how to report them. Law enforcement and cybersecurity agencies then work behind the scenes to combat the criminals creating these scams. The bill modernises the legislation to keep up with technology and allow methods of electronic service that can be more secure and convenient. But ultimately this will only be used with the customer's consent.

The next specific element is about simplifying options to dispute a penalty notice after enforcement. The bill streamlines processes for customers to dispute liability for a penalty notice even after enforcement. Currently the dispute options are limited to seeking an annulment, which is only allowed on strict grounds. It is estimated that this reform would result in a reduction of approximately 1,000 matters being referred to the Local Court. This estimate is based on an expected significant reduction in annulment applications refused under the current provisions and appealed successfully to the Local Court on the grounds that the fine recipient was not responsible for the offence or otherwise should not have been issued with a penalty notice. Under the new provisions the commissioner will be able to withdraw the enforcement order in these circumstances. In addition, combined with other amendments making it easier for people to enter into a payment plan, the reforms are expected to reduce the number of matters that are disputed and are not resolved until escalated to the Local Court.

The current provisions give the Commissioner of Fines Administration limited scope to withdraw an enforcement order, even where the customer has legitimate grounds for disputing the original penalty notice. Consequently many matters that could have been resolved between the customer and the commissioner needlessly end up in the Local Court. The bill addresses this problem in two ways. First, the bill simplifies the provisions so that annulment applications to the commissioner become applications to withdraw the enforcement order. The terms "withdrawal" and "annulment" will essentially mean the same thing—cancelling the enforcement order—but "withdrawal" will refer to the action by the commissioner, while "annulment" will refer to the same action undertaken on appeal by the Local Court. Secondly, it expands the grounds on which the commissioner may withdraw a fine enforcement order.

I note the concerns raised that the reforms may limit a person's right to apply to the Local Court for an annulment. However, the bill does not affect this right at all. Just as it does now, the Local Court may annul the enforcement order if the commissioner has declined the customer's application and the customer appeals. The difference is that, because the bill increases the commissioner's capacity to resolve a fine enforcement order in favour of the customer, the need for a matter to be appealed to the Local Court will be reduced. The impact of these changes will be monitored. As always, Revenue NSW will also be guided closely by customer feedback about these processes—not only in relation to reducing the need to go to court but also in providing adequate avenues for review of a penalty notice.

I also note the concerns raised by the member about the reallocation of overpayments. The bill seeks to improve the current administration of overpayments while safeguarding customers who are most likely to be in financial hardship and in need of a refund of their overpayment. The bill identifies such customers as persons in receipt of a government benefit approved by the Commissioner of Fines Administration or a class of persons prescribed by regulation. This is consistent with how other provisions of the Fines Act 1996 currently identify customers in financial hardship. This definition also gives flexibility for the protection to be extended, if necessary, to cover other people for whom reallocation may not be appropriate. However, as will be detailed in due course, the Government and Labor have worked on an amendment to the bill, which will also extend this protection to classes of persons as specified in guidelines issued under section 120 of the Act.

**The Hon. Daniel Mookhey:** You weren't meant to tell anyone.

**The Hon. DAMIEN TUDEHOPE:** I am telling you.

**Mr David Shoebridge:** We weren't part of this.



**The Hon. DAMIEN TUDEHOPE:** Yes, you were. Importantly, any customer, whether they are covered by this protection or not, will have a right to request that the overpayment be refunded instead. The bill does not remove the obligation on Revenue NSW to notify a customer when an overpayment has been reallocated and of their right to request a refund. Lastly, I am pleased to confirm that a customer who agrees to a work and development order or a payment plan is still able to later obtain an internal review or to dispute the fine in court. In fact, the bill will allow a customer to seek an internal review of the penalty notice at any time. Customers will also be able to dispute the fine in court through the expanded provisions for withdrawing a penalty notice enforcement order.

Mr David Shoebridge has also indicated that The Greens will not oppose the bill. I thank the member for his contribution. I note that the member has raised some issues that were also raised by the Opposition: the potential difficulty for people on low incomes to access email and other methods of electronic communication; ensuring a customer's right to dispute a penalty notice after they have applied for a work and development order or time to pay; and that fine overpayments should only be reallocated after a customer has consented. I understand the concerns raised and I believe I have already addressed them in detail today.

I will now turn to an additional point raised by the member, which is the annulment of enforcement orders. Currently the withdrawal and annulment provisions for enforcement orders are overly rigid and complex. The legislation mandates that the commissioner must annul an enforcement order in certain situations and must refer the matter to the Local Court, also in certain situations. The commissioner then has a discretion to annul in other certain situations. What has resulted is legislation that is unnecessarily prescriptive and results in a large number of matters being unnecessarily referred to the Local Court.

The bill streamlines and simplifies the provisions for withdrawing and annulling enforcement orders. The grounds for withdrawing an enforcement order are expanded to consolidate the current grounds for annulment. While the withdrawal of an enforcement order is discretionary, these expanded grounds give the commissioner broader powers to resolve disputes administratively. Mandating that the commissioner annul the enforcement order and refer the matter to the Local Court is not necessary or desirable if the matter can be resolved outside of the court system. This saves cost and time for everyone involved. Importantly, as I said earlier, a customer still has a right to appeal the commissioner's decision not to withdraw an enforcement order to the Local Court. As I said when I first introduced this bill, these reforms are about modernising the fine system to make it easier and simpler for customers to deal with their fines, whether that means how they receive their fine, pay off their fine or dispute their liability. I commend the bill to the House.

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

**Motion agreed to.**

### In Committee

**The CHAIR (The Hon. Trevor Khan):** There being no objection, the Committee will deal with the bill as a whole. I have two sheets of amendments, being The Greens amendment on sheet c2019-033E and Opposition amendments on sheet c2019-200A. They both appear to deal with the same point. I will invite Mr David Shoebridge to move his amendment first and I will then invite the Hon. Daniel Mookhey to move his amendments.

**Mr DAVID SHOEBRIDGE (21:08:28):** I move The Greens amendment No. 1 on sheet c2019-033E:

No. 1      **Penalty notice amounts**

Page 5, Schedule 1. Insert after line 15—

#### [16]      **Section 23 Amount payable under penalty notice**

Insert after section 23(5)—

- (6)      Despite any other provision of this Act or any other Act or law, a person is required to pay only 50% of the amount specified in a penalty notice issued to the person if, at the time the person committed the offence specified in the penalty notice, the person was in receipt of a Government benefit.
- (7)      In subsection (6), a person in receipt of a Government benefit includes the following—
  - (a)      a holder of a Health Care Card, Ex-Carer Allowance (Child) Health Care Card or Commonwealth Seniors Health Card issued on behalf of the Commonwealth,
  - (b)      a person in receipt of the Disability Support Pension or the Newstart, ABSTUDY Living or Widow Allowance under a law of the Commonwealth. In my second reading speech contribution I pointed out how the one-size-fits all system for

finances can be deeply inequitable and how it can result in catastrophic consequences for people on very low incomes, especially those surviving on government benefits, and it can provide absolutely no deterrent for people on extremely high incomes. One of the ways in which this inequity can be addressed is by providing a discount for fine penalties for people who are in receipt of a government benefit. The first draft that we got of this amendment included the words:

Despite any other provision of this Act or any other Act or law, a person is required to pay only 50% of the amount specified in a penalty notice issued to the person if, at the time the person committed the offence specified in the penalty notice, the person was in receipt of a Government benefit.

We left it there is because there is a definition of "government benefit" in the Fines Act but it includes an expanded definition if regulations or a notice issued by the commissioner can provide an expanded definition of "government benefit", and that has never happened. Therefore, on mature review we decided to include an inclusive definition of "government benefit" so it picks up the definition in the Act but it would also include—and this is why we propose the new subsection 7:

In subsection (6), a person in receipt of a Government benefit includes the following—

- (a) a holder of a Health Care Card, Ex-Carer Allowance (Child) Health Care Card or Commonwealth Seniors Health Card issued on behalf of the Commonwealth,
- (b) a person in receipt of the Disability Support Pension or the Newstart, ABSTUDY Living or Widow Allowance under a law of the Commonwealth.

It is an inclusive definition. This is actually the third draft because the second draft did not have the disability support pension listed in it. When I showed the draft to the shadow finance Minister, he pointed out the absence of the disability support pension so we whacked it in and that is now the third draft that you see before you. The reason we include those specific benefits is because they are readily identifiable. It will not require the commissioner to undertake an investigation or review what the person's income is. It will not require the commissioner to review the last year's income tax or consider any detailed financial payments or a person's asset situation. Simply, hopefully by data matching with the Commonwealth Government, it can be determined if the person who has been issued with the fine is in receipt of one of those benefits and then the fine that is issued is a 50 per cent fine.

I say at the outset that this is not a get-out-of-jail-free card for people on those benefits. For anybody on those benefits, receiving a fine that is 50 per cent of the standard fine will be crippling. We should be clear about that. If you are surviving on \$40 a day and instead of paying a \$440 fine you are paying a \$220 fine, that still means a crippling financial blow. It is the same for somebody surviving on a disability support pension or, for the elderly part of the community, a Commonwealth seniors health card and the like. Paying 50 per cent of the set fees will still be extremely economically difficult and sometimes still crippling, but it at least provides some equity.

We need to have a detailed inquiry into how we can have a more sophisticated system which provides a genuine deterrent for high-income people, which is not in the system at the moment, and genuine relief for people at the bottom end of the system so that the financial pain inflicted by the penalty actually mirrors the nature of the offence. I do not think any of us believe that someone should become homeless because they are paying a speeding fine for going 15 kilometres over the speed limit but that is currently the effect for a number of people on Centrelink benefits. But equally we should not be tolerant of a situation where somebody on a very high income does not care about the rules that other people in society have to comply with because they are happy to just pay whatever fine is necessary, basically because they have the wealth to flout the law. I think all of us could agree that neither of those outcomes are good. This amendment that we have put forward takes us one step closer towards getting a fairer fines system for New South Wales. For those reasons I commend the amendment to the House.

**The CHAIR (The Hon. Trevor Khan):** I call on the Minister to speak next so that we know what the state of play is.

**The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (21:14:00):** The Greens proposal seeks to provide that if a person was in receipt of a government benefit at the time they committed an offence then the person is only required to pay 50 per cent of the penalty or notice amount, as a mandatory provision. Without wanting to debate the issue, there is potentially a suggestion that it is a money bill when you reduce the revenue. I am not going to engage in a debate. We have had that discussion before. I have had that discussion. In any event, a person in receipt of a government benefit is defined to refer to certain concessions including the disability support pension, Newstart or the health care card.

I understand the intent behind this proposal: to lessen the penalty notice amount for people on low or fixed incomes who may already be struggling to pay their bills, let alone a penalty notice. However, there are

already several mechanisms in place to assist people who are vulnerable or in financial distress. If a person is unable to pay a fine due to serious financial hardship, medical or other personal problems, they can apply for a payment plan to pay off their fine by instalment—and this bill extends this to more customers. They may be able to apply for a work and development order. This allows them to pay or reduce their fine by doing unpaid work, undertaking a course or undertaking treatment. Finally, they may be able to apply to have the whole or part of the debt written off altogether.

If a customer is not granted one of these they can also appeal this decision to the Hardship Review Board, a process which is available in the Fines Act. The board can then direct Revenue NSW to allow the customer a payment plan or deferred payment, write off the debt or allow a work and development order. I know the member was after some further information in relation to the board. The board is comprised of the Secretary of the Department of Customer Service or their delegate, the Secretary of the Treasury or their delegate and the Secretary of the Department of Communities and Justice or their delegate. In 2019 so far there have been 33 matters considered by the board, with 13 of the original Revenue NSW decisions upheld, four fines written off, 14 payment plans decided on and four work and development orders decided on. While the Government does not support this amendment, the Government is open to giving the Commissioner for Fines Administration more flexibility to help people pay off their fines, but not at the expense of the integrity of the fines system. Under those circumstances, the Government will be opposing the proposed amendment.

**The Hon. DANIEL MOOKHEY (21:17:26):** The Opposition will not be supporting The Greens amendment at this point in time. I will give my reasons shortly. I move Opposition amendment No. 1 on sheet c2019-200A:

No. 1      **50% reduction of penalty notice amounts**

Page 5, Schedule 1. Insert after line 15—

**[16]      Section 23 Amount payable under penalty notice**

Insert after section 23(5)—

- (6)      Despite any other provision of this Act or any other Act or law, the Commissioner may, on application by a person to whom a penalty notice is issued, reduce by 50% the amount required to be paid under the penalty notice if—
  - (a)      at the time the person committed the offence specified in the penalty notice, the person was in receipt of a Government benefit, and
  - (b)      the Commissioner thinks it is appropriate having regard to the relevant guidelines issued under section 120.
- (7)      In subsection (6), a person in receipt of a Government benefit includes the following—
  - (a)      a holder of a Health Care Card, Ex-Carer Allowance (Child) Health Care Card or Commonwealth Seniors Health Card issued on behalf of the Commonwealth,
  - (b)      a person in receipt of the Newstart, ABSTUDY Living or Widow Allowance under a law of the Commonwealth.

I paid close attention to the contribution of my colleague Mr David Shoebridge. I will lay out the Labor principles we are applying in this debate. Firstly, as I said in the second reading speech, Labor acknowledges the need for a penalty notice system and an infringement system. It is much superior to the court-based procedure that it replaced. It delivers quicker justice for the person who is to pay the fine and a quicker outcome for the society as well than having to put a person through court. Having said that, Labor thinks the penalty notice system ought to be sensibly applied.

The imposition of a fine ought not be compounding some of the other inequities in our society so that it has a disproportionate effect on a certain class of people. There is creeping evidence that the fines system, as more and more revenue is captured from fines, is coming from lower income cohorts and that is creating hardship. It is well and truly acknowledged that there is a nexus between the fines system and mass incarceration of First Nation people. We on this side recognise that, whilst we support the fines system, there has to be the flexibility to ensure that it is being applied sensibly so that the outcome that is being delivered for a person is not excessive, harsh or creating unnecessary or undue hardship.

Where Labor's amendment differs from that of The Greens is that The Greens amendment sets out a broader class of person—anybody who receives a Commonwealth benefit. That is millions of people and in our State hundreds of thousands of people who receive a Commonwealth benefit. The Greens amendment says that if you are in receipt of a Commonwealth benefit there is an automatic reduction of the fine by 50 per cent. Labor does not believe that is a solution attuned to the problem we are trying to solve. It establishes a broader right than the evidence would support. If we are sincere in the principles I outlined then the amendment must be tailored to

the purpose we are trying to achieve—that is, to ensure that the fines system is not creating hardship on low income people.

Labor's amendment is different in this respect. Labor takes the same class of person—that is, those in receipt of a Commonwealth benefit—and the class remains relatively broad, but the criteria will be tighter; it must be linked to hardship. Labor acknowledges the commissioner of fines must retain discretion to how the reduction is applied. Labor has managed to create a mechanism that is flexible and allows the commissioner to update the guidelines should it be necessary. That is the substantive difference between the Labor amendment and The Greens amendment.

Should Labor's amendment pass into law it will be a substantial step towards the Government recognising that at present the fines system is creating an element of injustice for a class of people. This is the first step towards rectifying that injustice, but Labor flags that more steps will be necessary. I am looking forward to working with my colleagues across the Chamber to develop an evidence base for further reform of the fines system should it be necessary. At this time the appropriate thing to do is to pass the Labor amendment and establish the right for a person in receipt of a Commonwealth benefit to seek relief should a fine be creating undue and unnecessary hardship.

**The Hon. MARK LATHAM (21:21:38):** One Nation will be supporting the Labor Opposition amendments in preference to those circulated by The Greens. One reason is the concern about uncostered proposals that come before the Chamber. As a party we are not without sin but we will oppose uncostered commitments in this place. It is a good advertisement for a parliamentary budget office to have the discipline of letting the Chamber and the public know exactly the cost of these measures. Informally I was told that The Greens proposal would cost \$50 million per annum. The Labor proposal is more modest, of the order of \$5 million. We will see how the guidelines are developed over time. Both parties are to be commended for trying to alleviate financial hardship and pressure within the fines system on low-income people.

In an attempt to be constructive I will speak to section 16 (6) (b) where the guidelines are developed by the commissioner. I suggest to the Government that an important welfare measure is to ensure the accuracy of the fines being levied. Recently *The Daily Telegraph* reported a compelling argument that some of the speed cameras are inaccurate and have massive variations in revenue collection. In January 2019 it was reported that the northbound Eastern Distributor camera is one of several posting major anomalies. That camera raked in \$641,000 in one month last year but only \$35,500 in another. I can declare an interest. Part of my hard-earned is in one of those collections. On our generous salaries we do not qualify for a low income concession.

**Mr David Shoebridge:** You should pay double.

**The Hon. MARK LATHAM:** I acknowledge that interjection. The Greens are suggesting I pay double. I am suggesting they pay triple because a property in Woollahra is much more valuable than out my way in south-west Sydney.

**The CHAIR (The Hon. Trevor Khan):** Order! I raise two issues. First, there is too much audible conversation on my right and it is difficult to hear the debate. Secondly, the interjections on my left are unhelpful. The Hon. Mark Latham has the call.

**The Hon. MARK LATHAM:** I thought we were levying these things on property value. I think paying triple is actually being generous to the member. For the benefit of those low-income people hit by these fines: *The Daily Telegraph* further reported the southbound speed camera on Silverwater Road, Silverwater, nabbed 84 speeding drivers in August 2018, 75 in September, but only two in March and five in July. I can report I am not affected by either of those. My sins have been restricted to the Eastern Distributor. These are massive variations that the Government should consider in the guidelines.

Another example is the consistently high revenue camera northbound on Elizabeth Street, Sydney—not far from here—where motorists paid out nearly \$2.7 million. In January 2018 the red light camera caught 567 drivers, in February 526 drivers and in September 408 drivers. The trend ended abruptly in July when only 165 drivers were fined. These are wide variations that cannot be explained by anything other than faulty cameras. The Government knowing, collecting and recognising the wild variations in fine revenue should trigger an examination as to whether the instruments are accurate. If they are found to be inaccurate—and many have been faulty for an extended period of time, it is the only explanation for these variations—it should trigger a welfare mechanism whereby people get their points back and receive a credit on their Service NSW account.

I think we need to have a look at all welfare measures and there is nothing fairer than to have accuracy. There is nothing more unfair than cameras that are bung and inaccurate producing wild variations in revenue. Low-income people are forking out money, losing points and possibly losing their licence for something they never did. That is the greatest welfare sin you can imagine in this particular space. I recommend that to the

Government. I hope it takes account of the figures, not only for the Eastern Distributor but all the other places reported by *The Daily Telegraph*. Clearly low-income people who have done nothing wrong are forking out money they have not got, losing points from their licence and possibly losing their licence. If you lose your licence while you are unemployed it is harder to get a job. There are extra transport costs even if you have friends willing to drive you around. It is a nightmare. That is a big welfare issue that we need to acknowledge and the Government must respond in these guidelines.

**The CHAIR (The Hon. Trevor Khan):** That is the most tolerant I have been in Committee for a very long time.

**Mr DAVID SHOEBRIDGE (21:27:07):** I will do two things: I will respond to the Government's response to The Greens amendment and then I will address Labor's amendment. Dealing with the Government's response first of all, this is the first time we have had broad agreement that there are equity issues with the fines system. That is good. If for no other reason, I am glad we moved the amendment that placed this issue on the agenda. The Government's response to The Greens amendment is that it is not necessary. First, there are other provisions in the Act such as allowing someone to apply for a payment plan. That is a very difficult barrier, particularly for people who have poor communication skills and are living on the margins of society. It is hard for them to apply for a payment plan and that application itself can create significant costs and delays in the bureaucracy and is not a good solution for all cases.

Secondly, the Government says the amendment is not necessary because people can apply for a work development order. If you have a significant disability, you are elderly or you have a significant health condition, your capacity for a work development order is very limited. Many people in receipt of government benefits match one or all of those criteria. Thirdly, there is discretion for the fine to be written off. We know how often that happens. That happens as often as it snows in Byron Bay. It is not a common occurrence. Fourthly, the existence of the Hardship Review Board should bring us comfort. One of the reasons I asked for numbers about the Hardship Review Board is that until it was referred to in a Government briefing I did not know it existed. I do not think I am alone. The Hardship Review Board is made up of three secretaries or their delegates. It is a serious gathering. Yet, if the Government figures are correct, it has determined the total sum of 33 matters in the last year.

If we are talking probably about 500,000 fines—in the order of hundreds of thousands of fines—and the three wise monkeys on the Hardship Review Board have considered 33 matters we know that is not effective. I did not know about it and I do not think anybody in New South Wales knows about it, apart from the 33 individuals and the Minister. It is nice that the Minister has a fairly tight group. None of those are solutions to the problem and each of them requires a substantial amount of work from people who are already on the margins of society and have difficulty dealing with bureaucracy, filling in forms and obviously finding out about the Hardship Review Board, let alone making an application to it.

A nice simple system should state, "If you are in receipt of a benefit, you pay half the fine without having to go through that rigmarole." We still support The Greens amendment despite the cogent arguments of the Minister. I accept that Labor's amendment largely picks up the drafting in The Greens amendment, which is good. The inclusion of the discretion though on the Minister will inevitably create bureaucratic cost and delay. It will also mean that there is an impetus on the individual to make the application, which will inevitably see some of the most marginalised people not benefit from that. If the figures put forward by the Hon. Mark Latham, which I assume came to him from the Government and he did not make them up—

**The Hon. Mark Latham:** I did my own modelling.

**Mr DAVID SHOEBRIDGE:** He did his own modelling, perhaps. Maybe the Minister can clarify whether they are the Government's predictions. The difference between 50 million on The Greens amendment and five million on the Opposition's amendment shows how requiring individuals to go through the paperwork, make an application and then have a discretion so radically reduces the effectiveness of this amendment in terms of an equity outcome. There is a tenfold reduction in the number of people who benefit. I acknowledge the shadow Minister's amendment will have an equity benefit. If The Greens amendment does not succeed, we will support the Opposition's amendment because we recognise it is an equity benefit. We join with the shadow Minister, who called for a broader review of fines so that we get some better equity measures. I move:

That Opposition amendment No. 1 be amended by inserting in paragraph 7 (b):

"Disability support pension or" before "Newstart".

For the benefit of members, that will make the Opposition paragraph 7 (b) the same as The Greens paragraph 7 (b). Because the shadow Minister persuaded that people on the disability support pension should get the benefit of the amendment, I am hoping to persuade back in the Chamber.

**The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (21:33:15):** I need to respond to the Opposition amendment. I indicated earlier that we would support it, as amended by Mr David Shoebridge to paragraph 7 (b). The Labor proposal is similar to The Greens proposal in seeking to provide a 50 per cent reduction in the penalty notice amount payable by such persons. However, the proposal is more considered—it requires not only that the person be in receipt of a government benefit, but also that the Commissioner of Fines Administration considers the reduction in the penalty notice amount to be appropriate having regard to guidelines issued under section 120 of the Act.

Under section 120, the Minister may issue guidelines in respect of a number of matters including the exercise of functions under the Act by the commissioner. The guidelines must be complied with and are required to be published. The guidelines therefore provide a means to set out clearly and transparently a framework to guide decisions by the commissioner in respect of reductions in fine amounts. These guidelines will be developed in close consultation with government and community stakeholders, including Legal Aid NSW and Community Legal Centres NSW.

Under such guidelines, the commissioner could consider whether, given the financial or other circumstances of the individual, and having regard to existing mechanisms for assisting people experiencing hardship, payment of the fine in full is not feasible or may impose further hardship on the individual, warranting a reduction. The Labor proposal is a more sensible way to deal with the underlying issues than that proposed by The Greens. It would avoid the shortcomings of a proposal that simply seeks to provide a blanket reduction to certain classes of people, irrespective of whether it is appropriate based on a person's circumstances. The Government will not be opposing the Labor amendment.

I do not stand by the figures quoted by the Hon. Mark Latham. However, The Greens proposal, on any view of it, would create a revenue hit of some significant dimension, given the 500,000-odd fines that he has identified. I am sympathetic to the arguments made by Mr David Shoebridge. Revenue NSW is a fine collection agency on behalf of the NSW Police Force, local government and many other agencies. It would be imprudent to agree to changes without any consultation with those bodies about the impact of a blanket proposal. I do not resile from the notion, at some point in time, of having an inquiry which would further develop our approach to fines and the like. The Government will support Labor's amendment, as sought to be amended, and will oppose The Greens amendment.

**The Hon. DANIEL MOOKHEY (21:36:55):** I thank the Hon. Mark Latham for the support of One Nation. I thank the Government for supporting the Labor amendment. I thank The Greens for also stating that they will support the amendment should theirs not succeed. In relation to The Greens amendment to the Opposition's amendment, whoever persuaded Mr David Shoebridge to include the disability support pension in his draft was excellent and brilliant. It is the case that perhaps that person thought that if Mr David Shoebridge was not pursuing it then the Opposition will not pursue it either. But now the Opposition has seen his third draft the Opposition recognises its original brilliance in this respect.

I want to make clear on the record though that there was never any suggestion that a person who is in receipt of a disability support pension would not receive a benefit under either The Greens amendment or the Opposition's amendment because they are, of course, in receipt of a Commonwealth benefit. It is just that we are now making it abundantly clear should any person on a disability support pension be reading this law that they should go ahead and take advantage of the new provision that we will be passing tonight.

**The CHAIR (The Hon. Trevor Khan):** Mr David Shoebridge has moved The Greens amendment No. 1 on sheet c2019-033E. The question is that the amendment be agreed to.

**The Committee divided.**

Ayes .....6  
Noes .....30  
Majority.....24

**AYES**

Boyd, Ms A (teller)  
Hurst, Ms E

Faehrmann, Ms C (teller)  
Pearson, Mr M

Field, Mr J  
Shoebridge, Mr D

**NOES**

Ajaka, Mr  
Buttigieg, Mr M  
Farlow, Mr S

Amato, Mr L  
Cusack, Ms C  
Farraway, Mr S.J. (teller)

Banasiak, Mr M  
D'Adam, Mr A  
Franklin, Mr B

## NOES

Graham, Mr J  
Latham, Mr M  
Martin, Mr T  
Mookhey, Mr D  
Nile, Revd Mr  
Searle, Mr A  
Tudehope, Mr D

Harwin, Mr D  
Maclaren-Jones, Mrs (teller)  
Mason-Cox, Mr M  
Moriarty, Ms T  
Primrose, Mr P  
Secord, Mr W  
Veitch, Mr M

Jackson, Ms R  
Mallard, Mr S  
Mitchell, Mrs  
Moselmane, Mr S  
Roberts, Mr R  
Taylor, Mrs  
Ward, Mrs N

**Amendment negatived.**

**The CHAIR (The Hon. Trevor Khan):** The Hon. Daniel Mookhey has moved Opposition amendment No. 1 on sheet c2019-200A, to which Mr David Shoebridge has moved an amendment. The question is that the amendment of Mr David Shoebridge to Opposition amendment No. 1 on sheet c2019-200A be agreed to.

**Amendment to amendment agreed to.**

**The CHAIR (The Hon. Trevor Khan):** The question is that Opposition amendment No. 1 on sheet c2019-200A as amended be agreed to.

**Amendment as amended agreed to.**

**The Hon. DANIEL MOOKHEY (21:48:58):** I move Opposition amendment No. 2 on sheet c2019-200A:

No. 2      **Unlawful disclosure of personal information**

Page 11, Schedule 1. Insert after line 33—

[59]      **Section 117C**

Insert after section 117B—

**117C      Unlawful disclosure of personal information**

- (1) If the Commissioner becomes aware of an unlawful disclosure of personal information about an individual that is held by the Commissioner, the Commissioner must, within 28 days after becoming aware of the disclosure, notify the individual of that disclosure in accordance with any directions given to the Commissioner by the Privacy Commissioner in relation to the matter.
- (2) However, the Commissioner is not required to notify the individual of the disclosure if the Privacy Commissioner advises that notification is not appropriate in the circumstances.
- (3) The Privacy Commissioner is to include information about all unlawful disclosures under this section in the Privacy Commissioner's annual report for the period in which the disclosures occurred.
- (4) In this section—

*personal information* has the same meaning as in the *Privacy and Personal Information Protection Act 1998*. This amendment deals with a very serious and egregious breach of privacy that took place earlier this year. The effect of the amendment would be to require the Commissioner of Fines Administration to notify a person whose personal data has been unlawfully disclosed within 28 days after becoming aware of that disclosure if the Privacy Commissioner effectively tells them to. That is the effect of the Opposition amendment. The new section 11C is intended to ensure individuals can take steps to protect themselves if their personal information is unlawfully disclosed. The proposed section is intended to augment existing provisions in the Fines Act. Section 117A of the Fines Act sets out the entities the Commissioner of Fines Administration is authorised to provide information to. Section 117B provides that a person who discloses personal information in a manner which is not authorised by law commits an offence and is liable to a maximum penalty of 100 penalty units. The new section 11C has been drafted to address a deficiency in the current law.

While the Fines Act contains an offence if personal information is disclosed unlawfully, there is no power or requirement for the commissioner to notify a person or persons that their information has been unlawfully disclosed. There might be some question why this is connected to the Fines Amendment Bill 2019. We believe that it is. The overall aim of the Fines Amendment Bill 2019 is to encourage more people to contest their fines by seeking internal reviews and asking the commissioner to withdraw penalty notice enforcement orders. Put another way, the intent of the bill is that people will share their personal information with the commissioner in order to deal with penalty notices and enforcement orders.

This personal information may include details of medical conditions, illness, injury and mental health conditions which might justify the withdrawal of a penalty notice enforcement order. For the bill to work, it is necessary for people to trust that personal information will be protected. In order to gain and maintain this trust, people should expect that if a violation of a person's privacy occurs, they will be told about that violation so they can take whatever action might be available to protect themselves. Currently, the people of New South Wales should not have confidence that their information is being appropriately managed.

I want to explain to the Committee the circumstances that exposed the current law's deficiencies. On 30 July 2019 *The Australian* published an article by New South Wales political editor Andrew Clennell under the headline "Minister's office after political 'hit' on NSW Labor leader". Clennell wrote:

The office of NSW Customer Service Minister Victor Dominello expressly told departmental officials last November—three days after Michael Daley became Opposition leader—that it wanted to use private information about the Labor leader's driving record for a political hit. A departmental official then warned Mr Dominello's office not to use the information and Mr Dominello's chief of staff assured Revenue NSW that the document with the data had been deleted. Three months later, the material—which was dubbed a "data breach"—was leaked to the Liberal Party's "dirt unit" and then to a journalist in the middle of the State election campaign.

The revelations, from emails obtained through Freedom of Information laws, come ahead of the New South Wales Parliament resuming today. They put Mr Dominello at the heart of the leaking of the data on Mr Daley and more than 100 other motorists, which has been referred to the Independent Commission Against Corruption and was the subject of a police investigation.

Until now, Mr Dominello has pleaded ignorance and one of his staffers—

**The CHAIR (The Hon. Trevor Khan):** Order! While the member is speaking to the amendment, he is potentially casting adverse reflections on a member of the other place and that should be done by substantive motion. I am not saying the member is not being relevant to the amendment, but I am somewhat concerned. I realise this has been well ventilated in budget estimates, but I would just raise with the member how far he is going with regards to it.

**The Hon. DANIEL MOOKHEY:** Thank you for the guidance. I am just reading from a newspaper article.

**The CHAIR (The Hon. Trevor Khan):** I know, but that does not quarantine the member from the other rules.

**The Hon. DANIEL MOOKHEY:** I accept that point. I was not in any way quibbling with your guidance. The article continues:

Until now, Mr Dominello has pleaded ignorance and one of his staffers who was seconded to the Liberal dirt unit, Tom Green, resigned two months ago over the saga.

The leaked information showed details about motorists who had been represented by their MPs—

**The Hon. Catherine Cusack:** Point of order: We really have departed. We are in Committee at the moment and we have substantially departed from the matter at hand. The member is quoting information, introducing new material, naming people and raising issues that have been extremely well ventilated for many hours in the estimates hearing. I would ask you to draw the member back to the amendment before the Committee.

**The CHAIR (The Hon. Trevor Khan):** The Hon. Daniel Mookhey had only got another sentence out since I dealt with the issue. The point I raised with him was I think he is directly on the point as to why the amendment is appropriate and I did not seek to pull him up on that basis. It was a matter I gave close consideration to and addressed. The issue I raised was whether he was casting adverse reflection. I simply invited him to give close consideration to that. He has said nothing more in that regard than what I had cautioned him about so I am just still listening on that issue more than the other. The member may proceed. Regarding the other point, this has been well ventilated in budget estimates. That is a plus and a minus in this. This is not new material.

**The Hon. Catherine Cusack:** We are in Committee on the bill.

**The Hon. DANIEL MOOKHEY:** The Chair has made a ruling.

**The CHAIR (The Hon. Trevor Khan):** The Hon. Daniel Mookhey may proceed.



**The Hon. DANIEL MOOKHEY:** The article continues:

A note from Revenue NSW official Katrina Morgan to her superior, Jane Dudley, on November 14 last year, states ... that Mr Dominello's department liaison officer Gabrielle Hendry advised that the Minister's office had ... identified that Michael Daley (who had recently replaced Luke Foley as Leader of the Opposition) contacted the MP hotline about his own speeding fine.

**The Hon. Catherine Cusack:** Point of order: I ask that the member be drawn to comment directly on the amendment before the Committee. It is a more narrow confine than a second reading speech and I ask the member be requested to confine his comments to directly relevant statements concerning the amendment before the Committee.

**Mr David Shoebridge:** To the point of order: You have made rulings about relevancy. This is now a second point of order on the basis of relevancy when you have made rulings. Clearly the member is speaking to a provision about inserting additional privacy safeguards in the bill. The member's contribution is clearly relevant to those. I feel certain the honourable member will come to a conclusion sooner rather than later on this. He will do so more quickly if we do not have points of order effectively canvassing your earlier ruling.

**The CHAIR (The Hon. Trevor Khan):** I am very much alive to what this is about. My previous position regarding when we are in Committee is that members should speak to the amendment. Before raising my issue of caution, I carefully considered whether this material was relevant to this amendment and that is the test to be applied. I am mindful of this issue's sensitivity for everyone in the Chamber. In my view, the member is addressing why he believes this amendment is appropriate. That is why—in my first involvement in the member's contribution—I dealt with whether he was making an adverse reflection on the Minister rather than whether he was speaking to the amendment. I still believe the member is speaking to the amendment and he may proceed.

**The Hon. DANIEL MOOKHEY:** The article continued:

... Mr Dominello's department liaison officer Gabrielle Hendry advised that the Minister's office had ... identified that Michael Daley (who had recently replaced Luke Foley as Leader of the Opposition) contacted the MP hotline about his own speeding fine.

Gabrielle advised that the Minister's office were determining whether to use this information against Mr Daley in the political arena or not.

"I strongly advised Gabrielle that the Minister's office should not be using this data in this way."

The now head of Revenue NSW, Stephen Brady, wrote to the Privacy Commissioner shortly afterwards saying he had an assurance from Mr Dominello's chief of staff that the document on MPs' representations for motorists had been deleted.

The letter from Mr Brady, Revenue NSW's Commissioner of Fines Administration, to NSW Privacy Commissioner Samantha Gavel reads: "I wish to notify you of a data breach concerning Revenue NSW which took place on 14 June 2018. The breach followed a request from (the) office of the Minister for Finance ... for a list of (MPs) who had made representation in relation to certain driving offences in 2017-18 ... An attachment was also inadvertently sent. That additional information included details of each of the offences on which the requested information was based, including personal information which Revenue NSW was not authorised to release. In accordance with the Information and Privacy Commissioner's Data Breach Guidance, Revenue NSW acted to contain the breach.

"On 14 November, 2018, the Commissioner of Fines Administration spoke to the chief of staff for the minister, Matt Dawson, about the data breach.

"The chief of staff advised that the information contained in the attachment had not been disclosed to any person outside the minister's office and would be destroyed. The destruction of the information was confirmed in writing on 19 November, 2018."

The documents also show a text message from Mr Dawson, Mr Dominello's chief of staff, to Mr Brady, on November 14, 2018, which says: "Hi Steve, just following up from our conversation this afternoon.

"I know where your concern emanates from and have now got a copy of the relevant spreadsheet.

"I'm happy to give you an undertaking that the information will not be circulated beyond our office or used inappropriately.

"I've conveyed this message to the advisers in our office who have been privy to it. Regards Matt."

A further email from the Commissioner of State Revenue, Cullen Smythe, to Mr Dawson on November 16 states: "Can you please delete the second tab referred to above and confirm when this occurred, that no other copies of this data is held by your office and that the data has not been shared outside your office."

This episode shows why the amendment is needed. The Commissioner of Fines Administration and other public servants recognised that a privacy breach occurred. While they notified the New South Wales Privacy Commissioner, they did not notify the people whose data was breached. The issue of why the 193 people who were affected by the data were not notified was canvassed extensively in budget estimates.

**The CHAIR (The Hon. Trevor Khan):** 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. DAMIEN TUDEHOPE:** No.

**The Committee continued to sit.**

**The Hon. DANIEL MOOKHEY:** I will not repeat the full exchange in budget estimates that took place between me, the Hon. Penny Sharpe and Mr Brady other than to say that neither in budget estimates nor now has the Opposition made any implications or accusations directed at Revenue NSW or, for that matter, the Privacy Commissioner. We place clearly on the record that all the documents that we have seen so far suggest that the officials of Revenue NSW did everything in their legal power at the time to contain the breach. We are not casting any aspersions on them or any public servants whatsoever since the matter began. Nevertheless, the fact is that this episode demonstrated that the commissioner had discretion and that he made a decision of his own not to disclose the breach to the 193 people at the time he learnt about it. To be fair to the commissioner, he sought the advice of the Privacy Commissioner, who said to him that in the circumstances it would be advisable to do so. During budget estimates, Mr Brady gave the following evidence:

We were concerned for the reputation of the organisation and its impact on the trust that people placed in our organisation, given that we do deal with a great deal of private information. We were extremely concerned by what had occurred.

Labor shares Mr Brady's concerns and believes the amendment will help to restore the trust that has been lost through this episode by the conduct of whoever leaked it. People should be able to trust that their personal information will be used by the government for only the purposes that have been authorised by law. People should know how their information is used and who is using it. People should not have to worry that their personal information will be harvested by a ministerial staffer and weaponised for political purposes, particularly in a heightened period such as an election.

This is a common sense amendment that will help to rebuild trust that had been lost earlier this year. The effect of the amendment is to say quite clearly that if a data leak takes place, under the Act the commissioner must notify it within 28 days, unless otherwise directed by the Privacy Commissioner. We have had the opportunity to engage with the Government on the specifics of our amendment to make sure that it is workable. The fact remains that the amendment should pass. When it does, those 193 people will have more legal rights than they otherwise did. It is abundantly clear that anybody else who should find themselves in those circumstances will be far more likely to be told that their data has been breached. I commend the amendment to the Committee.

**The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (22:03:20):** Notwithstanding the lengthy submission made by the Hon. Daniel Mookhey, I support his conclusion that the manner in which Revenue NSW acted was entirely appropriate in all the circumstances. The member made that clear in his statement but I also put on record that there was no suggestion that there was anything untoward about the behaviour of any persons at Revenue NSW. The Government is proposing to address the issue of privacy and data breaches. However, I am pleased to report that since Labor first put forward this proposal mandating that the Commissioner of Fines Administration notify persons whose information has been unlawfully disclosed the Government has worked constructively with Labor and The Greens to settle on a way forward.

Under the proposed amendment the Commissioner of Fines Administration must, within 28 days of becoming aware that personal information has been unlawfully disclosed, notify the affected individuals in accordance with any directions given by the Privacy Commissioner in relation to the matter unless the Privacy Commissioner advises that this is not appropriate in the circumstances. Effectively it puts the directions relating to the data breach in the hands of the Privacy Commissioner to give directions about how that data breach is to be dealt with. The Government would fully expect that the Privacy Commissioner would continue to draw upon its own policies in advising these matters.

The amendment also provides that the Privacy Commissioner will report on such unlawful disclosures in its annual reports, just as it currently does for voluntary notifications of breaches made by agencies. By providing for ongoing input from the Information and Privacy Commission into decisions around notifying individuals, the amendment will help to ensure that such decisions are the right decisions. In many cases notification of individuals will be the appropriate course of action. However, consistent with the Information and Privacy Commission's own best practice guidance, we should ensure that there is an opportunity to consider all relevant factors in making such determinations and not simply mandate that notification occur in every instance. The Government will not oppose this amendment.

**Mr DAVID SHOEBRIDGE (22:06:06):** The Greens support this amendment. Indeed, we had a series of discussions with the Government and the Opposition about it. Initially the Opposition's amendment that was moved downstairs was that there be a blanket requirement that in each case of an unlawful disclosure each individual be notified. The Greens start from the assumption with privacy matters that the default position should be that people are notified if there has been a privacy breach. One of the reasons that The Greens members are happy to support this amendment is that now that the Government is on board we will see this entrenched in law and we will have for the first time a default position clearly recognising that privacy breaches should be notified to people whose privacy has been breached. The Greens think that that is a significant advance.

When we saw the Opposition's initial blanket requirement to notify each and every privacy breach The Greens members had two concerns. One was that if there was a very minimal breach which did not have any real effect but might have affected a couple of hundred thousand people, then the notification of a couple of hundred thousand people for a technical breach with limited effect would create more harm than good. But how do we determine that? One of the suggestions that The Greens put forward was that the legislation would require the Privacy Commissioner rather than the Commissioner of Fines Administration to make the call. The Greens wanted a reasonable time frame within which that should happen. That is how the discussion of 28 days came about as a reasonable time.

The only matter that The Greens did not manage to resolve was how to legislate to require the Privacy Commissioner or somebody else to tell how often they had chosen not to tell, which is the last element in this Government's amendment. That has obviously been resolved in discussions between the Government and the Opposition. It says that the Privacy Commissioner is required to include information about all unlawful disclosures under this section in the Privacy Commissioner's annual report. The Greens believe that that closes the loop. For those reasons we support the amendment as drafted.

**The CHAIR (The Hon. Trevor Khan):** The Hon. Daniel Mookhey has moved Opposition amendment No. 2 on sheet c2019-200A. The question is that the amendment be agreed to.

**Amendment agreed to.**

**The Hon. DANIEL MOOKHEY (22:08:44):** By leave: I move Opposition amendments Nos 3 and 4 on sheet c2019-200A in globo:

**No. 3      Reallocation of overpayments**

Page 11, Schedule 1. Insert after line 33—

**[59]      Section 120 Guidelines on exercise of functions under this Act**

Insert after section 120(1)(d)—

- (e)      the class of persons in respect of whom the Commissioner must not make a reallocation of an overpayment under section 122C.

**No. 4      Reallocation of overpayments**

Page 12, Schedule 1[59] (proposed section 122C(3)), lines 7–10. Omit all words on those lines, Insert instead—

- (3)      The Commissioner must not, unless requested by the person, make a reallocation of an amount otherwise refundable to a person under this section if the person—
  - (a)      was in receipt of a Government benefit at the time the person became entitled to the refund, or
  - (b)      belongs to a class of persons specified in guidelines issued under section 120. These amendments deal with the reallocation of overpayments. The purpose of these amendments is to provide that the Commissioner of Fines Administration cannot reallocate another payment a person has made in relation to one amount towards another amount a person might owe, unless in accordance with the provisions of the Act and the Act as now amended. Currently the bill proposes that the commissioner will not be able to make a reallocation for persons in receipt of a government benefit, unless the person requests the reallocation. The Government's purpose in drafting that provision is welcome. In essence, the Government recognises that people who receive government benefits might value receiving a refund more than having amounts that they might owe allocated to other fines that they must pay. However, there are people who do not receive a government benefit who might also value a refund more than a reallocation because they are experiencing financial hardship.

Some of those people have been brought to the Opposition's attention by Community Legal Centres NSW and we thank them for their advocacy. I am talking about refugees who might not be in receipt of a Commonwealth benefit or people escaping domestic violence. The approach Labor takes to these amendments is consistent with the reforms being made by the Government to early enforcement arrangements in the bill.

The bill as introduced removes the restriction that a person must be in receipt of a government benefit to seek a time to pay order. That is a welcome reform, which acknowledges that there is a broad range of circumstances in which a person might need a time to pay order. Labor believes the same logic should apply to the reallocation of overpayments. In relation to the reallocation of overpayments, Community Legal Centres NSW noted in its letter to the Minister for Customer Service, dated 7 August 2019, "We are concerned that this proposal would be highly detrimental to people experiencing financial hardship who are not eligible for or do not receive

a Centrelink payment, such as refugees, people on bridging visas and people who are homeless or affected by domestic violence and financial abuse."

Due to difficulties for Revenue NSW in reliably identifying all people receiving a Centrelink payment and the detrimental impact on the people mentioned earlier, the reallocation of overpayments towards other fines should never be permitted without first obtaining the person's consent. Labor agrees with these concerns and the amendment seeks to address them. We have had the opportunity to be in dialogue with the Government about the precise form that these amendments should take and we recognise that the best legislative mechanism to achieve our purpose is to permit the Minister to use his guideline-making power under section 120 to specify the class of people. In addition, the Minister may from time to time update that as further evidence emerges. We are confident that the amendment will achieve our purpose of ensuring that people who may not be in receipt of a Commonwealth benefit but who are in need of a direct refund instead of a reallocation will at least have a mechanism for that continue. I commend the amendments to the House.

**The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (22:11:50):** The Government accepts that the prohibition on reallocating overpayments contained in section 122C (3) should be broadened. As I indicated in my second reading speech, the system for a reallocation of a fine overpayment is currently limited to certain types of overpayments. The Government's bill seeks to extend this to all overpayments so that more overpayments can be reallocated efficiently towards the customer's other penalty notices. Importantly, if a reallocation is made, Revenue NSW must notify the customer, and the customer is entitled to a refund if he or she asks for it. The bill introduces a new requirement that fine overpayments cannot be reallocated in respect of persons on low incomes, unless they give their permission for such reallocation.

Those commonsense arrangements are practical, allowing for fine overpayments to be reallocated efficiently to reduce the customer's other fines, while protecting the rights of all customers to request that the overpayments be refunded and giving additional protections to people on low incomes. However, I acknowledge the concerns raised by Labor and The Greens about the potentially adverse impact of reallocations on vulnerable people or people in financial stress. As I said, the bill already contains a safeguard for persons on low incomes, who are defined to be persons who are in receipt of certain government benefits. The Government has worked with Labor to develop the proposed amendments to extend this safeguard further to also protect classes of persons specified in guidelines issued by me under section 120 of the Act.

This means that the safeguard is not limited to persons in receipt of certain government benefits. It will also protect other people who, although not receiving a government benefit, are otherwise considered vulnerable. Such classes of people, as indicated by the Hon. Daniel Mookhey, would include refugees, people on bridging visas and other people who are homeless or affected by domestic violence or financial abuse. We will develop these guidelines in close consultation with agency and community stakeholders and review them in 12 months to ensure that the safeguard is adequate and covers the people who need it. I thank the Opposition for its consideration of the issue. The Government will not oppose the amendments.

**Mr DAVID SHOEBRIDGE (22:14:08):** The Greens indicated in the second reading debate that this was a concern to us. We did that because we were put on notice by Community Legal Centres NSW. I notice in the past two years or so we have seen very considered submissions from Community Legal Centres on a series of these kinds of welfare issues that are coming before the Parliament. I for one have been greatly assisted by the effort that it has put in. Again it has put the effort in here and highlighted this concern. It is good to see that when we get those kinds of intelligent submissions from interested stakeholders we can actually implement elements of them into law reform, as is happening here. The Greens support the amendments. We are a little bit uncertain about the efficacy of the guidelines, noting that they will be issued by the Minister. I am happy to be proven wrong, but I have not always felt that the Minister is the guardian angel of the poor in New South Wales. Perhaps I will be proven wrong when we see these guidelines issued by the Minister. We will be looking to ensure that the guidelines live up to the intent that has been expressed by the Minister in his contribution.

**The CHAIR (The Hon. Trevor Khan):** The Hon. Daniel Mookhey has moved Opposition amendments Nos 3 and 4 on sheet c2019-200A. The question is that the amendments be agreed to.

**Amendments agreed to.**

**The CHAIR (The Hon. Trevor Khan):** The question is that the bill as amended be agreed to.

**Motion agreed to.**

**The Hon. DAMIEN TUDEHOPE:** I move:

That the Chair do now leave the chair and report the bill to the House with amendments.

**Motion agreed to.**

**Adoption of Report**

**The Hon. DAMIEN TUDEHOPE:** I move:

That the report be adopted.

**Motion agreed to.**

**Third Reading**

**The Hon. DAMIEN TUDEHOPE:** I move:

That this bill be now read a third time.

**Motion agreed to.**

**GAMBLING LEGISLATION AMENDMENT (ONLINE AND OTHER BETTING) BILL 2019****Second Reading Debate**

**Debate resumed from an earlier hour.**

**The Hon. SCOTT FARLOW (22:17:55):** On behalf of the Hon. Sarah Mitchell: In reply: The Gambling Legislation Amendment (Online and Other Betting) Bill 2019 is part of this Government's commitment to put in place measures that deal proactively with gambling-related harms. The bill empowers consumers to make informed decisions about their gambling behaviour while also ensuring that harmful gambling advertising practices are prohibited. I thank members for their contributions to the debate, particularly the Hon. Daniel Mookhey, Ms Cate Faehrmann, Mr Justin Field, the Hon. Shayne Mallard and Reverend the Hon. Fred Nile. The issues raised by members are indicative of the importance of the issues in the bill.

I will now address those issues. The bill ensures that all inducements are now prohibited and cannot be advertised to the world at large. In response to Mr Field's concerns I confirm that the bill does not limit the application of the new rules with respect to racing. However, Liquor & Gaming NSW has adopted a differentiated compliance approach for racing-related platforms. This approach has also been adopted in Western Australia. This approach was adopted as Liquor & Gaming NSW considered that people accessing racing-related platforms were similar to betting account holders in that they were undertaking deliberate actions to access information on how to place bets.

The differentiated compliance approach will mean that where a racing-related inducement is offered on a racing platform Liquor & Gaming NSW will not undertake compliance action at this stage. For example, where a betting service provider offers an inducement that can only be used on racing bets and is offered on a platform that is predominantly a racing platform, this will not trigger compliance action. Where Liquor & Gaming NSW is not satisfied that the platform is predominantly racing or the advertisement occurs on a part of that predominantly racing platform that is not racing related—for example, a general sports segment or a footy-tipping competition—Liquor & Gaming NSW will continue to undertake enforcement action against the operator.

Liquor & Gaming NSW will also look to enforce the prohibitions on advertising against direct marketing undertaken by third parties. Liquor & Gaming NSW is currently finalising its internal review of the racing-related arrangements and will look to update its guidance on this in an updated version of the guidelines to correspond with the implementation of the bill, if approved by Parliament. As this differentiated approach is a compliance decision by Liquor & Gaming NSW it does not impact on the interpretation of the Act or on this bill and it does not limit Liquor & Gaming NSW in changing its compliance approach in future.

The bill confirms the firm stance adopted by the Parliament last year with respect to harmful forms of gambling advertising and to improve consumer protection for online wagering. Last year the Government introduced reforms that raised the stakes for betting service providers by increasing penalties tenfold, expanding the prohibition on harmful gambling advertising and extending directorial liability to ensure that we were able to secure the necessary culture change inside betting service providers.

The proposed reforms in the bill are about giving consumers the tools to manage their gambling activity online and to ensure that they are not subjected to harmful gambling advertising. Critically, the proposed reforms are about ensuring that people are not inundated by harmful gambling advertising and that individuals are exposed to inducements only when they have made a conscious decision to access this content. Put simply, the reforms will ensure that where a gambling advertisement is designed to encourage a person to gamble, to gamble more frequently or to open a betting account, it will be unlawful.

We are taking this decisive step to clearly delineate between lawful and unlawful gambling because we know the harms associated with inducements. This kind of advertising has been designed to encourage people to make decisions that they would otherwise not make. Inducements encourage people to gamble more money, to

gamble more frequently and to engage in more risky gambling behaviours. The reforms proposed by the bill have been informed by a significant body of evidence, which makes clear that both intrinsic and extrinsic elements of a product can lead to problematic gambling behaviour. To be clear, the new definition will clarify that the term "inducement" is to be interpreted broadly and is intended to include those offers which are clearly external to a betting product, such as bonus bets, as well as those that are intrinsic to it, including odds boosts.

The reforms will ensure that betting service providers are required to offer their customers the ability to set deposit limits, to easily close their account if they no longer wish to gamble and to ensure that account holders only receive marketing material if they consent to it. The measures are part of New South Wales' implementation of the National Consumer Protection Framework, which will create a set of uniform standards across Australia with respect to online wagering. It is important to recognise that these measures are a set of minimum standards and that this Government is committed to looking at additional measures that can be put in place to ensure that New South Wales remains the high watermark for gambling harm minimisation.

New South Wales will continue to look for new opportunities to improve how we manage gambling-related harms and this Government will continue to support the work of Liquor & Gaming NSW in enforcing those rules. The bill is about reducing the potential harm from online wagering in New South Wales by supporting online wagering customers in managing their gambling activity and by ensuring that the broader community is not inundated with inducements to gamble. I commend the bill to the House.

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

**Motion agreed to.**

### In Committee

**The CHAIR (The Hon. Trevor Khan):** There being no objection, the Committee will deal with the bill as a whole. I have one set of amendments, that being The Greens amendments Nos 1 to 10 on sheet c2019-085E.

**Ms CATE FAEHRMANN (22:24:53):** By leave: I move The Greens amendments Nos 1 to 10 on sheet c2019-085E in globo:

**No. 1 Penalties for offences**

Page 3, Schedule 1[4], insert after line 28—

Omit "50" and "500" wherever occurring in the penalty provision in section 33H(1), (4) and (5).

Insert instead "100" and "1000", respectively.

**No. 2 Prohibitions on gambling-related advertisements**

Page 3, Schedule 1[4], line 29. Omit all words on that line. Insert instead—

**[5] Section 33H(3)**

Omit the subsection.

**No. 3 Consent to direct marketing**

Page 3, Schedule 1[5], line 36. Omit "expressly consented". Insert instead "given express and informed consent".

**No. 4 Withdrawal of consent to direct marketing**

Page 4, Schedule 1[5]. Insert after line 3—

- (4) A person is taken to have withdrawn consent to receive all gambling advertisements from or on behalf of the provider if the person has not logged into the person's betting account for a period of 12 months.

**No. 5 Penalties for offences**

Page 4, Schedule 1[5], lines 19 and 20. Omit all words on those lines. Insert instead—

- (a) for an individual—100 penalty units, or  
(b) for a corporation—1000 penalty units.

**No. 6 Penalties for offences**

Page 5, Schedule 1[6], lines 3 and 4. Omit all words on those lines. Insert instead—

- (a) for an individual—100 penalty units, or  
(b) for a corporation—1000 penalty units.

**No. 7 Penalties for offences**

Pages 5 and 6, Schedule 1[6], line 47 on page 5 and line 1 on page 6. Omit all words on those lines.

Insert instead—

- (a) for an individual—100 penalty units, or
- (b) for a corporation—1000 penalty units.

**No. 8 Penalties for offences**

Page 6, Schedule 1[6], lines 26 and 27. Omit all words on those lines. Insert instead—

- (a) for an individual—100 penalty units, or
- (b) for a corporation—1000 penalty units.

**No. 9 Consent to direct marketing**

Page 8, Schedule 2[4], line 31. Omit "expressly consented". Insert instead "given express and informed consent".

**No. 10 Penalties for offences**

Page 9, Schedule 2[4], lines 10 and 11. Omit all words on those lines. Insert instead—

- (a) for an individual—100 penalty units, or
- (b) for a corporation—1000 penalty units.

On behalf of The Greens I put forward these amendments to the Government's Gambling Legislation Amendment (Online and Other Betting) Bill 2019. Our amendments seek to strengthen the bill's ability to reduce the harm caused by online gambling. Amendments Nos 1, 2, 5, 6, 7, 8 and 10 double the penalty for infringements by online betting agencies. Infringements will increase from 50 units to 100 units for individuals under this amendment and from 500 units to 1,000 units for corporations. This represents an increase from \$5,500 to \$11,000 for individuals and \$55,000 to \$110,000 for corporations respectively.

Not only are the current fines not enough to act as a deterrent to stop gambling agencies doing the wrong thing, gambling agencies are rarely fined the full amount. I have previously mentioned the meagre \$10,000 that Sportsbet was fined for illegal television advertisements inducing users to invite their friends to the app for a \$100 betting bonus. This fine is nothing compared to its \$215 million in profit that year. The magistrate in that case called on the need for greater penalties to deter betting agencies from breaking the law. On 5 July 2018 SportChamps was fined just \$2,500 for an illegal advertisement on its website and in 2018 PointsBet was fined \$20,000 for an illegal gambling advertisement but floated its company for \$280 million just after the fine had been handed down.

For these betting agencies being fined for doing the wrong thing is merely the cost of business. By increasing the penalty units we are signalling to betting agencies that it is a community expectation that agencies will not be able to get away with doing the wrong thing. We are also signalling to the courts that it is the community's expectation that betting agencies will pay the appropriate fine. The Greens amendments, which I hope the House will support, will double the penalties. If supported, these amendments will send a message to the courts that betting agencies that do the wrong thing should receive heftier fines.

Amendment No. 4 automatically withdraws the consent to directly market to a user of a betting service after they have not logged in or been active on their betting account for a period of 12 months. If they log into their account after 12 months they will be required to opt in to marketing again. If a user begins to neglect one particular agency in favour of another, a promotion from that service could easily induce them to return to that agency, resulting in them placing bets through multiple agencies simultaneously. Having the account go dormant after a period decreases the likelihood that users will maintain multiple accounts and therefore decreases the likelihood that they will engage in problematic gambling behaviour.

Amendments Nos 3 and 9 clarify the wording around users having to explicitly consent to receive direct marketing from online betting agencies. This ensures that the agency uses an opt-in rather than an opt-out system. Inducements to bet include multi-bet offers and stake back offers and also match your stake or deposit offers, cash out early on a multi-bet, sign up bonuses, rewards programs, better odds winning offers and more. These promotions have been found to drive gambling uptake, with many young men in particular viewing those promotions as an appealing low-risk or no loss betting option. They also encourage users to open accounts with multiple betting agencies in order to take advantage of as many inducements as possible. The end result is that users get constantly bombarded by different agencies with promotions designed to get them to engage in risky betting behaviour.

These amendments will ensure that users are required to opt in, ultimately reducing the number of users that are exposed to direct marketing and inducements. Those experiencing gambling problems, in particular young men, are vulnerable to the power of promotions and it is the responsibility of the House to do everything possible to reduce their exposure to direct marketing by betting agencies. These amendments mean that fewer users will

be exposed to direct marketing and gambling inducements. This means fewer users will be at risk of developing a gambling problem.

I hope members in this place support these amendments. My office has had very constructive discussions with the Minister's office and with the Opposition in relation to these amendments. We have come to a good place to put forward reasonable amendments that will reduce gambling harm further than the Government's current bill. I commend the amendments to the Committee.

**The Hon. SCOTT FARLOW (22:29:55):** I speak on behalf of the Government to support these amendments as moved by The Greens. The amendments moved by Ms Cate Faehrmann will strengthen the bill and enhance the Government's ability to crack down on irresponsible behaviour by some betting service providers. The first of those amendments is to amend section 33HA of the bill to provide that where a person has not activated their account for 12 months they are taken to have withdrawn their consent to receive gambling advertising. This provision clarifies that we do not want people who have not accessed their accounts for long periods being offered inducements by providers to return to gambling. This amendment is a common sense check to ensure that people who have decided not to gamble can continue not to do so.

The second amendment to all offences under the bill will increase maximum penalties for offences introduced by the bill as well as section 33H of the Betting and Racing Act 1998. The Government supports this amendment as it is critical that Parliament sends a clear message to the courts that we expect penalties for breaches of the Act to increase and that it is Parliament's intention that the penalties imposed are commensurate with the harm that it has identified. The final amendment is to clarify that where a person is required to give consent under the reforms that the consent must be expressed and informed. This amendment will make clear that a person must make a conscious decision to start receiving gambling advertising from betting service providers and they must be able to understand what that involves. We expect this to be made clear in terms and conditions that are transparent, easy to understand and easy to access.

**The Hon. DANIEL MOOKHEY (22:31:29):** I will not tax the amity, comity or patience of the Committee by providing too lengthy a contribution other than to say that the Opposition will be supporting the amendments for the reasons given by Ms Cate Faehrmann and the Parliamentary Secretary.

**The CHAIR (The Hon. Trevor Khan):** Ms Cate Faehrmann has moved The Greens amendments Nos 1 to 10 on sheet c2019-085E. The question is that the amendments be agreed to.

**Amendments agreed to.**

**The CHAIR (The Hon. Trevor Khan):** The question is that the bill as amended be agreed to.

**Motion agreed to.**

**The Hon. SCOTT FARLOW:** I move:

That the Chair do now leave the chair and report the bill to the House with amendments.

**Motion agreed to.**

### **Adoption of Report**

**The Hon. SCOTT FARLOW:** On behalf of the Hon. Sarah Mitchell: I move:

That the report be adopted.

**Motion agreed to.**

### **Third Reading**

**The Hon. SCOTT FARLOW:** On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a third time.

**Motion agreed to.**

### *Adjournment Debate*

### **ADJOURNMENT**

**The Hon. SCOTT FARLOW:** I move:

That this House do now adjourn.



## FEDERAL FINANCIAL RELATIONS REVIEW

**The Hon. SCOTT FARLOW (22:33:55):** Tonight I will speak on the NSW Review of Federal Financial Relations and the release of the *NSW Review of Federal Financial Relations* discussion paper. The review was commissioned by the Treasurer to deliver a road map for more sustainable funding arrangements and greater financial autonomy for New South Wales. We have a one-in-60-year alignment of election cycles between key State and Federal governments, which gives us an opportunity to drive a national vision for the federation that encourages innovation and competition. This review is not us versus them. It is about working cooperatively with other States and the Commonwealth and perhaps even the Opposition to achieve the best outcome. We have an opportunity to get it done, to see meaningful change, to find a fairer, more efficient, and more reliable system of Federal funding. This is our chance. We have the opportunity to work together with the Commonwealth to build a stronger economy, cut red tape and deliver better value for our taxpayers.

This review is being undertaken by an eminent panel with deep and complementary expertise across intergovernmental relations, public policy, federalism, economics and constitutional law. The panel is chaired by David Thodey, AO, who among other roles is currently chair of the CSIRO and is a former CEO of Telstra. The panel also includes the Right Honourable Sir Bill English, KNZM, a former New Zealand Prime Minister, Deputy Prime Minister, and Minister for Finance; the Hon. John Anderson, AO—I note he was in the House this evening—a former Australian Deputy Prime Minister, Minister for Transport and Regional Development, Minister for Primary Industries and Energy, and champion of regional communities; Professor Anne Twomey, the pre-eminent Professor of Constitutional Law and director of the Constitutional Reform Unit at the University of Sydney, with research interests particularly in federalism; Professor John Freebairn, AO, the Richie Chair of Economics at the University of Melbourne; and Ms Jane Halton, AO, PSM, a former Secretary of the Department of Health and Finance, who is an extremely experienced public servant with board experience in Australia and overseas.

This highly qualified and extremely talented panel has been tasked with recommending practical options to help address some of the challenging aspects in the relationship between the States and the Commonwealth. Specifically, the panel has been tasked with finding ways to: improve the design of Commonwealth funding mechanism to support citizen outcomes and improve taxpayer value for money, modernise the State's revenue base to ensure it is sustainable and minimises the burden on our citizens, reduce the financial dependency of the States on the Commonwealth, and improve how the two levels of government partner on major national issues. New South Wales relies on the Federal Government for almost 40 per cent of our revenue, including GST payments and tied grants. As a federation, Australia has the third highest State dependence on the Commonwealth of all nations, bettered only by Austria and Belgium.

Twenty-two per cent of our State revenue comes from the GST. Equalisation arguments aside, we have seen the overall GST revenue pool eroding over time. In 2002-03, 61 per cent of household spending was subject to GST. In 2016-17, that figure was below 56 per cent. This volatility of GST revenue collections makes it incredibly difficult to forecast GST payments to the States. For example, the writedown in forecast GST revenues in the Commonwealth 2018-19 *Mid-Year Economic and Fiscal Outlook* and the subsequent 2019-20 budget lowered New South Wales revenues by an estimated \$2.3 billion over four years.

We are also facing increasing complexity with funding arrangements and partnerships with the Commonwealth. We are seeing an increasing number of small agreements. In 2018-19, 30 national partnerships or Federal funding agreements that were provided are of a value less than \$10 million, with 25 of those being less than \$5 million. These funding arrangements are overly complex, with strict conditions on how the money can be spent, funding uncertainty, too much time spent negotiating the agreements and a misalignment of objectives between the two levels of government. Indeed, since 2009 the number of Federal constraints on States has blown out from 22 to more than 300.

If we do not change the current system, the gap between revenue and expenditure will grow to 3.4 per cent of gross State product by 2056. This means that one-fifth of New South Wales Government revenue would be redirected away from delivering much-needed services to instead being dedicated to servicing debt. This week has seen the release of the *NSW Review of Federal Financial Relations* discussion paper. The discussion paper highlights key areas and opportunities for reform including property stamp duty, the GST and the removal of red tape between layers of government.

This reform is vitally important for New South Wales. Business as usual is not an option. I can advise that public submissions have opened—I am sure some will come from the Opposition—and can be submitted until 22 November. We want to know what people think; we are looking for innovative ideas as to how governments can serve citizens better. Submissions will inform the panel's consideration of the issues and assist in the recommendations that will be put to government in 2020. I encourage all interested parties to go to the Treasury website, download the paper and make a submission.

### MOUNT VIC FLICKS

**The Hon. WALT SECORD (22:39:04):** As shadow Minister for the Arts, I will make a contribution on Mount Vic Flicks. It is an important entertainment treasure in the heritage-listed Blue Mountains village of Mount Victoria. Members would also be aware that I have spoken in the past about my appreciation of the National Theatre Live [NTL] screenings. This is a program through which the world's best theatre productions are recorded by multiple cameras and screened around the world. On a recent brief visit I was pleasantly surprised to discover as I leafed through the *Blue Mountains Gazette* that the local cinema was offering an NTL screening of *Fleabag*, by Phoebe Waller-Bridge.

However, the ad carried a tiny non-descript, but unusual, request. It asked that patrons email to reserve seats for the 12 October session. Initially, I was incredulous about the need for the reservation in a regional cinema, but it turned out to be necessary as the film was almost sold out. Imagine my delight at seeing the very best in world theatre available to a regional community and that community embracing the opportunity with such enthusiasm. My own enthusiasm was only increased when I got to the Mount Victoria cinema to see for myself a fantastic piece of New South Wales heritage enjoying a dynamic new lease of life. Built in 1934, the cinema is a window into the golden age of the Australian country picture theatre culture that was once the cultural hub of almost every town no matter what the size.

It still features old-fashioned leather seats and a candy bar that serves tea and scones, as well as popcorn and choc tops. And it still fulfils one of the great community purposes of cinema—the shared storytelling experience. When we gather with our fellow theatregoers we are not just watching a screen. We laugh at a shared joke. We recoil at a shared horror. We bite our mutual nails in suspense. It creates a common experience and common language in a community, one that is in its own way just as valuable as the oral story tradition of generations past. Currently, this place of storytelling for the Mount Victoria community is a small family venture run by Adam Cousins and Kirsten Mulholland and occasionally their sons Charlie and Finn.

They took over in 2013 and installed digital projectors, a new sound system and 3D technology. The previous owners ran the cinema for 26 years and I hope the current owners enjoy a similar innings. Today they host various local and international film festivals, special events and fundraisers, providing an eclectic mix of quality films from Australia and abroad, arthouse to kids, new releases to classics, as well as National Theatre Live and the Metropolitan Opera Live to the residents of the Blue Mountains. It is perhaps no surprise then that last year, Mount Vic Flicks was awarded best regional cinema in Australia by the Australian Independent Cinemas Association at the Australian International Movie Convention on the Gold Coast. From what I observed at Mount Victoria, it is an honour well deserved.

On a final note, after the National Theatre Live screening, we got back to our accommodation and discovered that we had left a prized umbrella in the cinema. While it was not an unusual item, it had great sentimental value to my spouse as it had belonged to her late father, who passed away in 2017. We telephoned the cinema and Adam answered. He was already in the middle of preparing an email to tell us that he found an umbrella between our seats. The next day, we returned to retrieve our umbrella. The second visit gave us an opportunity to speak to Kirsten and find out more about their cinema. Clearly, they feel a responsibility to their local community and care for their patrons, which is reciprocated by the patrons we met while at the cinema. Others at the National Theatre Live screening happily spoke of how much the Mount Vic Flicks is valued. I wish Adam and Kirsten continued success and congratulate them on their venture and hope that the Mount Vic Flicks continues to operate for years to come.

### MICHAEL EBERAND AND GREYHOUND RACING NSW

**The Hon. MARK BANASIAK (22:42:44):** Michael Eberand and his family love their dogs. They have old greyhounds as pets and special needs greyhounds, who did not race, living with them. Michael is a progressive professional family man who has had great success with his greyhounds as a hobby, while he carries out his professional life as an accountant. He has a long history of voluntarily contributing to the greyhound racing industry where he asked for nothing in return because he is passionate about the industry and about his dogs. Michael is someone the industry and Government should have nurtured and looked after, not only to help the industry survive, but to thrive. When the opportunity came he volunteered to join the board of Greyhound Racing NSW.

The Nationals and Paul Toole said they support greyhound racing, but they did nothing except leave the same bureaucrats in place such as Paul Newson and others who wanted it closed and killed off. The new board under Morris Iemma went after Mike with a vengeance, based on lies and innuendo. Michael and his family were a convenient target to feed The Greens and the Government who were out for revenge after reversing the ban. Why were the bureaucrats not sanctioned for leaking Greyhound Racing NSW data to Mehreen Faruqi? False accusations were made against him by Faruqi in the media and on social media that he lied. He got none of that.

Instead, he got a vicious campaign to contend with, one that has cost him a lot of money to defend at the tribunal, and appeal his innocence. He has been publicly shamed, which has left him and his family traumatised.

When he sought a meeting with Toole's office to report his concerns on how things were being handled, he was told to go away. He was told to go to the Greyhound Welfare Integrity Commission, which he did, but it told him it out was outside its role. The very least that Greyhound Racing NSW and the new Minister should do is issue an apology to Michael and cover his legal costs. They need to do this immediately. Michael does not want to sue the industry. He just wants to make it right, and try to move on from what this Government and Greyhound Racing NSW has done to him and his family. Greyhound Racing NSW and this Government continue to run around in denial, and want to sweep Michael's persecution under the carpet.

The judge in his appeal said Michael was innocent, and specifically said, "a right-minded person wouldn't have condemned his actions". In other words, everyone associated with this fiasco, Paul Toole, the Board of Greyhound Racing NSW, the public servants and others sought to destroy a good man because he was on the board, and wanted to advance the industry when they wanted to kill it quietly. He was not prepared to go quietly into the night or to cop it sweet. Greyhound Racing NSW needs to apologise. Paul Toole needs to apologise for his persecution of Michael Eberand and his son, and compensate them for their costs incurred in clearing their names. This is a disgraceful episode in a long-running litany of disgraceful behaviour sanctioned by this Government when it attempted to destroy the greyhound racing industry.

### SIR ROBERT GORDON MENZIES

**The Hon. LOU AMATO (22:45:50):** I will quote a passage from a speech given to the Federal Parliament in 1951 by the late Sir Robert Menzies:

I will in the course of this speech have much to say about the damage which Communism does to industry and production. But tremendously important as this is, it is a symptom only. The real disease of Communism is deeper and more deadly, and unless we attack it by all possible means, it will infect the whole of our community life.

The industrial activities of the Communists prove them to be destructive and disloyal, a fifth column for a potential enemy. Why should Communists do these things? The answer is that Communism is a materialistic doctrine, void of spiritual content. It is not only anti-Christian, but is opposed to all those nobler aspirations which spring from the religious faith of decent people. True, Communism itself has been called, by some, a religion. But it is a religion of hatred; it derives from the darkest recesses of the human mind; it has nothing in common with the Christian gospel of love and brotherhood. If it had, it could not preach the class war or use envy and malice as its characteristic weapons.

In this great and free country of ours we have at least learned that hatred of other men is no instrument of progress but is merely a sign of decadence and despair. When, therefore, I say to you that the Government is pledged to make war upon Communism I am not talking about an attack upon individuals as such, though we are determined to root out key Communists from key positions, but upon a set of evil ideas which are quite foreign to our civilisation, our traditions, and our faith.

Those who persist, as does the Leader of the Opposition, in regarding Communism as just some variant of democratic political philosophy entirely overlook the fact that Communism is debased, treasonable, utterly undemocratic; in form a subversive conspiracy; in practice opposed to high standards of living and real prosperity; destructive, if it succeeds, of all human freedom.

We are pledged to fight it, and to defeat it.

On 16 October 2019 the Liberal Party celebrated its seventy-fifth anniversary. We pay homage to our founding father, Sir Robert Gordon Menzies. Sir Robert was a staunch Conservative who championed freedom of speech and understood that the middle class was the stronghold of our nation. He stood firmly against the infiltration of communistic ideologies in our society. Sir Robert understood that communism was a debased doctrine committed to the destruction of all the freedoms of a democratic society. I am a proud member of the party he founded and I have not forgotten his values, nor have his words become outdated or irrelevant.

The party he founded and the principles he stood for are a guiding light for Liberals. His words resonate in our hearts and we acknowledge his commitment to maintaining the most treasured component of democracy—freedom. Sir Robert knew all too well the dangers of communism. He lived up to his solemn pledge that he will fight and defeat communism. Sir Robert was a man of faith. He acknowledged the Christian-Judeo principles as a rock on which our society was built, and upon that rock was the home. On 22 May 1942 Sir Robert made a speech entitled *The Forgotten People*. Here is an excerpt of that great speech. He said:

The material home represents the concrete expression of the habits of frugality and saving "for a home of our own." Your advanced socialist may rave against private property even while he acquires it; but one of the best instincts in us is that which induces us to have one little piece of earth with a house and a garden which is ours; to which we can withdraw, in which we can be among our friends...

...

My home is where my wife and children are. The instinct to be with them is the great instinct of civilised man; the instinct to give them a chance in life - to make them not leaners but lifters - is a noble instinct.

Sir Robert Gordon Menzies was a man of greatness. His contribution to politics was instrumental in shaping this great nation of ours. Communism is still alive and well.

### FREEDOM OF INFORMATION

**The Hon. PETER PRIMROSE (22:50:22):** What is it about Liberal-Nationals governments and their obsession with secrecy? In the previous term of the New South Wales Parliament I thought the Government had reached peak secrecy. Whether it was responding to requests for information under the Government Information (Public Access) Act [GIPAA] with pages of completely redacted documents, through to answers to questions on notice that said, "This information is in the annual report" when it was not, the lack of transparency surrounding the previous term of the New South Wales Liberal-Nationals Government was astonishing. I hoped in the interests of good government and good governance that in this term the nexus between secrecy and the Liberal-Nationals Government would lessen, but this has not been the case.

GIPAA requests have become harder to obtain as agencies repeatedly refuse to grant access unless large amounts of money are provided to cover their administrative costs. Yesterday a coalition of media outlets and organisations launched a totally justified campaign to make the Australian community aware of the threats to the fundamental right-to-know information that impacts our lives. The campaign is called "Your Right to Know" and Labor leader Jodi McKay has rightly indicated that the NSW Labor team fully supports it. This is not a fringe issue that can swept away by the Liberals and The Nationals. This is a campaign that includes major mastheads across the country, including the likes of *The Guardian* and *The Australian*. Whilst this campaign seems more focused on the Federal sphere, the issue also impacts us at the State level in New South Wales.

After the first round of budget estimates this year I was contacted by a New South Wales citizen who had been dealing with a government department and was attempting to use the GIPAA process. The New South Wales Government department responded to the application by stating that it did not have information about the provision of the services requested but, perversely, they were the very services the agency was established and funded to provide. The New South Wales iteration of freedom of information is increasingly becoming known as the "right to no", not the "right to know". Despite the Legislative Council's new sessional orders, a number of Liberal and Nationals Ministers flout the requirement that any answer to a question on notice "must be directly relevant".

When I ask a specific question about jobs and job security, it is reasonable that I do not expect a general answer provided by a Minister about investment and credit ratings. Do not misunderstand me: I am also interested in investment and credit ratings but that is not directly relevant to the question I asked. When I ask a detailed question seeking the specific locations of New South Wales agents-general I do not expect a trite statement that says, "Our representatives are already based in key international markets." Such repeated infractions from Ministers are not only contrary to the sessional orders but also, frankly, they are insulting to the House. These Ministers are serial offenders against the good order and governance of this place.

In relation to information, the United Nations says: Democracy demands that individuals are able to participate effectively in decision-making and assess the performance of their Government. This participation depends on access to a variety of information held by public bodies ... Freedom of information thus contributes to Government openness and accountability, and represents an important instrument to prevent and combat corruption. As a member of the New South Wales Parliament, if I continue to have difficulties gaining access to information that the Parliament has resolved that I have a right to obtain, what hope do journalists and, more importantly, the people of New South Wales have to access the information that they have a right to know?

**The DEPUTY PRESIDENT (The Hon. Shayne Mallard):** The question is that this House do now adjourn.

**Motion agreed to.**

**The House adjourned at 22:55 until Wednesday 23 October 2019 at 11:00.**