



**New South Wales**

# **Legislative Council**

## **PARLIAMENTARY DEBATES (HANSARD)**

**Fifty-Seventh Parliament  
First Session**

**Tuesday, 24 March 2020**

Authorised by the Parliament of New South Wales



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# LEGISLATIVE COUNCIL

**Tuesday, 24 March 2020**

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

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

## *Bills*

**EVIDENCE AMENDMENT (TENDENCY AND COINCIDENCE) BILL 2020**

**COVID-19 LEGISLATION AMENDMENT (EMERGENCY MEASURES) BILL 2020**

**TREASURY LEGISLATION AMENDMENT (COVID-19) BILL 2020**

**BETTER REGULATION AND CUSTOMER SERVICE LEGISLATION AMENDMENT (BUSHFIRE RELIEF) BILL 2020**

## **First Reading**

**Bills received from the Legislative Assembly.**

**Leave granted for procedural matters to be dealt with on one motion without formality.**

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

That the bills be read a first time and printed, standing orders be suspended on contingent notice for remaining stages and the second readings of the bills be set down as orders of the day for a later hour.

**Motion agreed to.**

## *Documents*

### **INFORMATION AND PRIVACY COMMISSION**

#### **Reports**

**The PRESIDENT:** According to the Government Information (Information Commissioner) Act 2009, I table a report of the Information Commissioner entitled *Report on the Operation of the Government Information (Public Access) Act 2009: 2018-2019*, dated March 2020, received out of session and authorised to be made public on 18 March 2020.

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

That the report be printed.

**Motion agreed to.**

### **LAW ENFORCEMENT CONDUCT COMMISSION**

#### **Reports**

**The PRESIDENT:** According to the Law Enforcement Conduct Commission Act 2016, I table a report of the Law Enforcement Conduct Commission entitled *Operation Dukono*, dated February 2020, received out of session and authorised to be made public on 18 March 2020.

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

That the report be printed.

**Motion agreed to.**

### **DOMESTIC VIOLENCE DEATH REVIEW TEAM**

#### **Reports**

**The PRESIDENT:** According to the Coroners Act 2009, I table a report of the Domestic Violence Death Review Team for the period July 2017 to June 2019, received out of session and authorised to be made public on 18 March 2020.

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

That the report be printed.

**Motion agreed to.**

*Announcements*

**WORK HEALTH AND SAFETY AMENDMENT (REVIEW) BILL 2020**

**The PRESIDENT (14:35:14):** On the last sitting day, Thursday 27 February 2020, I reported a message from the Legislative Assembly forwarding the Work Health and Safety Amendment (Review) Bill. As is the usual practice, the Leader of the Government moved the first reading, printing and suspension of standing orders to allow the bill to proceed through all stages. The second reading debate was set down for a later hour and the bill was listed on the *Notice Paper* under Government business—Orders of the day.

It has subsequently been drawn to my attention that on 19 November last year the provisions of the bill, while still in the Legislative Assembly, were referred to Portfolio Committee No. 1 – Premier and Finance for inquiry and report. The terms of reference for that inquiry included that "the bill be referred to the committee upon receipt of the message on the bill from the Legislative Assembly". Therefore, the correct process should have been to report the bill and then defer motions for the first reading, printing and further motions until the committee had tabled its report.

As a result of this omission, a revised proof of the *Notice Paper* has been issued which places the bill with the other six bills currently being examined by committees listed at the back of the *Notice Paper*. The report of the committee is due to be tabled during formal business. When this occurs I will call on the Leader of the Government to move that the bill be read a first time and printed.

*Motions*

**NEPALESE COMMUNITY BUSHFIRE SUPPORT**

**The Hon. NATASHA MACLAREN-JONES (14:36:23):** On behalf of the Hon. Lou Amato: I move:

- (1) That this House notes the:
  - (a) contribution of the South West Nepalese Community Sydney during the 2019-20 bushfires in the Southern Highlands region in preparing and distributing over 360 meals to RFS and SES volunteers and affected residents; and
  - (b) significant emotional support the South West Nepalese Community Sydney provided by visiting many of those affected by the devastation of the fires.
- (2) That this House acknowledges:
  - (a) the friendship that exists between Australia and Nepal;
  - (b) the contribution to Australia that the Nepalese people have made; and
  - (c) the following people who organised the distribution of meals during the recent bushfires:
    - (i) Devendra Sapkota;
    - (ii) Surya Khanal; and
    - (iii) Bhupai Sitoula.

**Motion agreed to.**

**RABBI ZALMAN KASTEL, OAM**

**The Hon. NATASHA MACLAREN-JONES (14:36:53):** On behalf of the Hon. Natalie Ward: I move:

- (1) That this House notes that:
  - (a) on Australia Day 2020 Rabbi Zalman Kastel was awarded a Medal of the Order of Australia for his work teaching tolerance and interfaith understanding to school children through the organisation Together for Humanity; and
  - (b) Together for Humanity has provided significant service to interfaith and intercultural understanding and acceptance in New South Wales.
- (2) That this House thanks:
  - (a) Rabbi Kastel, OAM, on this significant recognition of his ongoing commitment to interfaith understanding; and
  - (b) the board and staff of Together for Humanity for their commitment and hard work promoting tolerance.

**Motion agreed to.***Documents***TABLED PAPERS NOT ORDERED TO BE PRINTED**

**The Hon. DON HARWIN:** According to standing order, I table a list of all papers tabled in the previous month and not ordered to be printed.

**TABLING OF PAPERS**

**The Hon. DON HARWIN:** I table the following paper:

Workplace Injury Management and Workers Compensation Act 1998—Report of the Workers Compensation Independent Review Office for year ended 30 June 2019.

I move:

That the report be printed.

**Motion agreed to.***Committees***STANDING COMMITTEE ON LAW AND JUSTICE****Reports**

**The Hon. GREG DONNELLY:** On behalf of the Hon. Wes Fang: I table report No. 73 of the Standing Committee on Law and Justice entitled *2019 Review of the Dust Diseases Scheme—Silicosis in the manufactured stone industry*, dated March 2020, together with submissions, transcripts of evidence, tabled documents, answers to questions on notice and supplementary questions, and correspondence relating to the inquiry. I move:

That the report be printed.

**Motion agreed to.**

**The Hon. GREG DONNELLY (14:39:00):** I move:

That the House take note of the report.

**Debate adjourned.****PUBLIC ACCOUNTABILITY COMMITTEE****Reports**

**Mr DAVID SHOEBRIDGE:** As chair of the committee, I table report No. 5 entitled *Budget process for independent oversight bodies and the Parliament of New South Wales: First report*, together with submissions, transcripts of evidence, tabled documents, answers to questions on notice and correspondence relating to the inquiry. I move:

That the report be printed.

**Motion agreed to.**

**Mr DAVID SHOEBRIDGE (14:39:58):** I move:

That the House take note of the report.

I am grateful for the work of the secretariat and for the cooperation of the members of the committee. It has been a difficult time in which to finalise this report. A lot more should be said about it, particularly about ensuring transparent oversight of funding for key integrity bodies such as ICAC and, indeed, ensuring that we have transparent funding for the Parliament. Today is not the day to go into that in detail. I commend the report to the House.

**Debate adjourned.****PORTFOLIO COMMITTEE NO. 1 - PREMIER AND FINANCE****Reports**

**The Hon. TARA MORIARTY:** As chair of the committee, I table report No. 49 entitled *Work Health and Safety Amendment (Review) Bill 2019*, dated March 2020, together with transcripts of evidence, submissions, tabled documents, correspondence, answers to questions taken on notice and supplementary questions, responses to online questionnaire and summary of report responses. I move:

That the report be printed.

**Motion agreed to.**

**The Hon. TARA MORIARTY (14:41:05):** I move:

That the House take note of the report.

**Debate adjourned.**

### *Bills*

## **WORK HEALTH AND SAFETY AMENDMENT (REVIEW) BILL 2020**

### **First Reading**

**Bill read a first time and ordered to be printed on motion by the Hon. Don Harwin, on behalf of the Hon. Damien Tudehope.**

**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 as an order of the day for the next sitting day.

**Motion agreed to.**

### *Committees*

## **SELECTION OF BILLS COMMITTEE**

### **Reports**

**The Hon. NATASHA MACLAREN-JONES:** As chair of the committee, I table report No. 30 of the Selection of Bills Committee, dated 24 March 2020. I move:

That the report be printed.

**Motion agreed to.**

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

- (1) That:
  - (a) the provisions of the Firearms and Weapons Legislation Amendment (Criminal Use) Bill 2020 be referred to Portfolio Committee No. 5 – Legal Affairs for inquiry and report;
  - (b) the bill be referred to the committee upon receipt of the message on the bill from the Legislative Assembly;
  - (c) that the committee report by Tuesday 22 September 2020; and
  - (d) on the report being tabled, a motion may be moved immediately for the first reading and printing of the bill.
- (2) That the following bills not be referred to a standing committee for inquiry and report this day:
  - (a) Evidence Amendment (Tendency and Coincidence) Bill 2020;
  - (b) Water Management Amendment (Water Rights Transparency) Bill 2020;
  - (c) Civil Remedies for Serious Invasions of Privacy Bill 2020;
  - (d) Better Regulation Legislation Amendment Bill 2020;
  - (e) Better Regulation and Customer Service Legislation Amendment (Bushfire Relief) Bill 2020;
  - (f) Anti-Discrimination Amendment (Complaint Handling) Bill 2020;
  - (g) Local Government Amendment (Disqualification from Civic Office) Bill 2020;
  - (h) COVID-19 Legislation Amendment (Emergency Measures) Bill 2020; and
  - (i) Treasury Legislation Amendment (COVID-19) Bill 2020.

**Motion agreed to.**

*Documents***NSW LAW REFORM COMMISSION****Reports**

**The CLERK:** According to the Law Reform Commission Act 1967, I announce receipt of report No. 147 of the NSW Law Reform Commission entitled *Access to Digital Records Upon Death or Incapacity*, dated December 2019.

**AUDITOR-GENERAL****Reports**

**The CLERK:** According to the Public Finance and Audit Act 1983, I announce receipt of a Financial Audit Report of the Auditor-General entitled *Local Government 2019*, dated March 2020, received out of session and authorised to be printed on 5 March 2020.

*Committees***PORTFOLIO COMMITTEE NO. 6 - TRANSPORT AND CUSTOMER SERVICE****Reports**

**The CLERK:** According to standing order, I announce receipt of report No. 10 of Portfolio Committee No. 6 – Transport and Customer Service entitled *Digital Restart Fund Bill 2019*, dated February 2020, together with transcripts of evidence, correspondence and answers to questions taken on notice, received out of session and authorised to be printed on 28 February 2020.

*Bills***DIGITAL RESTART FUND BILL 2019****First Reading**

**Bill read a first time and ordered to be printed on motion by the Hon. Don Harwin, on behalf of the Hon. Damien Tudehope.**

**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 as an order of the day for the next sitting day.

**Motion agreed to.**

*Committees***STANDING COMMITTEE ON STATE DEVELOPMENT****Reports**

**The CLERK:** According to standing order, I announce receipt of report No. 46 of the Standing Committee on State Development entitled *Uranium Mining and Nuclear Facilities (Prohibitions) Repeal Bill 2019*, dated March 2020, together with transcripts of evidence, submissions, tabled documents, correspondence and answers to questions taken on notice, received out of session and authorised to be printed on 4 March 2020.

**The Hon. MICK VEITCH (14:27:00):** On behalf of the Hon. Taylor Martin: I move:

That the House take note of the report.

**Debate adjourned.**

*Business of the House***RESTORATION OF BUSINESS**

**The Hon. MARK LATHAM:** I move according to the resolution of the House of 6 June 2019:

That the Uranium Mining and Nuclear Facilities (Prohibitions) Repeal Bill 2019 be restored to the *Notice Paper* and the second reading of the bill stand as an order of the day for a later hour of the sitting.

**Motion agreed to.***Committees***PORTFOLIO COMMITTEE NO. 7 - PLANNING AND ENVIRONMENT****Reports**

**The CLERK:** According to standing order, I announce receipt of report No. 1 of Portfolio Committee No. 7 - Planning and Environment entitled *Environmental Planning and Assessment Amendment (Territorial Limits) Bill 2019 [Provisions]*, dated March 2020, together with transcripts of evidence, tabled documents, correspondence and online submissions process report, received out of session and authorised to be printed on 6 March 2020.

**REGULATION COMMITTEE****Government Responses**

**The CLERK:** According to standing order, I announce receipt of the Government responses to report No. 4 of the Regulation Committee entitled *Liquor Amendment (Music Festivals) Regulation 2019 and Gaming and Liquor Administration Amendment (Music Festivals) Regulation 2019*, tabled on 17 September 2019, received out of session and authorised to be printed on 28 February 2020.

*Documents***TRANSPORT ASBESTOS REGISTERS****Further Return to Order**

**The CLERK:** According to resolution of the House of 27 February 2020, I table documents relating to paragraph 3 of a further order for papers regarding transport asbestos registers, received on Wednesday 4 March 2020 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

**Claim of Privilege**

**The CLERK:** I table a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

**Further Return to Order**

**The CLERK:** According to resolution of the House of 27 February 2020, I table additional documents relating to paragraph 3 of a further order for papers regarding transport asbestos registers, received on Monday 9 March 2020 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

**Claim of Privilege**

**The CLERK:** I table a return identifying those of the additional documents that are claimed to be privileged and should not be tabled or made public. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

**MONASH UNIVERSITY ROAD SAFETY DOCUMENTS****Further Return to Order**

**The CLERK:** According to resolution of the House of 27 February 2020, I table documents relating to a further order for papers regarding the documents prepared by Monash University in relation to road safety, received on Thursday 5 March 2020 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

**Claim of Privilege**

**The CLERK:** I table a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

**TAFE NSW****Return to Order**

**The CLERK:** According to resolution of the House of 27 February 2020, I table documents relating to an order for papers regarding the list of current TAFE courses, received on Thursday 5 March 2020 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

**WESTERN HARBOUR TUNNEL AND BEACHES LINK****Correspondence**

**The CLERK:** According to resolution of the House of 27 February 2020, I table correspondence relating to the Western Harbour Tunnel and Beaches Link business cases received on Thursday 5 March 2020 from the Secretary of the Department of Premier and Cabinet, stating that the relevant offices and departments hold no documents covered by the terms of the resolution.

**YARRA BAY CRUISE SHIP TERMINAL****Return to Order**

**The CLERK:** According to resolution of the House of 27 February 2020, I table documents relating to an order for papers regarding the proposal for a cruise ship terminal at Yarra Bay received on Thursday 12 March 2020 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

**FLOODPLAIN HARVESTING****Return to Order**

**The CLERK:** According to resolution of the House of 27 February 2020, I table documents relating to an order for papers regarding floodplain harvesting, received on Thursday 19 March 2020 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of the documents.

**Claim of Privilege**

**The CLERK:** I table a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

**COALMINE EMISSIONS****Return to Order**

**The CLERK:** According to resolution of the House of 27 February 2020, I table documents relating to an order for papers regarding scope 3 emissions or downstream emissions, received on Thursday 19 March 2020 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of the documents.

**Claim of Privilege**

**The CLERK:** I table a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

**WARRAGAMBA DAM WALL****Correspondence**

**The CLERK:** According to resolution of the House of 27 February 2020, I table correspondence relating to the biodiversity assessment of the proposal to raise the Warragamba Dam wall received on Thursday 5 March 2020 from the Secretary of the Department of Premier and Cabinet, stating that the relevant offices and departments hold no documents covered by the terms of the resolution.

**WAGE THEFT****Return to Order**

**The CLERK:** According to resolution of the House of 27 February 2020, I table documents relating to an order for papers regarding payroll tax compliance, received on Thursday 19 March 2020 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

### Claim of Privilege

**The CLERK:** I table a return identifying those of the documents that are claimed to be privileged and should not be tabled or made public. I advise that pursuant to standing orders the documents are available for inspection by members of the Legislative Council only.

### MAULES CREEK COALMINE

#### Return to Order

**The CLERK:** According to resolution of the House of 27 February 2020, I table documents relating to an order for papers regarding the operator of Maules Creek coalmine and biodiversity offsets, received on Thursday 19 March 2020 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

#### *Committees*

### PORTFOLIO COMMITTEE NO. 7 - PLANNING AND ENVIRONMENT

#### Production of Documents: Order

**The CLERK:** I inform the House that on Thursday 19 March 2020, as part of the inquiry into budget estimates for 2019-20, Portfolio Committee No. 7 – Planning and Environment ordered under Standing Order 208 that the draft Liddell task force report and related paper be produced by 5.00 p.m. on Monday 23 March 2020.

#### *Special Adjournment*

### SPECIAL ADJOURNMENT

**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) (14:50:10):** I move:

That this House at its rising today do adjourn until Tuesday 15 September 2020 at 2.30 p.m. unless the President, or if the President is unable to act on account of illness or other cause, the Deputy President, prior to that date by communication addressed to each member of the House, fixes an alternative day or hour of meeting.

This of course is a departure from the published sitting times. It is an unusually long special adjournment. The reasons for this motion are quite clear and well known to all members. The Government is proposing this based on the advice that it has received from NSW Health, the dimension of the public health crisis facing the State from COVID-19 and having taken note of what the Federal Parliament did yesterday, facing similar circumstances. The date chosen in the special adjournment is the next scheduled sitting date of the Legislative Council after the date chosen by the Federal Parliament. That is the logic behind the date chosen.

I note a couple of matters in that respect. First of all, in the circumstances that legislation such as that facing the Parliament this afternoon in relation to urgent measures connected to the public health crisis comes forward, the Government of course will initiate a return of the House to ensure that it can be dealt with. As to whether I can predict that will happen, I am not in a position to give any undertakings to the House at the moment. If I were a betting man, I would say the likelihood is that we will be back here before 15 September to deal with further COVID-19 related measures, but we will see.

I also note that the mechanism the Government will use in relation to the urgent recall of the House is Standing Order 36. Our House is in the fortunate position—which the Legislative Assembly was not in prior to today—whereby a majority of members can recall this House at any time if they have a particular concern they wish to debate on the floor of the House. I add one additional matter. This is a very long special adjournment but we can all see the circumstances in which we are operating in the Chamber. We are socially distancing. We have a bare minimum of staff who are able to be in the building today to support us. These are unusual circumstances.

Other changes that we will make today include strengthening the capacity of another very important part of our work, the committee system, by broadening the way in which the committee system can do its work. We will be making changes so that deliberative meetings can be held by way of electronic means. This means that the opportunity for non-Government members, and indeed Government members, to scrutinise the activities of the Executive Government at this very worrisome time for everyone in the community will not be affected. The committee system will still be able to function—and function in a more practical way—during this difficult time for all of us. With those few words, I think the case for these changes is clear. I commend the special adjournment motion to the House.

**The Hon. ADAM SEARLE (14:54:38):** I indicate on behalf of the official Opposition that we on this side of the House will be supporting the Government proposal. I know there are mixed views about the length of

the adjournment. I am one of the members who initially balked at that and thought it was perhaps too long. But as the Leader of the Government has indicated, the members of this House have the capacity to recall the House. Because the Government does not have a majority in this Chamber it is unable to block that recall. I note that that does not apply in the other place. The Government would have to agree to a recall in the other place, where it still requires an absolute majority of members to petition. But as the Leader of the Government has indicated, we will be modernising and strengthening that part of the recall mechanism.

There are a number of sessional orders which the Government has given notice of in this Chamber today that we had raised with it in discussions over the last week. I thank the Government for taking up each and every one of those proposals and putting them on the table. It is vital that in these difficult times we ensure that there is a modern and effective mechanism for recall. Recognising not only the offices held by the Leader of the Government and by me but also the leadership of every other party in this place and those parties that do not have leaders, parties will be able to have a designated person who can sign on behalf of those members so that we do not have to sign up 22 members individually. The designated persons representing the majority can do so.

It is vital that we strengthen the committee system to remove archaic barriers to the deliberations of committees. That is also being proposed here. Of course, in the absence of Parliament the capacity of our committees, and our portfolio committees particularly, to undertake their important work becomes of even greater importance than would ordinarily be the case. With those brief comments, the Opposition indicates its support for this proposal.

**Mr DAVID SHOEBRIDGE (14:56:45):** I move:

That the motion be amended by omitting the words "Tuesday 15 September 2020 at 2.30 p.m." and inserting instead "Tuesday 28 April 2020 at 2.30 p.m."

On behalf of The Greens I move this amendment. We acknowledge the extraordinary times we are in. We acknowledge that Parliament should be sitting as rarely as possible because of the public health concerns. Every time we bring people together we create a public health concern. Despite our best efforts today at social distancing, that concern is live here in the Chamber today and equally, if not more importantly, in relation to the staff that we bring into this House whose welfare we must protect. However, we believe that Parliament is an essential service. It is one of the essential organs of government that must continue to sit, notwithstanding the public health crisis.

Of course we should not keep the usual sitting days and the usual sitting hours. Of course we should be limited only to the most essential work necessary to address this crisis. But The Greens do not believe that we can support in principle or otherwise a motion adjourning this Parliament until September. We are asking other emergency service workers to do their duty, some of them in far more dangerous circumstances than we are. I note in particular the health profession who, at extreme risk, are out there now face to face with patients. They are doing it because we ask it of them and we expect it of them. We believe that Parliament, which is at much less risk, should continue to do its functions as an emergency service.

Later today, as briefly as we possibly can, we will be dealing with extraordinary legislation giving extraordinary power to the Attorney General in particular to pass regulations to literally rewrite the laws by regulation without coming to the Parliament. That is part of the context of this adjournment. We understand the need for extraordinary legislation. But only the Chamber can oversight those regulations and only the Chamber can, if necessary, disallow them if they go too far. That cannot be done through the committees. We believe there is an obligation on the House to continue to sit—as rarely as possible—and continue to provide an emergency service. That is why I move this amendment.

**The Hon. MARK LATHAM (14:59:21):** One Nation shares many of the concerns that have been articulated by Mr David Shoebridge but believes on balance we should trust in the assurances that have been provided by the Special Minister of State about the process that lies ahead. The number one consideration must be public health, including in this building. As Mr David Shoebridge pointed out, the risk to staff and members of Parliament and by extension their families and friends is as real as for any other citizen in New South Wales and that should be of paramount concern. It is a very difficult decision for the Parliament to make.

I welcome the assurances that have been given by the Hon. Don Harwin about the Government's intention that the Parliament will return as early as possible in all the circumstances. To set an arbitrary date in April, when one feels the crisis would not yet have passed, is perhaps premature. We need to trust in the assurances given by the Government. I also thank the Leader of the Opposition and the Leader of the Government for their work in modernising the standing orders in these exceptional circumstances.

I put on the record that One Nation is very concerned about the extent of the powers to be granted in forthcoming legislation to the Attorney General in the administration of the justice system in New South Wales. They are extreme powers—powers that have never been seen in the time of responsible government in New South

Wales. It is almost like martial law. One probably would have to go back to the time of the Governor of colonial rule when one official had so much power in the administration of justice. It is an onerous responsibility and it should be exercised by the Government in a considered, commonsense way. Otherwise, I assure the Government that we will be signing our names to a petition to recall the Parliament to possibly rule out regulations that are heavy-handed and unnecessary. The Government is on watch in this regard, which I am sure is appreciated by all members. On balance, we should trust in the Government but if it does not use that trust wisely then this Parliament will be ready to play its appropriate watchdog role.

**The Hon. ROBERT BORSAK (15:01:40):** In representing the Shooters, Fishers and Farmers Party, I echo what has been said by the Hon. Mark Latham. Last week the Shooters, Fishers and Farmers Party wrote to the Premier and the Government to express our support for whatever needs to be done. The amendment proposed by Mr David Shoebridge seeks to set an arbitrary date which does not mean anything at this stage. We too will be ready to answer a recall if we feel that the Government is going too far or, indeed, not going far enough. It is important to note that these are unusual and emergency times. Public health and safety is paramount, as we have seen in the House today. We are keen to work with the Government and we will cooperate with anyone else in this Chamber to make sure that that happens but, in the end, the quicker we can get over this crisis the better. We support the Government's motion.

**Mr JUSTIN FIELD (15:02:53):** I will be supporting the Government's motion. The broad recognition is that these are extraordinary times and these will be extraordinary powers that will be handed to the Executive. In times of crisis we do have to reflect on the role of parliaments and sometimes it is to support the Executive. Of course, the Executive has to be scrutinised but we have to also consider how this decision is being taken in the context of the public view of politics and parliaments at the moment. Some of the challenges that we are facing in Australia right now are because of a lack of trust in politicians and in parliaments to react as needed by the community in a timely way based on real, transparent advice. We are all afflicted by that.

Over the course of the next six months we should think not only about how we can use the tools of the Parliament but also how we can use our tools, our relationships and networks with each other to help the Government in any way we can. We want to ensure that the decisions that the Government makes through regulation or stimulus into the community to help those who are going to be so badly affected by this crisis can be best served. The Government said it will strengthen the committee system but we need to acknowledge that we have seen efforts to delay the work of committees because of this crisis. Even The Greens have supported a delay in consideration of some committee work because of this crisis. The committee system will not necessarily enable us to have the level of scrutiny that the public expects of us.

The Government needs to reflect on the number of ways that it has not been so transparent in the past few months. Recently in budget estimates when I sought documents the term "Cabinet-in-confidence" was continually thrown at me. That has also been used when we have struggled to get documents through Standing Order 52. The Clerk of the Parliaments indicated that the Government was required to provide a document to the Portfolio Committee No. 7 budget estimates inquiry under a Sessional Order 208 request. We have not seen that yet either. The concern is that the Government is not being open and transparent and we will not be in Parliament to potentially move to disallow regulations that are created. I recognise that with a simple majority we can recall the Parliament. I indicate that I am willing to support such a call and I would hope that the Opposition, as it most likely will be, is prepared to receive calls from other Independent members and crossbench members who may think it is appropriate to recall the House. I will be supporting the Government's motion.

**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) (15:05:52):** In reply: I thank and genuinely appreciate the comments of honourable members and the spirit in which they were made. I take this opportunity to thank honourable members who have written to the Government in the past week to outline how they believe that Parliament and its business should be handled this week and into the future. That input has assisted the Government as health advice has progressed during the past week to bring us to this point.

Very briefly and respectfully I say that I completely understand the perspective of The Greens on this issue. From some of the briefings I have had, my expectation is that we are looking towards potentially a substantial rise in late April and May. I do not think that is the right time at which to recall Parliament. We have the safeguard of the urgent recall should we need it and we will not hesitate to recall Parliament if we think that is necessary for the management of the public health crisis that we are facing. With those few words, I commend the motion to the House.

**The PRESIDENT:** The Hon. Don Harwin has moved a motion, to which Mr David Shoebridge has moved an amendment. The question is that the amendment be agreed to.

**Amendment negatived.**

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

**Motion agreed to.**

*Petitions*

**PETITION RECEIVED**

**Abortion Law Reform Legislation**

Petition requesting that the House introduce legislation to repeal the Abortion Law Reform Act 2019, received from **Reverend the Hon. Fred Nile**.

*Business of the House*

**SUSPENSION OF STANDING AND SESSIONAL ORDERS: ORDER OF BUSINESS**

**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) (15:20:37):** By leave: I move:

That standing and sessional orders be suspended to allow the moving of a motion forthwith relating to the precedence and routine of business this day.

**Motion agreed to.**

**PRECEDENCE OF BUSINESS**

**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) (15:21:04):** I move:

That:

- (a) there be no question time or debate on committee reports this day;
- (b) Government business relating to the COVID-19 Legislation Amendment (Emergency Measures) Bill 2020, the Treasury Legislation Amendment (COVID-19) Bill 2020 and the Better Regulation and Customer Service Legislation Amendment (Bushfire Relief) Bill 2020 take precedence of all other business on the *Notice Paper* until concluded or disposed of;
- (c) following conclusion of debate on the Government bills, the following items of business, notice of which was given this day, be considered:
  - (i) sessional order to authorise the President to postpone a scheduled meeting of the House;
  - (ii) sessional order to vary Standing Order 36 to include a designated representative as a person who can request a recall of the House on behalf of a party;
  - (iii) amendment to sessional order for electronic participation in committee proceedings;
  - (iv) extension of reporting date for the Regulation Committee inquiry into the Impact and implementation of the Water Management (General) Amendment (Exemptions for Floodplain Harvesting) Regulation 2020;
  - (v) extension of reporting date for the Select Committee inquiry into Animal Cruelty laws in New South Wales;
  - (vi) extension of reporting date for the Regulation Committee inquiry into the making of delegated legislation;
  - (vii) referral to the Privileges Committee of the role of the House relating to disputed claims of privilege;
  - (viii) further order for papers relating to payroll tax exemptions;
  - (ix) leave of absence for members; and
  - (x) e-petitions;
- (d) following consideration of the items of business, notice of which was given this day, the following items of business be considered:
  - (i) private members' business item No. 467 outside the order of precedence relating to a select committee to inquire into and report on the impact of technological and other change on the future of work and workers in New South Wales; and
  - (ii) business of the House order of the day relating to the Code of Conduct for Members.

**Motion agreed to.**

*Committees***SELECT COMMITTEE ON THE GOVERNMENT'S MANAGEMENT OF THE POWERHOUSE MUSEUM AND OTHER MUSEUMS AND CULTURAL PROJECTS IN NEW SOUTH WALES****Membership**

**The PRESIDENT:** I inform the House that the Clerk has received the following nominations for membership of the Select Committee on the Government's management of the Powerhouse Museum and other museums and cultural projects in New South Wales:

Government:	Mr Franklin Mr Khan Mr Martin
Opposition:	Ms Jackson Mr Secord
Crossbench:	Mr Shoebridge

As stated in the resolution of the House establishing the committee, Mr Borsak is chair of the committee and the deputy chair is the nomination from The Greens, Mr Shoebridge.

**PORTFOLIO COMMITTEE NO. 1 - PREMIER AND FINANCE****Reference**

**The Hon. TARA MORIARTY:** As chair of the committee, according to paragraph 6 of the resolution of the House establishing the portfolio committees, I inform the House that on Monday 9 March 2020 Portfolio Committee No. 1 – Premier and Finance resolved to adopt a reference in relation to Budget Estimates 2019-2020. On Thursday 12 March the committee resolved to amend the terms of reference. The amended reference for the inquiry into the Budget Estimates and related papers for the financial year 2019-2020 relating to the portfolios of Jobs, Investment, Tourism and Western Sydney and the Legislature is as follows:

- (1) That Portfolio Committee No. 1 – Premier and Finance inquire into and report on the Budget Estimates and related papers for the financial year 2019-2020 relating to the portfolios of:
  - (a) Jobs, Investment, Tourism and Western Sydney;
  - (b) The Legislature; and
  - (c) The Premier.
- (2) That for the purposes of the inquiry:
  - (a) the committee conduct one hearing for the Jobs, Investment, Tourism and Western Sydney portfolios on Tuesday 10 March 2020 from 9.30 a.m. to 12.30 p.m. with the Minister for Jobs, Investment, Tourism and Western Sydney and from 2.00 p.m. to 5.30 p.m. with departmental witnesses only;
  - (b) the committee conduct one hearing for the Legislature portfolio on Monday 16 March 2020 from 9.30 a.m. to 11.30 p.m.;
  - (c) the committee conduct one hearing with the NSW Electoral Commissioner on Monday 16 March 2020 from 11.30 a.m. to 12.30 p.m.;
  - (d) the committee must hear evidence in public;
  - (e) the committee may ask for explanations from the Minister, officers of departments, statutory bodies or corporations relating to the items of proposed expenditure;
  - (f) witnesses, including the Minister, may not make an opening statement before the committee commences questions;
  - (g) members of the Legislative Council may lodge supplementary questions with the committee clerk by 5.00 p.m. within two days, except Saturday and Sunday, of the day of receipt of the transcript of the hearing;
  - (h) answers to questions on notice and supplementary questions are to be published, except those answers for which confidentiality is requested, after they have been circulated to committee members; and
  - (i) the committee tables its final report by 30 June 2020.

**STANDING COMMITTEE ON SOCIAL ISSUES****Reference**

**The Hon. DANIEL MOOKHEY:** On behalf of the Hon. Shayne Mallard: In accordance with paragraph 8 of the resolution of the House establishing standing committees, I inform the House that on Tuesday 11 March 2020 the Standing Committee on Social Issues resolved to inquire into the following reference from the Special

Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council, the Hon. Don Harwin, MLC:

That the Standing Committee on Social Issues inquire into and report on the State Records Act 1998 (the Act) and the Policy Paper on its review, with particular reference to:

- (a) the role and purposes of the State Records Authority of NSW and Sydney Living Museums;
- (b) the adequacy of the Act in meeting citizens' needs;
- (c) factors constraining public access to and use of the documentary and material heritage of New South Wales;
- (d) the operation and effect of the proposed reforms in the attached Policy Paper, in particular:
  - (i) the effect of the proposed reforms on New South Wales public offices, including government agencies, local councils, public health organisations and State-owned corporations;
  - (ii) whether the proposed reforms support digital government;
  - (iii) whether the proposed reforms will increase public knowledge and enjoyment of the stories that shape our social, historical and cultural identity, enhancing social outcomes for the people of New South Wales; and
  - (iv) whether the proposed reforms will enhance the protection of the key cultural assets of New South Wales.
- (e) any other related matter.

#### STANDING COMMITTEE ON LAW AND JUSTICE

##### Reference

**The Hon. GREG DONNELLY:** On behalf of the Hon. Wes Fang: According to the State Insurance and Care Governance Act 2015, I inform the House that on 18 March 2020 the Standing Committee on Law and Justice commenced its 2020 review of the workers compensation scheme.

#### PORTFOLIO COMMITTEE NO. 4 - INDUSTRY

##### Reference

**The Hon. MARK BANASIAK:** As chair of the committee, in accordance with paragraph (6) of the resolution establishing the portfolio committees, I inform the House that on 18 March 2020 Portfolio Committee No. 4 – Industry resolved to amend the terms of reference for its inquiry into the long-term sustainability of the dairy industry and the role of the NSW Department of Primary Industries and other government agencies in supporting the industry by omitting "on completion of the inquiry into the exhibition of exotic animals in circuses and the exhibition of cetaceans in New South Wales" and inserting instead "from 1 July 2020".

#### PORTFOLIO COMMITTEE NO. 4 - INDUSTRY

##### Extension of Reporting Date

**The Hon. MARK BANASIAK:** As chair of the committee, I inform the House that on 17 March 2020 Portfolio Committee No. 4 – Industry resolved to extend the reporting date for its inquiry into the exhibition of exotic animals in circuses and exhibition of cetaceans in New South Wales to 31 December 2020.

#### PORTFOLIO COMMITTEE NO. 6 - TRANSPORT AND CUSTOMER SERVICE

##### Extension of Reporting Date

**The Hon. MARK BANASIAK:** On behalf of Ms Abigail Boyd: I inform the House that on 16 March 2020 Portfolio Committee No. 6 – Transport and Customer Service resolved to extend the reporting date for its inquiry into the Sydenham to Bankstown line conversion to 30 June 2020.

##### *Written Answers to Supplementary Questions*

#### RURAL AND REMOTE EDUCATION STRATEGY

In reply to **the Hon. ANTHONY D'ADAM** (27 February 2020).

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

During the development of the NSW Department of Education's Rural and Remote HR phase 2 strategy (an expansion of earlier strategies), the experience, tenure, turnover and qualifications of teachers was examined. This assessed the level and number of teacher qualifications by school locations, teacher years of experience and diversity of experience. This had a particular focus on how these measures differed by school location and rurality.

These findings directly informed the initiatives and incentives that were put in place in 2019, offering differentiated incentive packages to attract and retain teachers based on school remoteness, accessibility and relative staffing difficulty. These initiatives were developed based on analysis of survey results of current teachers and initial teacher education students conducted by University of Technology Sydney, assessing what options would induce teachers to consider a rural position. Due to this program of attraction and retention incentives being in its infancy, a review has not yet been conducted, as increase in tenure in rural and remote teaching positions is unable to be observed over such a short time frame.

The revised teach.Rural Scholarship offering that was introduced as part of this program has seen a ninefold increase in applicant numbers. In addition to this, a number of principals have reported more inquiries about positions and cancelled transfer requests. Early indications of the effects of this intervention are positive.

#### *Deferred Answers*

### **BUSHFIRES AND THREATENED SPECIES**

In reply to **Ms CATE FAEHRMANN** (25 February 2020).

**The Hon. DON HARWIN (Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council)**—The Minister provided the following response:

Fires during the 2019-20 bushfire season were the most widespread and extreme that New South Wales has experienced and have resulted in significant impacts on biodiversity.

The Government has been undertaking extensive impact assessment to understand the extent and severity of the 2019-20 fires and is implementing actions to support recovery of our wildlife and conservation values.

Information about the Government's recovery efforts can be found at [www.environment.nsw.gov.au/topics/parks-reserves-and-protected-areas/fire/park-recovery-and-rehabilitation/recovering-from-2019-20-fires](http://www.environment.nsw.gov.au/topics/parks-reserves-and-protected-areas/fire/park-recovery-and-rehabilitation/recovering-from-2019-20-fires).

### **BUSHFIRES AND FORESTRY INDUSTRY**

In reply to **Mr JUSTIN FIELD** (25 February 2020).

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

With fires impacting large areas of native forests, hardwood plantations and softwood plantations, Forestry Corporation has declared force majeure on a number of contracts and advised many of its customers and contractors that it may not be able to meet some of its contractual commitments in fire-affected areas for the remainder of this financial year.

Force majeure has been declared for long-term wood supply agreements for timber from native forests and hardwood plantations on the north and south coast and softwood customers accessing timber as part of their supply from the Grafton, Tumut and Bombala management areas.

### **GREYHOUND WELFARE & INTEGRITY COMMISSION**

In reply to **the Hon. MARK PEARSON** (26 February 2020).

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

#### **2020 incidents**

I am advised by the Greyhound Welfare & Integrity Commission (Commission) that its Race Injury Review Panel examined the death of two greyhounds at Lismore on 21 and 28 January 2020, respectively, and determined that track-related factors did not contribute to either incident.

#### **2019 incident**

I am advised by Greyhound Racing NSW (GRNSW) that:

- it investigated the death of a greyhound at Lismore on 8 January 2019 and found that track related factors did not contribute to the incident
- nevertheless, it was recommended that GRNSW, the Commission and the University of Technology Sydney (UTS) work collaboratively to identify factors contributing to the number of injuries at the venue
- on 18 January 2019 an expert panel with representatives from UTS, Greyhound Racing Victoria and GRNSW, conducted an inspection of the Lismore track and concluded that the track was suitable for greyhound racing and trialling.

### **WILLOW GROVE HERITAGE BUILDING**

In reply to **the Hon. PENNY SHARPE** (26 February 2020).

**The Hon. DON HARWIN (Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council)**—The Minister provided the following response:

I refer to my answers previously provided to the House.

### BUSHFIRES AND TAFE NSW

In reply to **Mr DAVID SHOEBRIDGE** (26 February 2020).

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

I am advised that TAFE NSW is, at my direction, running otherwise unviable courses to support communities and help people in bushfire-affected areas get back on their feet as quickly as possible.

I am further advised that TAFE NSW is now offering additional targeted training in practical skills such as Fencing, Maintenance and Counselling in bushfire-affected areas—with plans to roll out even more courses in consultation with local communities.

### GREYHOUND WELFARE & INTEGRITY COMMISSION

In reply to **the Hon. ROBERT BORSAK** (26 February 2020).

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

I note that pursuant to the *Greyhound Racing Act 2017*, the Chief Executive Officer of the Greyhound Welfare & Integrity Commission (Commission) is responsible for the day-to-day management of the affairs of the Commission, including the employment and management of Commission staff.

The Commission has advised that:

- Mr Tutt is a senior executive and general counsel at the Commission, responsible for the Commission's effective and efficient delivery of stewarding functions and services in addition to Commission's legal service functions.
- Mr Tutt has significant experience in race stewarding in thoroughbred racing and does assist with greyhound stewarding functions as part of his integrity role to ensure that race meetings are properly conducted by Commission stewards.
- In addition to fulfilling his functions as legal counsel and head of the Commission's legal services, Mr Tutt has been attending race meetings as part of the development of a range of enhancements to the Commission's delivery of stewarding functions.
- The Commission is satisfied that there is no conflict between Mr Tutt's position as Director Legal and his assistance with stewarding processes at race meetings.

### LAKE MACQUARIE MINING

In reply to **Ms ABIGAIL BOYD** (27 February 2020).

**The Hon. DON HARWIN (Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, and Vice-President of the Executive Council)**—The Minister provided the following response:

This seismic testing uses a low impact pulse which is commonly used in sensitive environments.

Under the conditions of the mining lease, the leaseholder is required to conduct biannual community consultation meetings.

### NARRABRI GAS PROJECT

In reply to **Mr JUSTIN FIELD** (27 February 2020).

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

I am advised:

The independent economic expert providing this advice is Dr Brian Fisher of BAE Economics.

Dr Fisher was asked to:

review the economic assessment of the Narrabri Gas Project (including any relevant submissions and Santos's response to these submissions) and provide advice to the Department on whether this assessment had been carried out in accordance with the applicable guidelines and whether its findings were robust; and

provide advice to the Department of Planning, Industry and Environment (the Department) or Independent Planning Commission (IPC) on any other economic matters that may arise during the assessment or determination of the application.

Dr Fisher completed his first task in September 2018. However, the Department or the IPC may seek further advice from Dr Fisher over the next few months during the public hearings and determination of the development application for the project.

The review will be included in the Department's assessment report which will be published when the development application is referred to the IPC for determination. Any other advice provided during the remainder of the process will be published on the Department or the IPC's website.

## SCHOOL STUDENT ASSESSMENT RESULTS

In reply to **the Hon. WALT SECORD** (27 February 2020).

In reply to **the Hon. MARK LATHAM** (27 February 2020).

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

**Has the New South Wales education system closely examined the Finnish model for education and gleaned any lessons from the Finnish model?**

The Centre for Education Statistics and Evaluation [CESE] publications incorporate evidence and best practice examples from international jurisdictions, including Finland. For example, Finnish studies and/or examples of good practice are included in CESE literature reviews about professional experience in teacher education, qualifications for early childhood educators, anti-bullying interventions and language participation in secondary schools.

**What other international jurisdictions is the department examining?**

The department is focussed on ensuring that teachers understand and implement the most effective evidence-based teaching practices. CESE has developed resources for principals, teachers and policymakers across a range of evidence-based practices. These resources include guidance for principals and teachers in implementing evidence-based practices in schools.

CESE makes use of international studies, comparisons and best practice examples in many of its evidence-based research papers. Three examples include: (i) the report "School improvement frameworks": The evidence base considers research and practice from jurisdictions including Finland, Singapore, Japan, Hong Kong, China, United Kingdom, United States and the Netherlands; (ii) the "Effective reading instruction in the early years of school" and, (iii) CESE's literature review about anti-bullying interventions includes four in-depth examples of evidence-based whole-school anti-bullying interventions from Norway, Spain, England and Finland.

**Given that New South Wales has a cross curriculum priority for Asian integration in our syllabus, why do we not also have a priority to look at Asian academic results in comparison to ours and, in particular, try to work out why Chinese 15-year-olds are four years ahead of ours in maths?**

We are committed to improving results for all students. We are working towards improvement everywhere. The department has set the goal of becoming Australia's best education system and one of the finest in the world. To achieve this, we have a plan to deliver improvements in our schools. We are building a system that can lift student outcomes over the longer term with a capable and committed workforce delivering education for a changing world.

The department is focused on an evidence-based school improvement strategy that enables all students to aspire and achieve. Using this evidence-based methodology, we look to all jurisdictions across the world to see what works. For example, recent reports on the impact of mobile digital devices in schools and classroom management both included evidence from China. CESE's What Works Best paper incorporates examples of teacher collaboration in Singapore and Japan and the School improvement framework.

### *Announcements*

## PARLIAMENT HOUSE DEMONSTRATIONS POLICY

**The PRESIDENT (15:28:58):** I wish to advise about changes to the Parliament's Demonstrations Policy recently agreed to by the Presiding Officers. The policy provides guidance to special constables and officers authorised under the Parliamentary Precincts Act in maintaining order within the precincts. First, for flexibility, a discretion has been given to parliamentary officers to admit participants after a protest on the footpath, without a limit on numbers, provided the participants are willing to abide by the conditions of the Demonstrations Policy within the precincts. Previously a maximum of four people only could be admitted. Of course, like any non-passholder, they will not be admitted to any private area unless escorted by a member at all times.

A second important change has been made in relation to banners. The Presiding Officers have decided to amend the policy to prohibit any banners from being attached to the fence line on the Macquarie Street footpath or at the rear of the building. There will be a one-month grace period in relation to the banners to allow sufficient notice for those whose protests have already been planned. The Presiding Officers recognise the right to protest is fundamental to democracy in New South Wales. These changes, we are confident, are balanced between considering the needs of those who work in the building and citizens wishing to express their views to elected members. I encourage members to familiarise themselves with the Parliament's Demonstrations Policy, which can be found on the Parliament's intranet.

### *Bills*

## TREASURY LEGISLATION AMENDMENT (COVID-19) BILL 2020

### Second Reading Speech

**The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (15:31:45):** I move:

That this bill be now read a second time.

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

**Leave granted.**

This Chamber [the Legislative Assembly] normally holds 93 seats.

Ninety-three communities making up the great State of New South Wales.

Today we are just 12 in this Chamber.

And the distance between us here speaks volumes about the circumstances in which our State, our nation, and the whole world finds itself.

This terrible virus lays bare our common humanity—and our common fragility.

So it is right that here today in this Chamber we put our differences aside.

We come here representing all 93 electorates of New South Wales. We come here—united—to do everything in our power: To safeguard the health of our people.

And to sustain the working men and women, the employers and the businesses, as the economic tremors of COVID-19 ripple across the globe.

**Health**

Health must be our first priority.

We are fighting an invisible killer, unknown to science until just a few months ago.

It has already taken a terrible toll elsewhere.

Here in New South Wales it continues to spread.

Our heroic medical professionals are on the front line night and day, working to save lives and keep us all safe.

Our health services need every resource available and I have assured the Minister and his department that they will get whatever they need.

Last week an additional \$700 million in funding was made available:

1. To double ICU capacity
2. To ramp up testing
3. To purchase additional ventilators and medical equipment
4. To establish acute respiratory clinics
5. And to free up capacity by bringing forward elective surgeries to private hospitals.

We know our health system will come under enormous strain.

But we also know our hospitals and the doctors, nurses and allied staff who work in them are among the very best in the world.

They will give the people we love the care they need.

And we will support them every step of the way through this difficult time.

**The economy**

The scale of the pandemic is like nothing in living memory.

Globally almost 400,000 infected.

Thousands deceased.

And tens of millions in lockdown.

The virus has brought parts of the global economy to an abrupt halt.

Here in New South Wales we have been tracking the economic fallout for some time.

The initial downturns in the number of tourists and students were the canary in the goldmine.

Barely eight weeks later we are staring down an economic challenge of immense and unprecedented scale.

It is a challenge unlike any other before it.

There is no underlying lack of demand.

No bubble has burst.

There is simply an extraordinary external event forcing many of us to stop what we are doing and shelter in place.

Tourism, travel and hospitality have been hit hard.

Airlines grounded,

Cafes closed.

Our public areas and the businesses that support them deserted.

Entire sectors and entire livelihoods shut down, suspended or put on hold.

Behind all these numbers are people.,

Mums and dads paying off a mortgage; trying to put food on the table for their kids.

Small business owners who treat employees like family, trying desperately to keep staff on.

Laid-off workers who for the first time are forced to seek government assistance for the basics of life.

In our hospitals the victims of this virus need ventilators.

At this time our economy and our workers need support too.

Forced to close down entire sectors to secure our people's health, we are doing whatever we can to keep the State going.

All this requires us to take extraordinary steps.

To take the strain and provide a safety net for those who need it.

To keep listening, adapting, and responding to urgent needs as they arise.

Our key economic responsibilities now are to provide as much support to keep people in jobs and business in business and take care of those most in need.

This is not a conventional downturn where the aim is simply to stimulate demand.

Our objective here is to preserve the structure of supply—

To ensure that as many businesses as possible can remain viable so they can return to profitability when this storm passes.

To ensure that as many workers as possible can be kept in their current employment.

And to ensure the most vulnerable are looked after.

### **Our response**

We cannot choose the circumstances that happen to us.

But we can choose how we respond.

Our Government has worked without pause to develop the right response for the people of New South Wales.

I want to thank the many industry leaders, business owners, community groups and members of the public who have worked with us,

Contributed ideas,

Helped us understand their needs,

And who have thus contributed to developing our response announced last week.

That response is underpinned by five key principles to ensure it provides the maximum benefit to our people.

It is timely, temporary and targeted.

It complements the efforts of the Commonwealth, the Reserve Bank, and industry.

It focuses on measures that have beneficial flow-on effects to ensure the biggest and longest lasting economic boost possible.

It is realistic and achievable.

And finally, but most importantly, it is designed to work with the public health measures that are vital to our collective safety.

And this bill makes the legislative changes necessary to enact two key elements of our response.

### **The Bill**

#### ***Payroll tax***

The bill proposes two changes to the Payroll Tax Act 2007 to deliver critical financial assistance to small businesses.

The bill firstly provides New South Wales businesses with direct tax relief this financial year.

The first proposal is to reduce the annual tax liability of eligible businesses by 25 per cent in 2019-20.

This measure is targeted to smaller businesses with total Australian wages of \$10 million or less a year which are facing cash flow constraints.

To ensure businesses receive this tax relief immediately in 2019-20, the Chief Commissioner of State Revenue will defer monthly payroll tax payments that would otherwise have been payable in April, May and June 2020.

We estimate that this change will deliver savings of \$15,000 on average to 30,000 New South Wales businesses and keep around \$450 million in the New South Wales economy.

The second proposed change to the Payroll Tax Act 2007 will bring forward an increase in the payroll tax threshold amount to \$1 million.

In the 2018-19 budget the Government delivered increases in the payroll tax threshold over four years. The threshold was increased from \$750,000 to \$850,000 from 1 July 2018, and to \$900,000 from 1 July 2019.

This bill brings forward the increase to \$1 million so that it commences on 1 July 2020.

This will keep a further \$56 million into the economy in 2020-21, benefitting around 38,000 businesses that currently pay payroll tax.

#### **Long Service Leave**

The second legislative change proposed is to the Long Service Leave Act 1955.

Currently this act does not offer much flexibility in how much notice an employer must give an employee to take their long service leave, or how much leave can be taken.

The bill before the House proposes temporary measures that allow less than four weeks' notice to be provided for long service leave, where an employer and employee agree.

This bill proposes additional temporary measures to provide greater flexibility and enable employees to access long service leave with less notice.

The amendments proposed will sunset after six months initially.

However, provisions have also been made to allow the Government to apply these changes for up to 12 months, if circumstances require this.

#### **CONCLUSION**

A number of measures will need to be taken over the course of this period.

The situation is changing from week to week, from day to day.

We need to move fast—and that may come at the expense of the perfect.

This is a marathon, not a sprint and it is our role to complement the actions of the Commonwealth and the Reserve Bank.

As gaps appear, we will attend to them and put our people first.

The road ahead will be hard, but we come from a position of strength.

Our financial position is strong after successive years of surplus budgets.

Now is the time to deploy that strength to safeguard our people.

In that effort, our massive infrastructure pipeline will form a vital economic core, around which we can sustain and rebuild our economy.

Winston Churchill supposedly once said, "When you're going through hell, keep going".

Today, New South Wales along with the rest of Australia and the world is going through the hell of a deadly pandemic.

We must keep going.

A government can do a lot, but we cannot do it all.

We will be relying on the Commonwealth

On industry.

On employers.

On workers.

On families.

On communities.

On young and old.

We will be relying on everyone - to do their bit.

If we do, we will keep New South Wales going.

And if we keep New South Wales going, we can keep Australia going.

We can get through the worst, until it starts to get better.

The question is not whether - but when we will bounce back.

Because - make no mistake - we will get through this.

I commend this bill to the House.

#### **Second Reading Debate**

**The Hon. WALT SECORD (15:31:58):** As the shadow Treasurer, I lead for Labor in debate on the Treasury Legislation Amendment (COVID-19) Bill 2020. The long title of the bill is "A bill for an Act to amend the Long Service Leave Act 1955 and Payroll Tax Act 2007 as a result of the COVID-19 pandemic". This bill has Labor's full bipartisan support. But let us be clear that is on the basis of urgency. It does not indicate that we believe it is sufficient—it is not. It does not go far enough and we are on record as calling for a second stimulus

survival package. In the past 90 minutes Queensland has announced a second stimulus package of \$4 billion for Queenslanders. It includes \$2.5 billion to support workers and businesses; \$30 million for Queensland households, including \$200 off utility bills; and \$1.2 billion to strengthen Queensland's health system. So that is welcome.

We must face facts that too many families, tenants, landlords, casuals, carers, small and medium-size businesses and people in the gig, hospitality, retail, tourism, arts, culture and entertainment sectors miss out in the New South Wales package. So it is clear that further measures are still needed. Those people are all worried about putting a roof over their head and food on the table. The National Cabinet has indicated that the issue of evictions and rental properties will be dealt with this evening at the meeting with Prime Ministers, Chief Ministers and Premiers, so we are optimistic.

My colleague and Labor spokesperson for family and community services and disability inclusion, the Hon. Penny Sharpe, has repeatedly reminded me that COVID-19 makes the most vulnerable more vulnerable. She has posed these very serious questions that come from the sector. How do you isolate yourself if you live on the street? How do you feed your family if you have lost your job? How do you meet your rent when your employer has been forced to close down? If you live alone and are sick, how do you go out to get medicine? Our community organisations, our homeless shelters, our domestic violence refuges, our food pantries, our soup kitchens and our community centres are seeing desperate people in desperate need of help. We cannot leave vulnerable people behind.

The Treasury Legislation Amendment (COVID-19) Bill 2020 will amend two separate Acts: the Payroll Tax Act 2007 and the Long Service Leave Act 1955. The payroll tax changes will increase the threshold amount for payroll tax to provide for a temporary reduction of the amount payable for certain businesses with annual wages of \$10 million or less. It will also increase the payroll tax threshold to \$1 million commencing 1 July 2020, bringing this measure forward by one year. But things are changing so rapidly I ask a single question: How many companies will actually be large enough and in a position where they will be required to pay payroll tax in the current environment? When it was first announced—before we saw the scale of COVID-19—it seemed appropriate. But now it seems to be woefully inadequate.

As for the long service changes, they make two major changes: first, they reduce the notice that needs to be given for long service leave to be taken, which is currently one month; and, secondly, they permit long service leave to be taken in periods as short as one day. Currently the law requires a minimum of a month to be taken at a time. These changes are to permit workers more flexible access to long service leave in the current circumstances. Hopefully, in his reply the Minister will detail whether there is a sunset clause on this, as has been raised by Unions NSW. Working people will be able to use long service leave to offset some of the reductions in their work time and earnings. I note that New South Wales business wrote earlier today to the Treasurer, seeking the changes that we have before us today.

Of course, Labor believes a far better solution is for the Federal Government to provide a wage guarantee for all workers of the kind being put in place in the United Kingdom. It is regrettable that the Morrison Federal Government has ruled this out, at least at present. I will make some further general observations about the bill, as it is customary for the shadow Treasurer to be allowed wider latitude in a speech during the second reading debate. I will be mindful of that and I will be respectful of the Chair. As I mentioned, we are supporting the passage of the bill. But this bill does not go far enough.

**The DEPUTY PRESIDENT (The Hon. Trevor Khan):** That will be a first.

**The Hon. Mark Latham:** Take his temperature.

**The Hon. WALT SECORD:** The Hon. Mark Latham should not lecture me. These are extraordinary times; this is no ordinary recession. Just look at the cover of today's newspapers. We are no longer talking about being on the cusp of a recession. Economists are saying that we are facing a possible depression. This is a time for unprecedented and bold plans to protect jobs and families and to keep our social infrastructure from collapsing. This morning I saw two blokes—two garbos—saying goodbye to each other in case they do not see each other again or they do not see each other for a long time. It was extraordinary.

The New South Wales stimulus plan is not a bold plan. It will not save the economy and protect jobs because it is timid. It was created by the Treasury bureaucracy, which needs to throw out the traditional map, the traditional approach. We are in new territory, and we need bold and courageous plans. These times call for extraordinary measures and for cooperation beyond the rough and tumble of New South Wales politics. Sadly, that is lacking from the Berejiklian Government, and we hope for changes. We have witnessed scenes that we thought we would never see in Australia. We saw thousands queueing up at Centrelink offices. These were people who had never set foot in a Centrelink office in their life and never thought they would have to. Many of those people have no knowledge or experience of navigating the Centrelink system.

In other areas of life we see sweeping changes and things we never thought we would see in Australia. Weddings and funerals are different in New South Wales and Australia now. There will be no more gatherings. Yesterday the Prime Minister said that 2020 will be the toughest year of our lives—and he is right. I have to admit that I want this year to be over. I want 2020 behind us. We still have a protracted drought, we are recovering and rebuilding from the bushfires, and now we are facing the coronavirus. Put simply, if handled incorrectly, we are facing the loss of a whole generation. We may not even be able to say goodbye properly to our parents or our grandparents if we do not act swiftly and promptly.

There are so many challenges facing us, whether it is a simple decision about whether to use cash or swipe a credit card for a takeaway or whether to take your kids to child care or keep them at home. We no longer visit our loved ones in nursing homes or retirement villages. We no longer shake hands or kiss a long-term friend we have bumped into. Sadly, the Premier has added to this confusion in the community, especially by her deeply contradictory messages about schools, TAFEs and childcare centres. Parents are perplexed by these deeply contradictory messages. The Prime Minister said one thing, the Premier said another and local principals are saying something different. Please, we have to get a consistent, clear message.

Most business leaders are doing their best to lead responsibly in these times. For example, I spoke to a local woman in a coffee shop who was deeply, deeply, deeply depressed because last night she let all eight of her casuals go. But at a time like this we find the National Rugby League's Peter V'Landys demanding \$500 million in stimulus money from the State and Federal governments for the NRL. That happened as recently as this morning. That money should be going into sourcing respirators and setting up makeshift hospitals. We know that at the moment we simply do not have enough respirators. As the shadow health Minister, Ryan Park, said, "We are looking at a tsunami of people coming into the health and hospital system in April and May".

I turn to the legislation before us today. I appreciate the briefings from the Treasurer's ministerial staff on 16 and 17 March and as recently as yesterday. He claimed that the bill would complement Federal stimulus measures. I sincerely hope the bill achieves this but, from our briefings, it is clearly deficient. Compared with comparable jurisdictions, it is woefully inadequate. It does not provide the most basic needs. New Zealand, a smaller economy, is providing much more support than is New South Wales. Even the United Kingdom's Prime Minister, Boris Johnson, has rewritten the rulebook and is providing widespread economic support including basic financial support.

As the shadow arts Minister, I note that we are seeing theatres and entertainment venues closing. I have many friends in the sector, including Diane Smith of the National Institute of Dramatic Arts and Andrew Henry of Red Line Productions at the Old Fitz Theatre, who do not know what the future holds, like thousands and thousands of other businesses. The Media, Entertainment and Arts Alliance observed that the entertainment sector injects \$2.5 billion into the economy. As the Leader of the Opposition and I have said in repeated press conferences, we must ensure that no-one is left behind. That is not a wish; it is a survival imperative. The nature of COVID-19 means that the success of all countries will now be determined by how well their poorest and weakest citizens are cared for. Let us keep that in mind as we meet today.

I take this opportunity to acknowledge the work of my colleague the Hon. Daniel Mookhey, who is shadow Minister for Finance and Small Business, in the area of protecting casuals. The Treasurer has promised a second tranche to complement the Federal stimulus. We have not seen that; it has not arrived, although it was promised that it would arrive by now. I remarked on that yesterday and I have remarked on it at repeated press conferences. The Treasurer has promised a second stimulus package, a second survival package. Minister Tudehope, who is in the Chamber, is nodding and I ask him to please deliver. The Treasurer promised more support, but nothing is forthcoming.

That said, we will pass this bill because some assistance is better than none. We know that further measures are needed at the State level. We need grants, like in Queensland, to keep businesses alive and to help to retrain their staff. In short, we need State economic intervention at an unprecedented level. Many of my colleagues will be very surprised to hear me uttering that statement. The Hon. John Graham, in fact, never thought he would hear me say that.

**The Hon. John Graham:** Hear, hear!

**The Hon. WALT SECORD:** Families cannot face this alone. We need a collective State and national effort. As I said earlier, this package pales in comparison with other jurisdictions. We are a truly fortunate country. For the record, I have lived in Australia for 31 years—longer than I lived in Canada. We have had 28 years of uninterrupted economic growth due to successive Coalition and Labor State and Federal governments. But we hear the economic predictions that no country will get through this crisis. Accordingly, my colleague the Hon. Daniel Mookhey and I in our briefings have indicated our repeated bipartisan support for broad support

programs. We have made observations on these measures and I do not intend to revisit them now. They are on the record. We have made observations and also expressed our concerns.

In being bipartisan, we reserve the right to point out deficiencies and inadequacies. In times such as these, slowness and indecision are the enemy of good and action must triumph over deliberation. We need decisive action and we did not see this during the confusion over the school closures. In fact, the Government ignored TAFE and childcare centres and mistakenly took the view that TAFE students were children. Most TAFE students, in fact, are adults and learning environments in TAFE make it almost impossible to adhere to social distancing rules. On a separate matter in a bipartisan vein, at budget estimates on 12 March I indicated our support to the health Minister, Brad Hazzard, and the Chief Health Officer, Dr Kerry Chant. Labor will continue to raise issues in a constructive and collaborative manner, but it is truly a case of all hands on deck. This is a challenge for all humanity and it is through that humanity we will meet this challenge. It is at times like this that our differences, which make us seemingly far apart in normal circumstances, melt away.

I relay a personal anecdote regarding the health Minister to illustrate what I mean—I hope he does not mind. On Thursday 19 March when my spouse and I were walking our dog we saw tens of thousands of people at Bondi flouting the social distancing measures. We were deeply concerned. I immediately sent Brad Hazzard a text—at 6.54—as I had his mobile number from when I was shadow health Minister for five years. He called me back and said he would issue a warning the next day. He did so—true to his word—and the community thumbed their noses at that warning. We were both livid. It was a completely private exchange between us. Our concern was truly beyond politics. I could have jumped on the radio, turned to the media, but I contacted Brad Hazzard and said that we have to do something about this because this behaviour is absolutely irresponsible.

True to his word, the Minister issued the warning but people ignored it. The next day the police Minister and the Mayor of Waverley responded by closing the beach. I said to young people I met on the street who had been flouting the social distancing rules, "The decisions you make today—flippant decisions you make today—will be life-and-death situations for an elderly person in a few days. You have to take responsibility for your actions." They completely ignored those warnings. The coming months are uncertain and unknown. We pray that our time with this virus will be brief and losses will be kept to a minimum. We pray that we are ahead of the curve and, as the Prime Minister has shown, that the curve can be flattened.

We pray that our geographical isolation and our lower density will spare us the horrors we have seen in Italy. But make no mistake, even if those factors provide Australia with some grace, the situation will still be grave. As of this morning the number of cases in New South Wales has jumped to 818. So there is much more loss ahead of us. This is especially true after it was reported that 66 passengers on board the *Ruby Princess* cruise ship were infected. As deputy Labor leader Yasmin Catley said, eight cruise ships are headed for Sydney Harbour and before a single passenger or crew member is allowed to step on New South Wales soil they must be tested and proven to be clear.

There is not one of us here today who will be untouched by what lies ahead of us. Again, it is our humanity to each other that will define how we will emerge from this challenging time. On that note, I sincerely hope to see each and every member, every parliamentary attendant, every parliamentary staff member, every ministerial and Opposition staff member, every member of the canteen staff who greet us each day, as well as every one of our colleagues, Government members, the crossbenchers, you, Deputy President, and Mr President, when we return—whenever that is. I have been advised that we are adjourning until 15 September and that we can insist on a return. I say with all my being: May your God, your faith, your luck, your humanity bless you and keep you in that time. As we depart this place today we move once more from being parliamentarians to parents, children, siblings, partners and friends.

I have spoken to long-term friends in the ultra-Orthodox Jewish community in Sydney's eastern suburbs. They have already lost or they know they are going to lose parents in New York City. A rabbi friend of mine named five people who he knows are in New York City at this moment and are on respirators. He says that the saddest part for him is that they will not be given traditional Jewish funerals—because of the COVID-19 virus they will not be able to have the full rituals of burial. Back here in New South Wales my spouse is feeling the pressure as she sees us taking calls and responding. She is heartbroken that she can no longer see her three grandsons every Sunday morning and they do not get to see their Babushka, which is the Russian word for "grandmother". A similar story is repeated in every household across New South Wales, in the nation and around the world. The little boys ask, "Why can't we play chess with Babushka? Why can't we go to the park on our scooters with Babushka? Why can't we see Babushka?" They cannot because they love her. I thank the House for its consideration and I hope to see you all in September.

**The Hon. MARK LATHAM (15:52:59):** One Nation supports the Treasury Legislation Amendment (COVID-19) Bill 2020 as a well-targeted and proportional economic package. It matches the proper role of a State Government, primarily to improve cash flow for businesses. We very much welcome the 25 per cent payroll tax

holiday for wages paid or payable at a level of \$10 million or less, and we also welcome the ongoing efforts of this Government to lift the general payroll tax threshold in New South Wales, now going forward to \$1 million as of 1 July 2020. These are well-targeted measures; cash flow is very important for small business in particular and in that regard the State Government has it right. It is also welcome that the Government is legislating greater flexibility in long service leave arrangements. That flexibility will mean that people can take their long service leave for a period of less than one month. That too makes a great deal of sense in the current economic circumstances.

I believe it is very important to understand what is happening overall in the New South Wales economy, and it goes to some of the comments of the Hon. Walt Secord. We need to understand the proper role of a State Government. In Canberra—it is quite phenomenal to think of the dimension of this—there is an \$84 billion economic stimulus package, almost the size of the entire New South Wales State budget. It is a huge amount of money. I would guess that New South Wales' share as it flows through to our businesses and enterprises and economic activity would be of the order of one-third of that, approximating \$30 billion flowing into our State—something akin to the Education or Health budget in New South Wales. These are extraordinary amounts of money, I suppose at a political level made more extraordinary by the fact that for 12 years the Coalition attacked the Rudd and Swan economic stimulus package for being \$42 billion, saying that it was excessive, that it was a massive overreach. Now the Federal Government has reached twice as far.

I say these things not to antagonise people in the Chamber—I am above all of that these days—but just to point out the dimension of the economic support. It is an extraordinarily huge amount of money. So what does the New South Wales Government do? I do not think you would take the advice of the Hon. Walt Secord because while he gave a speech that was full of humanity and compassion and social commentary, I do not think anyone here responsibly should be advocating a second New South Wales stimulus package just for the sake of having it, which seems to be the Labor Party position. You have to make these things targeted and proportional to the proper role of a New South Wales government. I do not think it would be wise in New South Wales at this stage to blow the State budget, to blow it to pieces with debt and deficit, just for the sake of having a second stimulus package when you see so much money that has flowed out of Canberra.

Perhaps wise economic management in New South Wales would say, "What about next year? What about the year after that? What about the capital works funding that will be needed in New South Wales to support economic activity given the economic challenges that we face?" You cannot blow apart the budget now in New South Wales when the State responsibilities of—

**Mr David Shoebridge:** You're kidding.

**The Hon. MARK LATHAM:** Mr David Shoebridge says, "You're kidding." Where will he be next year when capital works funding is needed? Where will he be the year after that for infrastructure and productivity improvements that are relevant to the responsibilities of the New South Wales Government? If Canberra is lifting to the extent of \$84 billion—

**The PRESIDENT:** Order! The Hon. Mark Latham will resume his seat. In my past 13 years in this place—it is the anniversary today of my being here 13 years, as has been mentioned by others—this is the first time I recall a situation like this. Interjections do not assist. It does not assist when the member with the call acknowledges interjections. Members will cease interjecting and the member with the call will cease acknowledging interjections.

**The Hon. MARK LATHAM:** My point is: What is the responsible State function in economic management when there is \$84 billion worth of economic lifting in Canberra? I think it is a valid question. You cannot pretend that this place and the Government here is a national government—it is not. The primary responsibility for the health of the Australian economy lies in Canberra. To want to duplicate that and spend for the sake of spending, without a target, without specific programs, without any costing, without any funding presented to the Chamber in the speech of the shadow Treasurer, I think is irresponsible, and it goes outside the proper guidelines for what we should be trying to achieve here in New South Wales. Yes, do the things in this legislation such as payroll tax relief, cash flow for small business in particular, flexibility for long service leave, but also think about where we are headed in relation to the State economy.

I agree with the Hon. Walt Secord that the Government's management of the public health emergency has been faulty; there should have been a lockdown a couple of weeks ago. If you are going to lock down, if you are going to have a containment strategy for the virus, do it early, do it effectively, do it once. The confusion about schools, the fact that TAFE colleges are still open and that there is no State directive about universities has been allowed to drag on for much too long. It is true that if you can lock down the spread of the contagion early, you accelerate the economic and social recovery in New South Wales. That is a basic truth. If people do not understand that from the international experience, from South Korea to China, to Italy and on it goes, they have not been

following the pathway of this coronavirus. It is true that there has been an element of mismanagement. I thought the Government did exceptionally well on the bushfire crisis, but on this particular health crisis, not so good. That means that the economic recovery in New South Wales will be delayed.

At the Portfolio Committee No. 1 budget estimates hearing we heard State Chief Economist Stephen Walters predict a U-shaped recovery in New South Wales. That was just a couple of weeks ago. I think the outlook now is much more pessimistic and the U-shape is probably elongated now and it will take longer. There will be a responsibility in New South Wales to improve productivity, to lift capital works and to stimulate the economy in that fashion through next year, the year after that and perhaps halfway through the decade. One would not be blowing the State budget right now with debt and deficit when the question has to be asked: Where will the capital works and infrastructure productivity funding come from?

It will not come from a massive load of debt-funded expenditure right now in New South Wales that somehow duplicates what has happened in Canberra. The responsible thing to do is recognise that the Reserve Bank, the Productivity Commissioner and every sensible economic planner in New South Wales has said the major thing a State government can do is capital works infrastructure, improve productivity, lower congestion costs in this very crowded city of Sydney, improve urban efficiency and fulfil the proper State Government function.

The marriage of economic strategy is to have the \$84 billion stimulus in Canberra but for New South Wales to concentrate on these targeted measures about long service flexibility and business cash flow and have an eye out for what we inevitably will have to do later this year in this State and through 2021 and 2022—that is, get back to a feasible capital works program. Where does the money come from? It will not be coming from rivers of debt if we blow it all now. It will not be coming from privatisation, because those rivers of gold have dried up under this Government. It has WestConnex left and that is about it. We have to think about sound economic management now to fund those commitments into the future.

We also have to think laterally about other possibilities. I would submit the major economic development—it has probably been lost in the amazing flurry of announcements and activity out of Canberra—is that the Reserve Bank, for the first time in our history, is printing money: quantitative easing. That is a major economic development. It is going to be buying government bonds and other securities. It has a target on the bond yield rate that it is trying to meet and printing money offers a likely opportunity for New South Wales to fund our infrastructure into the future.

The overseas experience with quantitative easing, this printing of money and intervention of government bonds—mainly buying them from the banks and putting money into the coffers of the banks—is that it leads to asset speculation and a share market roller-coaster. It has not been successful in the United States. Donald Trump talked about the value on the share market until recently but it has been fuelled by the printing of money and quantitative easing. It is asset speculation—which The Greens should be worried about, with their agenda. Mr David Shoebridge said that we should confiscate money from the billionaires. The truth about quantitative easing is that it has pumped up the asset prices for the benefit of the very wealthy elements of society, while wages have been dead flat.

We would not go down the path of quantitative easing if we had any interest in equity. I think we should go down the path of quantitative easing and the Reserve Bank printing money if we have an interest in productivity. The Reserve Bank has embarked upon a non-productive course. So what should we do? A former NSW Treasury Secretary, Percy Allan, has come up with the very good suggestion of quantitative investment. Why would we not say to the Reserve Bank, if they are printing money, to put it into productive uses in New South Wales? The State Government could offer infrastructure share certificates that the Reserve Bank could purchase with its printed money. That would help us fund the much-needed infrastructure and capital works program, particularly in Sydney, where congestion costs are a major drag on economic performance and productivity.

The recommendation is for the Premier and the Treasurer to take the short 100-metre walk from here to the Reserve Bank building in Martin Place and say, "Put your printed money to a productive use, helping infrastructure development in New South Wales next year and the year after to supplement the stimulus activity and the extraordinary expenditure that we have seen in Canberra in the past week." The other advantage in that strategy is that the Reserve Bank is bound to be receptive because Reserve Bank Governor Philip Lowe has said time after time that he wants to see the States do more on infrastructure spending and construction to lift productivity through State infrastructure and all the multiplying employment benefits that come from that.

The Governor of the Reserve Bank has a chance to back his own rhetoric by supporting a New South Wales initiative for these infrastructure share certificates as a much more productive and effective use of printed money than quantitative easing. Go down the path of quantitative investment. People are comparing current economic circumstances with the Great Depression. Some of the rhetoric of the Hon. Walt Secord was directed to that. It is

true; there is a real risk. What we found with the liquidity traps in the 1930s, when we could only bust free with infrastructure capital works programs—whether it was the Weimar Republic or Franklin D. Roosevelt or even Jack Lang in this State—governments busted free of the liquidity trap by investing in infrastructure. I think that is overwhelmingly the main State responsibility in this economic crisis. Let us keep an eye on that and let us support the bill, but get things in proper proportion.

I know there is a temptation in politics to always spend more and more—throw the money out the window and any amount of spending will be worthwhile. It is not necessarily true, particularly with the limited resources and fragile revenue base of the New South Wales Government. Let us understand that reality. The revenue base here depends on the property market, which will obviously take a bit of a hit.

**The Hon. Damien Tudehope:** Payroll tax mainly.

**The Hon. MARK LATHAM:** There are major problems on the revenue front and limited scope in terms of budget management and pump priming. So we have to put this in perspective, take what has happened in Canberra and adopt other strategies in New South Wales that will be more effective over the next couple of years. I think the suggestion of quantitative investment is absolutely crucial. It will do a lot of good and I highly recommend it to the Government and to the Minister at the table.

**Mr DAVID SHOEBRIDGE (16:06:22):** The Greens will not oppose the Treasury Legislation Amendment (COVID-19) Bill 2020. The bill effectively does two things. First, it amends the Long Service Leave Act for the period of the COVID-19 crisis only to allow an employer and employee to agree to have less than one month's notice before long service leave is taken, and to allow long service leave to be taken for less than one month. We would ordinarily oppose such provisions because we firmly believe long service leave should be for proper leave—a decent break after working 10 years for your employer. But these are extraordinary times and, because they are extraordinary times, this may be one of the few ways that some workers will be able to obtain income over the coming months. We do not oppose those amendments and note they are only in effect for the period of the crisis.

In relation to the payroll tax amendments, given the scale of the economic crisis, this is a very modest move from the Government. We see a marginal increase in the threshold for which payroll tax should be paid from \$950,000-odd to \$1 million, and a 25 per cent holiday on the payment of payroll tax for those businesses that have a payroll of less than \$10 million. We do not oppose those measures in the extraordinary economic and social circumstances that we see in front of us. The Greens believe this is a far too modest package from the Government, given the scale of the economic crisis we are facing. I know there are some other measures proposed about the justice system in New South Wales, and I will not speak to those.

Apart from some minor changes in relation to bushfire relief, this is the only economic package we see from the Government on a day when we are proposing to adjourn potentially to September. Between now and September I think we will see something close to the kind of economic disaster we saw in the 1930s with the Great Depression. We have already witnessed the queues forming outside Centrelink offices that many of us thought we would not see in our lifetimes. They are deeply distressing, and I am sure I am not alone in having many people contact me by email, phone, text message, Facebook Messenger—every possible method—to talk about how distraught they are at the loss of their job and their kids', family members' and friends' jobs. Work is literally drying up around us. This is a time when we need vastly greater protections than what is proposed by the Government in the bill.

As my colleague the member for Newton, Jenny Leong, has repeatedly asked: Where are the protections? Where are the protections for renters? Where is the no-evictions policy that is going to keep people in homes at a time when we need to keep people in homes? Where are those protections? They are not here in this bill. Where is the wage support for people? Where is the promise of increased public sector work and expansion of the public sector at this time, right when we need it, rather than the fears of contraction? The Premier made a promise to the public sector workforce that they would get 20 days of special leave if they need it because of school closures or other stresses in this crisis. Following the Premier's announcement yesterday about schools, many parents—many of them public servants—took the Premier's advice and kept their kids at home. Having kept them at home, they then approached their public sector employer and said, "Okay, can we have the special leave that we were promised—the school closures leave," and they were told, "No, you can't get the special leave because schools are not technically closed". They followed the Premier's advice. They kept their kids home. They are losing wages and they cannot get the special leave that was promised.

The Government does not seem to have put those fundamental things in place. So I ask: Where is the protection for renters? It is not here. Where is the expansion of the public service to provide essential work at the moment? Where is that expansion? Where is the increased health budget that is desperately needed? Where is the extension of workers compensation to cover workers, particularly those in the critical front-facing workforce,

who we know will get COVID-19? Where are the deeming provisions to say: We will protect you from day one under workers compensation? I gave notice of a bill today to do exactly that. I had hoped to introduce and second read that bill tomorrow. I understand that will not be able to happen but we need that legislation now. We need to be saying to the nurses and to the medical staff, "If you come down with COVID-19, no questions asked—you will get your workers compensation payments straightaway. We will protect you and support you." We need to say that to the teachers who are teaching at the moment—no questions asked—"If you come down with COVID-19, you will get your workers compensation, guaranteed."

I hope it does not happen—but let us be clear, it almost certainly will—if we lose a nurse, if we lose a teacher, if we lose a public servant because they have been out there doing their work and have been exposed to COVID-19, they need a guarantee from this Government today that their dependants will get the death benefits under workers compensation. That may be their only economic lifeline, facing the tragedy of the loss of a breadwinner in their family. Where is that? None of that is in this bill? We have a 25 per cent holiday on payroll tax, and we are talking about adjourning the Parliament until September.

When I said earlier that The Greens oppose the adjournment, it is because that is the essential work the Parliament should be doing—essential service work to make sure the nurses and the teachers are protected—and we should come in and do that work next week if we need to. At the moment we are asking nurses and teachers to go to work without that workers compensation protection but there has not even been a direction about the at-risk teachers—the teachers who are 65 years and older, the pregnant teachers, the immunodeficient teachers. They are being told to go to work today. There is not even a direction to the teachers to give them protection. Where is that protection in the bill? We do not oppose the bill but we cannot believe we are talking about adjourning the House until September without fixing those things. We cannot believe this is the sum total of the protection that the Government is giving at this crucial time.

I know that our contributions today need to be brief. We have public health reasons to try to limit our time in this place. There is more that we could say. The Greens will not oppose this bill but, bloody hell, let's come back soon and do the rest.

**The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:12:56):** In reply: I thank the shadow Treasurer, who has left the Chamber, and I thank the Hon. Mark Latham and Mr David Shoebridge for their contributions and their support for the Treasury Legislation Amendment (COVID-19) Bill 2020. No member in this place would dare suggest that this is the final and ultimate solution and the final thing that we have to say about what needs to be done in relation to this crisis. The Hon. Walt Secord made very cogent remarks about the lines of people queuing up to register for the JobSeeker allowance. Anyone looking at that is moved by the urgency and necessity for a proper response to what is occurring. My own daughter, in fact, has lost her job. It is not limited to any particular family. Family members of a lot of members in this place will be impacted by job losses. There is a compelling necessity for governments—whether Federal, State or local—to be seen to respond to this emergency and the manner in which it is evolving.

The Hon. Mark Latham made very important observations in relation to the responsibility of the various sectors of government. There is a necessity to respond from time to time to address all those things that will emerge as the crisis escalates. However, the principal response must be in the health space. The response of government, whether it is in this package or another package or whether it is a Federal Government response, is first and foremost to ensure the health of the people who contract this virus and to respond with appropriate health measures. The measure in this first stimulus package relating to health expenditure is the primary responsibility of government. Whether we are spending money on extra nurses, on additional workers in the health system or on additional respirators—which are so important in treating people and keeping them alive—whether it is masks that are in such short supply, all those things require some level of government action.

State governments are primarily responsible for the administration of health for the people of New South Wales so the primary task in providing this stimulus will always be to ensure that we get through this crisis and protect the health of the citizens of this State. The second issue in relation to the response of the Government to date is trying to keep as many people in jobs as possible and building the bridge, as the Prime Minister calls it, to the other side of this event. If we can possibly do that through the levers of government, we ought to be trying to extend those opportunities for businesses to recover and to protect as many jobs as possible. That is why payroll tax intervention and the opportunity to give payroll tax relief is targeted towards trying to keep as many people in work as possible.

I acknowledge what the Hon. Mark Latham says about the importance of infrastructure. The delivery of infrastructure projects certainly improves the living standards of the people of the State by delivering better outcomes in relation to congestion, in relation to hospitals and roads, and all sorts of things. It is an important component. That is why this Government has been such a good government for the people of this State. There is a secondary component of this: We have the lowest unemployment rate in New South Wales because we have so

many people employed on most occasions because of the opportunities afforded by the Government through the infrastructure projects that it has delivered. It is an important point that he makes—that infrastructure and the delivery of infrastructure is an important component of the recovery process that we will need to embark upon when we get to the other side of this crisis. However, you cannot ignore that in the current climate people are going out of work. Having a job is important for the human dignity of us all. When you see someone without a job, their human dignity is reduced and we ought to be doing every single thing that we can to minimise the number of people who are going out of work. If we can do that through the levers of government, then we ought to.

I make an observation about the role of the Reserve Bank of Australia, the role of the commercial banks and the role of landlords with respect to their obligations towards tenants. We should not just be looking to the Government to provide all the mechanisms to stimulate the economy or provide relief in relation to the jobless rate. There is a role for all of us to play in respect of this. I welcome the intervention of the Reserve Bank and the way it has made money available for the purposes of ensuring that there are packages available to guarantee loans and to provide assistance or support for apprentices. I welcome the decisions of the commercial banks to give a six-month deferral for loans payable by small businesses where they cannot afford to repay their loans. Those are timely interventions by the banks.

A bit of the unknown in this, and where we have had no clarity yet, is in respect of the response by landlords to their tenants. I talk to small businesses who tell me that no-one has come to them offering an opportunity for reduced rent. There should be a coordinated response, whether it is shopping centres or local landlords, to go to tenants and say, "We will offer you some sort of relief because we want to make sure that you are still here to offer your business and for your employees when we get to the other side." To the extent that we can, we need to get reductions in rent, first and foremost, to extend the period where we will not call on bank guarantees where there has been default by tenants, to give longer opportunities to remedy any default, not to ask tenants to pay promotional levies—whatever is necessary by landlords associations or landlords generally must be considered as part of the package for giving relief to those tenancy organisations.

The Premier is meeting with the Prime Minister to talk through the set of principles that need to be adopted by landlords and by the retail and commercial lessors in respect of a proper response to this crisis. We will get through this. If we concentrate on the health outcome, that is the primary thing we have to do. We want people to be back here having the proper debates that we should have in relation to all the decisions made by government. But primarily, whether you want governments to spend many billions or whether you have a more measured response, the bill before the House acknowledges that our response, first and foremost, must be a health response. It must be something where we are saying that the good health not only of the people in this place but also of our family, friends, relations and all those people who may be affected by this virus is the primary consideration.

There might be some people in this place who think I would be in that high-risk category. I in fact have a 97-year-old mother and I have to say that my concern every day—and I know this for a fact—is if she caught this disease, she would die and probably every other person who lives in the nursing home where she is would also die. Bearing that in mind, that is our primary consideration. I congratulate the Treasurer and the Premier on committing absolutely to the health outcomes that are necessary to make sure that we get through this. This is the ancillary package that says all those other things we need to do to keep people in employment are also really important for the people of New South Wales. It is not the last thing that we will have to say.

There are those who will criticise the Government on the basis of this being too modest. It is like the Goldilocks principle: always too hot or too cold. But at the end of the day it is important to concentrate on the fact that we need to respond from time to time. The mechanism as outlined by the Leader of the House is to be able to recall the Parliament in circumstances if we need to approve additional measures or if there are additional things we need to spend money on that are the province of the Parliament and legislation. We have that mechanism available to us. This package is appropriately supported by all people in this place because it acknowledges the role that government has to play in responding to this crisis. I thank all members for their support of the bill. 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. DAMIEN TUDEHOPE:** I move:

That this bill be now read a third time.

**Motion agreed to.**

**BETTER REGULATION AND CUSTOMER SERVICE LEGISLATION AMENDMENT (BUSHFIRE RELIEF) BILL 2020****Second Reading Speech**

**The Hon. SCOTT FARLOW (16:27:58):** On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a second time.

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

**Leave granted.**

The Government is pleased to introduce the Better Regulation and Customer Service Legislation Amendment (Bushfire Relief) Bill 2020.

This bill makes important legislative amendments to provide fee relief for people affected by disasters like the current bushfire crisis.

The impact of the bushfires in New South Wales has been catastrophic. Over 2,500 homes and 250 facilities and their contents have been destroyed. A further 1,000 homes and 200 facilities have received significant damage.

The New South Wales Government has acted swiftly to support bushfire impacted communities. We have invested more than \$1 billion over the next two years to rebuild bushfire affected communities.

We have acted to ensure that people affected by the bushfires do not have to pay to replace important business documents including certain licences, certificates and permits.

Service NSW has been an outstanding success story of the New South Wales Government. Since we established it in 2013, it has gone from strength to strength. Service NSW is the one stop shop where eligible customers can apply for refunds and waivers across more than 30 transactions delivered by the New South Wales Government, covering areas such as replacement driver licences, vehicle registrations, and birth certificates.

We have also announced six months of relief from council rates for anyone who has lost their home or small business in the recent bushfires.

The Government continues to look at other ways it can support people impacted by the fires. As Minister for Customer Service I recently approved waiving Annual Liquor Licences Fees on properties damaged or directly impacted by the fires. I expect the Department of Customer Service will have this new fee waiver in place in the coming weeks.

Earlier this year Service NSW established the Customer Care Program, which is the centrepiece of its response. Through Customer Care, Service NSW is delivering wrap-around case management style services to make it easier for customers to access the various services that are available from governments and charities.

Customer Care Specialists are providing personalised support to help guide people and businesses through every step of their recovery journey. As at the end of February around 7,000 customers had registered for this service.

Other highlights of the Government's response, delivered through Service NSW include:

Over 1,600 impacted businesses have been assisted through the Business Customer Care Program, providing personalised business concierge services to help businesses recovery.

Over 6,000 people have accessed the online Disaster Assistance Finder to help them understand the services available.

Over 1,700 volunteers have received the volunteer firefighter payment, with close to \$6.5 million in payments made.

Over 700 businesses have applied for Small Business Grants, with over 100 approved and close to \$2 million in payments made.

Over 700 fire impacted customers in isolated communities have been served by Service NSW's mobile service centres.

Close to 14,000 customers have called Service NSW's contact centre with fire or flood inquiries.

This is all being delivered through Service NSW as the single front door, so people and businesses only need to go to one place to get the support they need.

To understand just how important this support is to people affected by the bushfires, I'd like to read an email received from a Service NSW customer:

Thank you for your special care and absolute efficiency dealing with me and our property that we lost in the New Year's Eve fires at Malua Bay.

To be honest you have been the first person in 8 weeks that has made me feel better and able to move forward in rebuilding our home and our life.

My husband and I have left so many messages with council, insurance companies etc and in most cases nobody has got back to us or dealt with our next move like you did.

Once again, I thank you from the bottom of my heart and wish you all the best in everything you do.

Service NSW has quickly stood up these programs and services to respond to the needs of affected customers and proactively meet their needs.

This bill is about making the process of waiving fees simpler for the various Government agencies involved, through more consistent processes with Service NSW as the front door.

The bill also harmonises 14 legislative schemes within the Better Regulation and Innovation portfolio.

Schedule 1 makes amendments to laws that regulate associations, co-operatives and over 800,000 home builders, property agents, motor dealers and other professionals.

The amendments harmonise existing statutory powers. They will allow the regulations to provide for relief by inserting a consistent power to waive, reduce, refund or postpone fees in each of the 14 schemes. The secretary will be able to use this power to provide relief in special circumstances and in response to financial hardship.

The bill will provide a consistent power for all four forms of fee relief. It will simplify administration and provide equity across the 14 schemes, ensuring access to targeted relief when it is needed most.

The bill will support the current commitment to replace important business documents for free. It will also allow for reductions, refunds and postponements. If someone needs to renew their licence but cannot meet the application deadline, the bill would allow the fee to be reduced.

If the bushfires destroyed their office and they longer wanted to operate, the bill would allow for the refund of the fees already paid.

To support implementation, schedule 1 will insert transitional provisions into the 14 schemes. These provisions will take the amendments to be valid from 18 July 2019, the date of the first natural disaster declaration for the North Coast bushfires.

The bill will also omit parts of the Fair Trading Legislation (Reform) Act 2018 that will no longer be necessary. This Act contains provisions that will allow the pro-rata refund of licence fees from 1 July 2020. The bill inserts broader regulation making powers, that make fee waiver powers consistent across the portfolio. As a consequence the amendments in the Fair Trading legislation reform Act that are yet to commence will be superseded by the provisions in the bill.

I now move to the amendments to the Service NSW (One-stop Access to Government Services) Act 2013 outlined in schedule 2.

These amendments will clarify the power of Service NSW to waive, reduce, postpone or refund fees on behalf of Government agencies during special circumstances which include a declared natural disaster or state of emergency.

The amendments will also enable the customer service functions, which detail the functions that Service NSW performs, to be prescribed by regulation. This means that can Service NSW can stand up new functions, programs and services that support customers.

The amendments will further enable Service NSW to deliver transactions and services on behalf of Government where these is no clear government agency owner.

The amendments include transitional provisions to make absolutely clear the circumstances in which fees could be waived, reduced, postponed or refunded, or payments made during the recent bushfire crisis.

The New South Wales Government has acted swiftly to support people affected by the bushfires. This bill will ensure we can continue to do so in the face of any future disasters and emergencies, with the support of more consistent and standardised legislation.

I commend the bill to the House.

### Second Reading Debate

**The Hon. DANIEL MOOKHEY (16:28:24):** I lead for the Opposition in debate on the Better Regulation and Customer Service Legislation Amendment (Bushfire Relief) Bill 2020. I state at the outset that the Opposition will not oppose the bill. However, Opposition members do have some concerns that we wish to place on the record. I am indebted to my colleague the member for Canterbury in the other place, whom I am representing in this House on this bill. The bill was introduced to respond to the greatest bushfires this State has ever seen. Over the summer that has just passed, around 5.4 million hectares were burnt. That represents 7 per cent of our State's entire landmass. Across Australia more than 30 people died and thousands of homes were destroyed.

When the bill was introduced at the start of this month the Government said that its desire was to provide relief from fees and charges to help communities to recover from those devastating fires. It is now clear the measures in this bill are needed to face an entirely new catastrophe. While it is important to continue to help communities recover from the bushfires that turned our skies red, we are now facing an enemy that is invisible to the naked eye. The COVID-19—coronavirus—pandemic is the most serious public health crisis we have faced in almost a century.

Driving to Parliament House this morning I saw the newly jobless standing 1½ metres away from each other, snaking around the bend through my neighbourhood streets—men and women, the young and the old, workers stood down, sole traders out of business—waiting for Centrelink to open. Elsewhere in Marrickville and Enmore, in a scene repeating itself on every high street in Australia, where once shops opened they are now closed and where once people headed to work they are now at home. Yesterday 88,000 people were phoned, emailed or even texted and told that they no longer had work. Today tens of thousands more will hear the same news.

Yesterday tens of thousands of businesses shut down, unsure if they will reopen. Today thousands more businesses will close their doors. Every day we add people to the unemployment lines faster than at any time since the Great Depression. Every day more businesses risk failure than at any time since the Great Depression. For every person who loses their job, for every person who closes their business one more family becomes anxious

about paying their rent, paying their mortgage, paying for food and paying their bills. Today it has been reported that around two million Australians will lose their jobs as key sectors of our economy shut down. I note the particular devastation that is being felt in sectors such as hospitality, tourism, entertainment and the arts.

Jobs in these sectors were always insecure. Many workers had casual or seasonal jobs without the protections and entitlement that permanent workers take for granted. Workers in cafes, pubs and clubs do not have the option of working from home so many of them now have been left without a job because of this crisis. Thousands of small business owners have seen their working life upended with no certain date for when this crisis will end. So while the Government's intention was to use this bill to provide relief for communities that had been devastated by bushfires, it is the Opposition's understanding that the bill will also allow relief to be provided to those suffering hardship due to the shutdowns that are necessary to slow the spread of COVID-19.

I turn now to the specifics of the bill. Broadly, the bill has three main elements. First, schedule 1 to the bill amends 32 different Acts and regulations that are administered by the Minister for Better Regulation and Innovation. Those Acts and regulations provide legislative schemes that govern work health and safety, builders and building certifiers, conveyancers, property agents, incorporated associations, cooperatives, tow truck operators, tattoo parlours, pawnbrokers, community gaming, paintball and explosives. The bill amends each of those legislative schemes in similar ways. In essence, the bill replaces any current provisions in those Acts and regulations that allow for the waiver of fees with new consistent provisions.

The new provisions inserted into the amended Acts and regulations by the bill use essentially the same language that will provide a consistent power to allow fees to be waived, reduced, postponed or refunded. The power to waive, reduce, postpone or refund fees will be exercisable by the Secretary of the Department of Customer Service or the equivalent official responsible for administering the relevant Act. This power will be exercisable if a person is suffering financial hardship or if special circumstances exist. I note that the bill does not define "financial hardship". I also note the bill does not define a "special circumstance". However, it includes a note that states an example of a special circumstance is a natural disaster or a recovery from a natural disaster. Those are matters that I will return to later.

For the record, I also note the amendments made by the bill to the Fair Trading Legislation Amendment (Reform) Act 2018 are different from the amendments proposed to the other 31 Acts and regulations that are amended in schedule 1 to the bill. This is because the bill is removing a number of uncommenced provisions from schedule 2 to the Fair Trading Legislation Amendment (Reform) Act 2018. Those uncommenced provisions would have amended various Acts to insert language allowing fees to be waived or refunded. However, because the bill will have a similar effect, the Opposition understands that those uncommenced provisions will become redundant and therefore should be removed from the Fair Trading Legislation Amendment (Reform) Act 2018.

The second element of this bill makes changes to the Service NSW (One-stop Access to Government Services) Act 2013. The changes expand the functions of the Chief Executive Officer of Service NSW and allow additional functions for the CEO of Service NSW to be provided by ministerial direction or regulation. The bill also allows the CEO of Service NSW to make payments and waive, reduce, postpone or refund fees if certain conditions are met. First, a special circumstance declaration must be published; and, secondly, either an agency that Service NSW acts for must direct that a fee be waived, reduced, postponed or refunded, or the Minister for Customer Service must direct that a payment be made.

The Opposition understands a practical example of this power being used would be Service NSW waiving the fees charged for replacement driver licences and birth certificates that might have been lost in a bushfire. I note that the bill defines a "special circumstance declaration" as a "natural disaster declaration", a declaration under section 33 of the State Emergency Rescue Management Act 1989 or another declaration prescribed by the regulations. The third element of the bill retrospectively validates decisions that have been made since 18 July 2019 regarding the waiver, reduction and postponement of fees. That date was the date of the first natural disaster declaration for bushfires on the State's North Coast.

While the Opposition will not oppose this bill, I place on record some of our concerns. In essence, we have two. The first concern is with the retrospective validation of decisions made since 18 July last year. While the Opposition will not oppose this, it believes the Government should come clean about why this aspect of the bill is necessary. It may be appropriate if the Government took urgent decisions to respond to the bushfire emergency. It would be concerning if many of these decisions were taken without sound or legal authority. Retrospective legislation is problematic. The main reason the Opposition will not object to this aspect of the bill is that we understand the retrospective provisions will not operate to disadvantage ordinary people. However, in the interests of transparency I ask the Leader of the House in reply to place on record more information about which decisions require retrospective validation and the circumstances that are required.

The Opposition's second concern relates to transparency and accountability. In general, we expect that the power to provide relief from fees will be exercised to give effect to major government policy commitments. Those commitments are usually well publicised, so it is possible for the Opposition, the media and members of the public to ask questions and hold the Government to account. However, it is not clear that all decisions empowered by this bill need to be made public. Rather, the bill confers broad discretionary powers for Ministers and officials to waive, reduce and postpone requirements to pay fees. The discretion to exercise this power is broad because the bill does not define key terms. As I noted earlier, there is no definition of "financial hardship" and the example provided in the note of "special circumstances" is very broad.

On balance, the wide discretion conferred by the bill was likely to be appropriate as a more proscriptive approach to prevent the Government developing policies to respond to new situations. Indeed, if the bill had been drafted proscriptively to limit its scope to the recent bushfires, the Opposition probably would try to amend it now to allow fees to be waived in light of the coronavirus pandemic. However, the broad powers confirmed by the bill and the absence of more detailed provisions regarding the exercise of those powers create risk. The Opposition is concerned about officials having broad discretion to waive fees, particularly when there is no obligation to make the decisions public. While we hope that those powers will be exercised responsibly during times of crisis, we would not be doing our job as an Opposition if we did not note the potential for those powers to be misused.

For this reason, the Opposition hopes the Auditor-General will look at the measures empowered by the bill in 12 months to 18 months when the current crisis is hopefully behind us. In the interests of accountability and transparency, it would be very useful for the Auditor-General to provide a report to Parliament regarding the manner in which decisions to provide relief from fees has been exercised. It would also be beneficial to understand whether the Government's measures to provide relief to communities affected by the bushfires and the coronavirus pandemic have actually been effective. This is, of course, a difficult time for our State. While the Opposition will not oppose this bill, it calls on the Government to be transparent and accountable for its decisions, particularly during times of crisis.

**The Hon. ROD ROBERTS (16:38:18):** On behalf of One Nation, I confirm that it supports the Better Regulation and Customer Service Legislation Amendment (Bushfire Relief) Bill 2020. The bill proposes relief from government fees and charges in four different forms—that being to waive, reduce, refund or postpone various government fees. Last summer we saw 2,500 homes destroyed in New South Wales. But apart from the homes, how many lives were destroyed and affected? I am very pleased to see this Government doing what it can to assist the victims of those bushfires. We must remember that before the fires, some of those very same people were suffering the effects of drought and some of those very same people are now rolling into the effects of COVID-19.

As the Hon. Walt Secord said earlier, 2020 has been a terrible year and one that we look forward to passing. One Nation supports this legislation. It also welcomes that the amendment will be backdated to 18 July 2019, when the first Natural Disaster Declaration was made following the bushfires on the far North Coast. This is a welcome move and One Nation supports the Government in its endeavours.

**Ms CATE FAEHRMANN (16:39:45):** I speak on behalf of The Greens to the Better Regulation and Customer Service Legislation Amendment (Bushfire Relief) Bill 2020. The bill was developed after a crisis just a few months ago that horrified the world. The New South Wales RFS reported that between July 2019 and 13 February 2020 11,264 bushfires or grassfires burnt 5.4 million hectares in New South Wales and, as we have heard, destroyed 2,439 homes. Of course, 25 lives were tragically lost. This is the second sitting week of this place this year. In the first week that members were back, Government business was largely spent speaking to a bushfire condolence motion. Now here we are sitting just one week before adjourning for six months because of another horrifying crisis—this one, of course, a global pandemic of proportions unimaginable just those few months ago.

However, it is important that as we face another crisis we do not forget those who are entering this horrifying pandemic having not recovered from the previous crisis in any way. That is why The Greens will be supporting this bill, because it goes some way to making the lives of those people easier. As Opposition member the Hon. Daniel Mookhey has pointed out, we are also told the bill will be able to relieve and apply to victims of COVID-19. Unfortunately, we know that there could be many millions of those. The bill seeks to retrospectively validate waivers and postponements of fees made by Service NSW during the bushfire crisis, as well as put in place the power to waive and postpone fees in future special circumstances—in fact, probably in the present special circumstances.

Schedule 1 to the bill amends a number of Acts to allow the waiver, reduction, postponement or refund of amounts payable under those Acts in certain circumstances. Those circumstances are where a person is suffering financial hardship or there are other special circumstances. The bill inserts transitional provisions in each of the schemes so that the amendments are taken to be valid from 18 July 2019 to align with the first natural disaster declaration, being those awful, tragic North Coast bushfires. Part 1 of schedule 2 to the bill amends the Service NSW (One-stop Access to Government Services) Act 2013 to give the Minister and the heads of other relevant

agencies the power to direct that fees and payments can be waived, reduced, postponed or refunded in special circumstances or for payment to be made to another agency on behalf of certain people or classes of people. Of course, The Greens support this. The bill also defines "special circumstances"—a natural disaster declaration, a declared state of emergency or where another circumstance exists as prescribed by regulation.

Amendment No. 1 of schedule 2 to the bill expands the functions of the CEO beyond those delegated to the CEO under the Act. The new section 4 (c) would give the CEO any other functions relating to the delivery of government services to the people of New South Wales as directed by the Minister. The Greens believe this is a very broad delegation to the CEO. In fact, it will take the CEO's functions outside the scope of the Act. However, we recognise—as many members have already said today—that extraordinary times call for extraordinary measures. We have seen that in the bill debated in this place already and I am sure we will see that in the bill debated later today. We are satisfied that the broadening of the Service NSW CEO's functions under the bill are necessary to respond to the situation that thousands of victims of this horrific bushfire season have found themselves in over the past six months. However, as flagged by the Opposition, we look forward to a review by the Auditor-General of the bill. Having said that, The Greens support the bill.

**The Hon. SCOTT FARLOW (16:44:15):** In reply: I thank the Hon. Daniel Mookhey, the Hon. Rod Roberts and Ms Cate Faehrmann for their contributions to debate on the Better Regulation and Customer Service Legislation Amendment (Bushfire Relief) Bill 2020. We have seen a devastating bushfire season across the State. As members remarked, there were 2,500 homes lost, 5½ million hectares of our State burnt, communities decimated and small businesses in dire straits. Unfortunately, that has now been compounded by the impacts on our community across New South Wales of COVID-19, and there will still be greater devastation to come. Service NSW has been at the forefront of affected communities and helping them throughout this time. It has certainly been there for communities in their hour of need. It is one of the things that the Government is committed to.

To address some of the issues raised by the Hon Daniel Mookhey in particular with respect to the retrospective amendments, they are necessary to ensure that there is legislative consistency for the circumstances in which fees could be waived, reduced, postponed or refunded or payments made during the recent bushfire crisis. Members remarked about the declaration date to the first bushfires in northern New South Wales. The powers provided in regulations ensure that the harmonised fee powers are provided to make sure the Government can meet future needs as they arise—as the Hon. Daniel Mookhey mentioned, with COVID-19 and the special circumstances that may now apply there as well—and to minimise the administrative burden associated with updating laws. It is not possible to specify all the cases in which fee relief will be warranted.

The regulation-making powers provided by the bill will create flexibility to update the provisions so that they remain fit for purpose. This applies to the broad power to provide relief in special circumstances, but also to more specific forms of relief. Some of the legislative schemes also already contain specific forms of fee relief—for example, to refund licence fees when a licensee retires. The bill will provide a broad power that complements these specific and ongoing forms of relief. The bill amends 14 business-related schemes administered by Fair Trading NSW and SafeWork NSW. Other laws in the Better Regulation and Innovation portfolio are not included because they do not contain fees at all, or they do not require the payments of fees to obtain a licence, registration certificate or some other form of authority. This is a bill that seeks to help people and communities throughout New South Wales. I thank honourable members for their support of the bill 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. SCOTT FARLOW:** I move:

That this bill be now read a third time.

**Motion agreed to.**

## COVID-19 LEGISLATION AMENDMENT (EMERGENCY MEASURES) BILL 2020

### Second Reading Speech

**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) (16:48:24):** On behalf of the Hon. Sarah Mitchell: I move:

That this bill be now read a second time.

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

### **Leave granted.**

The bill seeks to prepare New South Wales services and institutions for the impacts of COVID-19 in line with critical health advice. Broadly, the bill seeks to do three things: first, to take immediate steps to address existing barriers in our laws that may get in the way of social distancing; second, to empower our agencies and institutions with the capacity to continue functioning; and third, to build in flexibility so that the Government is able to act further as the public health emergency evolves. Some of the amendments in the bill are extraordinary, which is why they generally have sunset clauses of between six months to 12 months. The Leader of the House has asked me to be brief, so I will not go into detail with many of the substantive amendments in the bill.

The bill amends the Criminal Procedure Act 1986: to enable a judge to order that a relevant witness can give evidence by having their evidence recorded in advance of the trial; to enable a record of evidence given in the trial proceedings to be admissible in a subsequent trial; to facilitate more judge only trials; and to introduce a general regulation-making power for exceptional circumstances. This empowers regulations that will provide for altered arrangements for criminal proceedings, apprehended violence order proceedings, bail sentencing and the administration of sentences. The regulations made under this provision can override the provisions of any Act or other law and are not limited by regulation-making power in a relevant Act.

There are key safeguards as the Minister may only recommend to the Governor that regulations be made if: first, Parliament is not currently sitting and not likely to sit within two weeks after the day the regulations are made; second, in the Minister's opinion the arrangements made by the provisions are consistent with advice issued by the Minister for Health and Medical Research or the Chief Health Officer and are reasonable to protect the health, safety and welfare of persons in relation to the administration of justice; and third, where relevant the Chief Justice, and if applicable the head of the jurisdiction of a court directly impacted by changes, consents. The regulations will lapse either six months after they are made or immediately upon resolution of either House. This will enable further changes so that the courts can continue to comply with the evolving guidance during this pandemic. It is an extraordinary provision but these are extraordinary times.

The bill amends the Evidence (Audio and Audio Visual Links) Act 1998 to facilitate increased use of audiovisual links [AVL] in court proceedings. There will be a presumption in favour of AVL for bail appearances. The court will also have the power to direct the use of AVL in hearings and trials, including fitness hearings. It also includes a regulation-making power to exclude certain matter types. The court will have power to direct the use of AVL for appearances by witnesses and legal representatives, including the prosecutor. The bill amends the Jury Act 1977.

The bill amends the Crimes (Domestic and Personal Violence) Act 2007 to extend the period of time in which the listing of an application constituted by a provisional apprehended domestic violence order or apprehended personal violence order made by a police officer must occur from not more than 28 days to not more than six months after the making of the provisional order. The existing requirement to list the provisional order on the next date on which the matter can be listed on a domestic violence list at the appropriate court will not be changed. The bill introduces amendments to ensure powers are in place in the youth justice system and the adult correctional system to protect the health of offenders, staff and the community. The Commissioner of Corrective Services and the secretary of the Department of Communities and Justice will have powers to restrict any person visiting an adult correctional facility or a youth justice detention centre with limited exceptions.

The bill seeks to provide us with powers we hope we will never have to use but the evolution of the pandemic may require it. This includes amendments to the Crimes (Administration of Sentences) Act 1999 to give the Commissioner of Corrective Services the flexibility to release certain inmates early on parole in response to COVID-19. This flexibility is necessary to give the commissioner the capacity to protect the health of inmates and correctional services staff and ensure the good order and security of correctional premises through the emergency. The Government contemplates that if the power were used it would be in relation to lower risk or vulnerable inmates to be prioritised for potential release, such as older inmates nearing completion of their sentence.

The bill creates a power for the Government to make regulations to determine a class of inmates for potential conditional release and allows the Commissioner of Corrective Services to grant parole to those inmates. This will be possible for eligible inmates, irrespective of whether their non-parole period has expired. However, certain classes of inmates will be automatically disqualified from being considered for parole. The commissioner will not have the power to release an inmate serving a life sentence, a sentence of imprisonment for murder, a serious sex offence or a terrorism offence. I will shortly be providing a Government amendment that will list further exclusions.

While the commissioner already has the power to release inmates into the community on temporary leave permits, the parole framework is being used as it is designed to manage the transition from Correctional Services to the community and includes supervision of inmates by Community Corrections and management by the State Parole Authority. The conditional release of an inmate will be subject to the standard conditions of parole, which are that the parolee must be of good behaviour, must not commit any offence and must adapt to normal community life, and any other conditions the commissioner considers appropriate. There is no limit to the conditions the commissioner can impose, which could include home detention and electronic monitoring. These are broad and extraordinary powers, but necessary to respond to the grave risks posed by the COVID-19 pandemic and to control physical contact in places of detention.

The bill amends the Civil and Administrative Tribunal Act 2013 [NCAT] to provide greater discretion to manage the work of the tribunal during the public health emergency; in particular, for the Guardianship Division generally and for the Administrative and Equal Opportunity Division in relation to functions under the Public Health Act 2010. The bill changes requirements under the NCAT Act relating to providing reasons for decisions. Courts will be able to extend the period of time in which an appeal or application for review of tribunal decisions can be made. The Government will be empowered to make regulations to modify any legislation relating to, first, the time periods within which anything must be done in connection with the tribunal and, second, the practice and procedure of the tribunal.

The bill amends the Electronic Transactions Act 2000 to create a regulation-making power that will allow for regulations to provide for alternative mechanisms for signing and witnessing documents in light of restrictions on interpersonal contact due to COVID-19. The bill amends the Child Protection (Working with Children) Act 2012 to enable the Children's Guardian to extend clearances, where appropriate, to help prevent any unforeseen disruptions to services as a result of COVID-19. The bill amends the Constitution Act 1902 to enable the Executive Council and the Governor to continue to perform key functions and operate in an environment consistent with the evolving health advice.

The bill amends the Subordinate Legislation Act 1989 to keep 13 regulations due for automatic repeal on 1 September in force for a further period of, generally, one year. The bill amends the Environmental Planning and Assessment Act 1979 to allow the planning system to respond. If we need to construct a COVID-19 clinic, we need, for the period of this crisis, to have the unfettered ability to be able to do that. The bill amends the Local Government Act 1993 to allow councils to continue to meet and members of the public to observe their meetings in a way that does not expose participants and attendees to the risk of transmission of the COVID-19 virus. For six months councils and their committees will be able to meet remotely using audiovisual links or, if not available, in any other manner approved by the Minister for Local Government. That may be extended to 12 months by regulation.

The bill amends the Retail Trading Act 2008 to allow supermarkets to open during the April public holidays for this year only. To relieve pressure on the health system and general practitioners, in particular, the bill amends the Motor Accident Injuries Act 2017 and the Workers Compensation Act 1987 to allow a relevant allied health professional to provide certification of ability to work. The bill amends the Public Health Act 2010. It will dispense with the requirement to make an application for confirmation within three working days in respect of a public health order made in relation to a person who has been exposed to COVID-19.

Changes will also be made to allow a police officer to arrest a person who breaches a public order and to return them to their home or place of detention. There will be an amendment to the bill as circulated in relation to this insofar as it affects homeless persons. The bill will allow police officers to act as authorised officers under the Public Health Act for certain purposes, being to issue a penalty infringement notice and demand a person's name and address. The bill amends the Private Health Facilities Act 2007, the Health Practitioner Regulation (Adoption of National Law) Act 2009 and the Mental Health Act 2007. The bill will commence on assent. The bill will provide for transitional arrangements that will enable action taken under these extraordinary powers to remain valid post the sunset period.

### Second Reading Debate

**The Hon. ADAM SEARLE (16:49:13):** I speak on behalf of the official Opposition, the Labor Party—the oldest political movement in this State—to support the COVID-19 Legislation Amendment (Emergency Measures) Bill 2020, which is before the House. At this time of great difficulty for our State and its people, we on this side of the House made a commitment to support the actions taken by the Government to address the COVID-19 pandemic and not to delay or obstruct the passage of any measure thought necessary in that effort. Many of the measures in this bill are ones that in usual times would be controversial and that we would not support. But because of the needs of the times and the fact that these measures are time limited, we will keep our commitment even though some of the measures are not ones we would have proposed even at this time.

We do so not lightly, but in the spirit of bipartisanship to act in the public interest. The community wants its elected political leaders to act together to meet the challenges we all now face. To this end, we have given the Government every support it has asked for, both procedural and substantive. As this crisis proceeds, we will make suggestions, and offer ideas and policies to address the needs of our community. We ask the Government to consider these on their merits and not through the prism of some partisan political lens, and to accept at least some of them in the public interest.

We say to the Government that it is the elected government of this State. Those opposite received the votes of 40 per cent of the community but the balance of this House represents the other 60 per cent of people who did not vote for them. We are all in this together and we must work together. If there is a need in the public interest to do so, or if the Government oversteps the significant authority it is given—either by virtue of its office or under the powers given through this legislation—we will act to recall the House and hold it to account. As discussed already, the work of our powerful and important committees will continue and that is also a mechanism for holding government to account between the sittings of Parliament.

As I indicated, I lead for the Opposition in debate on this bill. The Opposition will support the bill. We do have concerns about specific measures, which I will touch on briefly in this contribution, many of which were raised by the shadow Attorney General in the other place. This is not a criticism, but we are all acting under significant pressure and we thank the Government for briefing the Opposition ahead of seeing the bills to give us a heads up in the broad about what the bills would contain. We saw the legislation only late yesterday afternoon and, as I indicated, the shadow Attorney General also had discussions with the Attorney General at the weekend about some of the provisions.

This is a very rushed time frame. In the normal course that would be a cause for criticism but not in the current circumstances. However, while we have reviewed and considered the terms of the bill before the House, it is not with the usual rigour that we would normally be able to bring to bear and, as I said earlier, there are elements of the bill that we would not have chosen to include. They will become apparent as I work my way through. There are two schedules to the bill. The first deals with the Criminal Procedure Act and the other deals with some 19 other changes made to various Acts to give the Government wideranging powers to deal with the COVID-19 pandemic.

Most of the provisions are time limited to no more than 12 months—with some variation—from the commencement of the legislation. That is appropriate, given how much of a departure from principle some of these measures might be. We also note that there are extraordinarily wide regulation-making powers in a number of places, including a power to amend principal Acts—things that we would not normally countenance. This

includes things that are properly referred to as Henry VIII clauses, where Parliament essentially delegates legislation-making functions to the Executive, and not merely delegated legislation but principal legislation—potentially a very dangerous course of action.

The shadow Attorney General raised an issue in the other place and I am not sure whether the Attorney General had a chance to respond. It relates to schedule 2.14 dealing with the Motor Accident Injuries Act, section 3.15, and schedule 2.19 dealing with the Workers Compensation Act, section 44B, which also do not seem to be time limited. Schedule 1 provides for the use of prerecorded video evidence, which allows for evidence to be recorded on video before a trial commences. The New South Wales Bar Association, the peak body of barristers of which I am a member, is concerned, and I note a statement from President Tim Game, SC, issued this afternoon that makes significant and heavy criticisms of aspects of the legislation, including this aspect.

One of the most obvious problems is that it is impossible to properly craft a cross-examination until the Crown has opened its case. While the drafting does seem to reflect some discussions between the Government and the New South Wales Bar Association, it is a narrower provision than originally suggested. It was originally suggested to apply to complainants in sexual offence proceedings, complainants in domestic violence offences and complainants in proceedings for serious indictable offences, including an offence of violence. A complainant or witness at a significantly greater risk for COVID-19 is where it is at. The court can order evidence to be prerecorded if it is in the interests of justice, and that is time limited. We have concerns about that but we understand why it is being brought. There are some precedents already in some cases. The new part 38M, section 111.2, provides for the treatment of currently videoed evidence in trials.

In relation to judge alone trials, which are provided for in the bill, the court can now order them on its own motion. The legislation retains the accused's veto. It does not need to be applied for. If the prosecution does not agree, the court must consider if it is in the interests of justice to occur. In relation to proposed new section 366 of the Criminal Procedure Act, it provides an extraordinarily wide regulation-making power. The new section is headed "Regulation-making power for exceptional circumstances". The power is given to make regulations, alter arrangements for criminal proceedings, apprehended violence order proceedings, matters related to bail and sentencing, and matters related to the administration of sentences.

There is a series of safeguards and qualifications introduced. Parliament must not be sitting or likely to be sitting within two weeks, and that is in accordance with advice from the health Minister or the Chief Medical Officer and the Chief Justice and relevant head of jurisdiction have consented. However, if we look at proposed new section 366 (3), it is not limited by the regulation-making power in any Act and may override the provisions of any Act or law. This is literally an example of a Henry VIII clause, permitting the Executive to legislate without reference to the Parliament. Extraordinarily, new section 366 (5) also permits such changes to be made to a range of specified legislation—which is appropriate; if you are going to do so enumerate it—but commences with a reference to "this Act".

I ask the Minister to clarify, in his reply, that the term "this Act" is a reference to the Criminal Procedure Act 1986 as amended and is not a reference to this omnibus bill before the House. If it is a reference to the legislation being debated, it would permit the Government not only to make sweeping changes to the criminal procedure legislation but also to remove any remaining limitation to the regulation-making power and empower itself to change any of the Acts being amended by the bill, and possibly to go further. I am pretty sure that is not the intention of the Government or the provision. But, nevertheless, for more abundant caution I would like the Government to address that issue in the Minister's reply.

Schedule 2 deals with a range of matters. It will enable the Minister to postpone the local government elections scheduled for September this year if she believes it is reasonable in the circumstances to do so. It is not limited to the COVID-19 situation; it is expressed in more general terms. I understand that there may be amendments to contain or confine it. On this side of the House, we believe that does seem appropriate given the styling of each of these measures as being specifically directed to the COVID-19 situation. It seems appropriate that this should be also. Postponement of the local government elections, as we stand here, does seem unavoidable—and indeed was called for last week by the Opposition in the person of my friend and colleague in the other place the shadow Minister for Local Government, Greg Warren. One assumes—although some date is not specified—that it would probably be too early simply to put it back to March, or indeed May, of next year and it would be our advice that the Government should put it back a full 12 months, until September 2021.

I take up the point made by the member for Lake Macquarie in the other place, Greg Piper. We urge the Minister for Local Government to act quickly and to give certainty to communities and council administrations as to whether she intends to use the legislation and how she intends to use it. Clarity is everything in the uncertain times in which we find ourselves. Communities and council administrations need calm and deliberative stewardship of local areas more now than ever before. Council meetings can be held remotely by audiovisual link [AVL]. The requirement that meetings be open to the public can be met by a webcast or by another mechanism

approved by the Minister. This presumably deals with any council unable to webcast. Of course, not everywhere has access to the NBN or to broadband. Many areas in regional New South Wales are afflicted in that way. Also, not every council has up-to-date technology. There is also a new and profoundly broad regulation-making power contained in new section 747B. It is expressed in very wide terms.

In relation to the NSW Civil and Administrative Tribunal legislation, there are various time-limited changes and, again, another regulation-making power of great breadth. The guardianship and public health functions may be exercised by a smaller panel than is usually the case. That is partly the result of so many of the members being sessional. The Constitution Act change, as the Attorney General expressed it, was to permit the Executive Council of New South Wales to meet and make decisions other than in person. I think that is a sensible and sound precaution in these troubled times. The Crimes (Administration of Sentences) Act can prohibit or restrict a person or class of persons attending a correctional centre. Similar changes in relation to detention centres for children and young persons are also included. Potentially controversially, the commissioner may release an inmate to parole separately to any other parole scheme if they belong to a prescribed class and the commissioner is satisfied that release is reasonably necessary because of the risk to public health or good order of the prison that would otherwise be posed.

I pause there to indicate that perhaps the legislation might have been better if it had been drafted to reflect the public interest more broadly. That is, I think, a matter of some concern. On this side of the House, we have received representations from a range of industrial organisations with concerns about this matter, including the Police Association and, to a lesser degree, the Public Service Association. Nevertheless, I understand there will be amendments proffered and I look forward to those. Excluded are those prisoners convicted of murder, terrorism or serious sex offences, or someone serving a life sentence. A list is provided for things to be considered, including the protection of a victim of a domestic violence offence or a person with whom a released inmate may be likely to live if released. I think that is a very important consideration for all of us who are rightly concerned about domestic violence and keeping women and children, who are the main victims of domestic violence, free of it. Given the need to manage the successful release to parole, we expect that this will be used sparingly.

Also in relation to the Crimes (Administration of Sentences) Act, I have received representations from a lawyer who works in this area. I put them on the record and I have provided them to the Government so that they may be considered and, if necessary, dealt with. New section 276 of the Crimes (Administration of Sentences) Act, inserted by schedule 2.5 to the bill, may not do the work it is intended to do unless those amendments prevail over the terms of the Crimes (Sentencing Procedure) Act as well as the Crimes (Administration of Sentences) Act. The commissioner's power to release on parole is said to be "despite any provision of this Act"—that is, the Crimes (Administration of Sentences) Act—"or the regulations". But it is not said to overcome section 44 of the Crimes (Sentencing Procedure) Act, which states that the normal parole period is the minimum period an offender must spend in custody in relation to an offence, nor section 62 of the Crimes (Sentencing Procedure) Act, which requires a court post sentencing to issue a warrant of commitment, the document authorising and binding Corrective Services to lock up the person. The bill does not seem to vary any provision of the Crimes (Sentencing Procedure) Act at all.

New section 276 (2) (b) assumes the commissioner can let inmates out during their non-parole period, but it is not sufficient to leave something so fundamental to an assumption. There are some concerns here—for example, section 18G (a) of the Drug Court Act. In order to allow a Compulsory Drug Treatment Correctional Centre, with its carrot of early back-end home detention before the expiry of the non-parole period, to do its work, the Drug Court making a compulsory drug treatment order automatically cancels the original sentencing court's warrant of commitment. That is done very specifically. At a minimum, it would seem that proposed new section 276 of the Crimes (Administration of Sentences) Act should prevail not only for anything to the contrary in that Act but also for anything contrary in the Crimes (Sentencing Procedure) Act. Again, I do not claim to have expertise in this area. I have never been a criminal lawyer.

**The Hon. Mark Latham:** A criminal!

**The Hon. ADAM SEARLE:** Or that. But this to me seems to be a serious matter of drafting that has been raised. It would be prudent to make sure that we have the drafting right. Irrespective of the debate that we might have about the policy of this part of the bill, if there is a technical legal defect it will be of no value to the public interest or to those bodies charged with carrying out the will of this Parliament. Moving to the Environmental Planning and Assessment Act 1979, there are sweeping ministerial orders powers to be granted by the legislation. In the planning space more generally, I note that the Government did act on a proposal supported by the Opposition to change the relevant State environmental planning policy to permit the delivery of goods to supermarkets at any time despite any planning restrictions to the contrary.

The Government took that up very swiftly, and we thank it for doing so. We think that was a sensible approach. Perhaps in the same vein though, these ministerial orders powers are extraordinarily sweeping—which

is the same for many functions given under this omnibus bill. At page 20, the bill confers significant powers on the Minister for Planning and Public Spaces to approve any development without the need to go through the usual planning process. Such orders will not require approval under any other Act or consent for any person, and will override any environmental planning instrument. Any order made will be as if it were a development consent made in the ordinary course of the planning system. We note the stated purpose outlined by the Attorney General to remove planning impediments to activities that are needed either to address the COVID-19 pandemic or to assist in allowing existing activities to continue also to alleviate situations arising at this time.

For example, there might be a need to update or remove restrictions in relation to the operation of supermarkets or for the establishment of home offices where people can work from home. Obviously there are differing planning regimes around those, with some of them needing to be periodically renewed. That would potentially clog up council officer time. The fact that the Minister can now act on these things will operate as a circuit breaker. Other examples were given by the Attorney General such as repurposing warehouses with refrigeration for other functions related to tackling COVID-19. The power will allow ministerial action, which will remove the need to seek approvals or re-approvals from councils and will take a burden from council officers.

As the Minister indicated in his second reading speech, the power is conditioned by consultation requirements with the Minister for Health and Medical Research. The planning Minister must be reasonably satisfied, in legal terms, that the order is necessary to protect the health, safety and welfare of the public during the COVID-19 pandemic. That is an important limitation on the planning Minister's power to engage this function. However, it is a fairly low bar in the circumstances in which we are operating. Any order must be published in the *Government Gazette*. But I place on record—and I think this is perhaps of more substance than the restrictions in the bill—that I am grateful to the Minister and I accept his offer of consultation on proposed orders that he would seek to make under these unusual provisions. I think consultation with the Opposition, at a minimum, is a cautious way to approach these issues.

In relation to audiovisual links, all bail matters will be dealt with by audiovisual link unless otherwise ordered. The court will be given the power to order that an accused person, witness or lawyer can appear by AVL. This can only be accessed if it is in the interests of justice—not inconsistent with the advice of the Chief Medical Officer. The order can be made after application or on its own motion. These provisions of course are quite challenging. If you are being dealt with in the criminal justice system you should be able to be present, interacting with your legal representatives and passing them notes. So it is a reasonably radical departure from usual practice but, again, one conditioned appropriately and supported by the extraordinary situation in which we find ourselves.

There are changes under the Public Health Act, enabling arrest without warrant for contravention of a public health order—currently a warrant is necessary to do that. The duration of the public health orders are extended and the requirement of the NSW Civil and Administrative Tribunal to confirm certain public health orders is removed, although I understand that NCAT will still be able to review those orders. There are also some miscellaneous changes: a mental health inquiry by the mental health tribunal may be undertaken by phone; regulations to allow the Executive Council to meet remotely to assent to legislation, as I said, have already been touched on; and the maximum length of provisional apprehended domestic violence orders has been extended.

There are also changes to the Retail Trading Act. NSW Labor has long opposed allowing trading on each of Anzac Day, Good Friday, Easter Sunday and Easter Monday, and we know this has been a matter of strong political contention for some years. There was legislation in this place about whether some of those days would have trading permitted. There was a review of those restrictions by the former Treasury secretary, Mr Percy Allan, who, despite finding no actual evidence that lifting restrictions led to greater trading, as a matter of economic architecture said those restrictions should be scrapped. We strongly disagree. On this side of the House, we believe that personal family and community time is vital, particularly after the stresses that our communities have experienced in recent times—there has been a prolonged drought, there have been bushfires over the summer period, some areas then experienced flood and terrible storms, and now we all face the enormity of the COVID-19 situation.

It is imperative that we realise we are a community: a society composed of individuals and families, not merely an economy. That is why we believe on just a small handful of days each year there should be no shop trading. I note the hard work of our retail workers and the needs they have to be with their families and friends and to have a rest. We also note the desire of their families and friends for them to be able to do so. We acknowledge the hard work of the Shop, Distributive and Allied Employees Association on this issue and that also of the SDA Newcastle and Northern branch. We note that under this bill trading will be permitted on each of those days but that for this year only each of those occasions is named specifically. So it is literally a one-off. This occurs in the drastic circumstances we are now in and the need to ensure that there are as few obstacles as possible to the restocking of our supermarkets to ensure the community has confidence that what they need will still be on

the shelves when they go to the shops, to guard against large crowds attending, with the risk of spreading infection that that creates, and to reduce the risk of hoarding by some customers.

We do not necessarily accept this as being necessary and we did ask the Government not to include it, but it has. As a responsible Opposition and an alternative government, we made a commitment not to stand in the way of any of the measures the Government brought forward to address this crisis, and on our side of the House we keep our word. Despite some misgivings, we will not oppose these measures. We note that the bulk of the measures are time limited and that the shop trading changes are literally for this year only. But we note also some of the things that are not in the bill.

We note the absence of paid sick leave for all State government employees, including the 70,000 casual workers employed by the State. We note the absence from the legislation or indeed the absence of any policy announcement from the Government that it will commit to maintaining the income of the 70,000 casual workers that the State engages. Of course, there are many other contractors and temporary workers engaged by the State Government and there are the employees of contractors to the State—for example, the 7,000 school cleaners are all casuals employed by one of the four contractors working for the State Government. Measures to ensure that the incomes of all those workers who are not permanent and ongoing should be maintained by the State Government. This is the proper role of a State government in this situation.

Leaving aside debates about the efficacy of any stimulus measure, preserving the status quo and preserving household income to the maximum extent possible, those things over which the State Government has had direct control are vital. I note we have spoken in the House today about the terrible impact that the virus will have across society and the economy. We are witnessing tens of thousands of people, casual workers, pretty much instantly being thrown out of work. My partner rang me and spoke about the massive crowds down the street outside the Centrelink office in Katoomba yesterday—all the casual workers who have been told that they cannot be kept on because of the drying up of work and because of the restrictions. They are appropriate restrictions but, nevertheless, there is this knock-on effect.

Like the Minister for Finance and Small Business, a member of my own family has had their work dry up in that respect. In the days ahead we may see not just tens of thousands but hundreds of thousands of workers in the same situation, and the State Government should bring forward measures as soon as possible to tackle that. As I said, the State Government has been silent about what it is going to do about the 70,000 casuals it directly employs. I note that my council, Blue Mountains City Council, has made a policy decision not only to maintain all of its workforce but also to maintain the incomes of all the casuals that it employs. The council recognises its social responsibility and it sends a powerful signal to the private sector employers in our locality. The leadership role of the State Government at this time to take action in respect of its own casual employees will send a very powerful message across society. I cannot emphasise how important it is to preserve what there is, to preserve household incomes so that people can continue to pay their rent, their mortgages, their utility bills and their costs of living.

No government at any level has moved to cease the payments that people have to make. There was talk at the National Cabinet that action should be taken to protect renters from eviction and to protect commercial lease holders when they cannot pay their commercial leases, as we are seeing happen. If you have a coffee shop, a restaurant, a café in a big building with office workers, now of course you are restricted to making coffees and takeaway food. Obviously you have not been closed down, so you do not have the protection of some provisions in commercial contracts that make provision for that, but making coffees and making a few hundred dollars a day—if you are lucky in the current circumstances—will not even enable you to pay your rent, much less your staff. Many small businesses will go out the door backwards very quickly if action is not taken. I understand that the National Cabinet agreed that New South Wales and perhaps other jurisdictions should take action on this, but no such provisions are in the bills that we are dealing with today, and that is very distressing.

In the public service—and I note the Minister responsible opposite me—many members have been encouraged, if they feel more comfortable, to work from home, but that puts the onus on the workers. There is no clear direction that every public sector worker who can, who is not required to be in a specific workplace location at a specific time, should work from home. That has not happened, although I understand at least one major department has given that direction, but it does not seem to be sector-wide. Clear action is needed and I think such a direction should be given sooner rather than later—it should, in fact, be in place now.

My side of the House has called for a wage guarantee—again, forget about stimulating the economy—just to prevent further contraction and collapse. We note that the Federal Government has ruled it out. I think that is most regrettable; it is short-sighted and I am sure this will be an issue that will keep recurring. It is not a whacky idea. To take up the point raised by the Hon. Mark Latham, I do not think it is a particularly out-there idea. The Tory Government in the United Kingdom, the Boris Johnson Government, has put that in place just to prevent further collapse of the economy there. Some countries have comprehensively put in place deferrals of mortgages

and all manner of utility and other bills. We have not done that. If we are not going to do something like that we have to take all action available to both levels of government to at least maintain existing household incomes. It is just not good enough, for example, when we talk about the alleged Federal stimulus that a lot of these so-called—

**The Hon. Mark Latham:** Alleged?

**The Hon. ADAM SEARLE:** Well, the Centrelink payments are not flowing for another month. Workers who are thrown out of work will not be able to draw a penny until the end of April. Employers, who are receiving some of the benefits under State and Federal stimulus packages, are not getting any payments until May, then not again until July. Taking at face value the scale of both State and Federal stimulus packages—I am not detracting from anything that the Hon. Mark Latham said—but where is the obligation on the companies and businesses receiving this money to make a reciprocal commitment not to throw their workers out of a job?

The Prime Minister talks about an unwritten contract that when things get better they will be rehired. How about a written contract that if employers are taking taxpayer dollars they do not throw taxpayers out of work? Where is the commitment sought and received by either the State or Federal governments on these issues? These are the things that are missing from the legislation and government policy announcement. They must be revisited as a matter of urgency. With those not entirely brief observations, the Opposition will support the legislation. I understand there will be some amendments. For the sake of brevity and clarity, unless something changes in the next little while, to make good on our commitment that we made to the Government about the management of the Parliament at this difficult time, we will support such amendments to the bill as the Government supports and not otherwise.

**Mr DAVID SHOEBRIDGE (17:21:25):** On behalf of The Greens, I speak in debate on the COVID-19 Legislation Amendment (Emergency Measures) Bill 2020. The bill is sought to be introduced and passed by both Houses of the Parliament in just one day. The Greens will cooperate and have been cooperating to ensure that the legislation passes as a matter of urgency. We acknowledge the seriousness of the issues confronting the criminal justice system, our civil courts and tribunals, and the functioning of government through the need for the Executive Council to operate potentially remotely. The bill deals with concerns we have about the Mental Health Act, the Local Government Act, parole, sentencing, bail and prisons in this State.

We are already facing a lockdown and the crisis will only deepen. Clearly we need urgent powers and legislation and we are cooperating to ensure that legislation can pass. The Greens are grateful that in this time of crisis the Government has consulted with all parties across the board. We received a draft of the bill last night. We have had ongoing communications with the Attorney General and his staff, as well as the Minister for Local Government to address issues that have arisen in the bill. I put on the record that those engagements have been respectful and productive; however, they do not resolve all of our concerns with the bill. I will speak about that in some detail.

The bill makes fundamental proposed changes to the criminal procedure laws in the State. Some of the most wideranging and controversial amendments are those proposed to the Criminal Procedure Act 1986. We know that a number of stakeholders have real reservations about the extent of those changes. I say again, The Greens understand there have to be potentially quite radical changes to criminal procedure to allow for the courts to continue to operate during a pandemic. We acknowledge that the drafting of the bill has been done with great expedition and there are compromises in the bill that we would never contemplate if we were not facing the kind of crisis that is before us at the moment. This is a genuine crisis that if not addressed will see the criminal justice system stop functioning. We cannot have that; therefore, we need to make compromises. In that spirit we support the overwhelming bulk of the measures contained in the bill.

The Greens note the very real concerns about the inability to properly test evidence that will be given under the proposed pre-recorded evidence provisions in division 2 of the bill. We note the concerns raised by the New South Wales Bar Association, a series of legal practitioners and other legal bodies about those procedures. We would never support them but for this crisis. We acknowledge that they are imperfect and will prejudice in some regards the ability of participants in the criminal justice system to properly test the evidence. However, on balance we do not oppose them because we realise some of these measures are simply necessary in the face of the crisis. We also acknowledge that there will potentially need to be further significant changes to pre-trial proceedings, to how things like apprehended violence orders proceedings operate, to bail and sentencing and the administration of sentences. All of the necessary changes cannot be predicted in the bill.

One of the concerns we have is that Parliament will not be sitting repeatedly throughout the crisis; therefore, the response has been to hand the Attorney General absolutely extraordinary powers to amend the laws that relate to criminal proceedings such as apprehended violence orders proceedings, all pre-trial procedures, bail, sentencing and the administration of sentences. The bill literally hands the Attorney General the power by

regulation to change any of those laws and, absent some amendments that The Greens will be moving, literally not just change those laws but potentially change any law on the statute books by regulation during the crisis.

We are particularly concerned with the Henry VIII clauses in the bill, and I will deal with this in the Committee stage. What are they? They not surprisingly get their name from Henry VIII who persuaded a supine Parliament, an absolutely spineless Parliament, in the sixteenth century to pass a law that said whatever the King decrees has the same power as a law passed by the Parliament. That Parliament has been scorned ever since for simply handing over parliamentary sovereignty and power to the Executive—in that case, to the Crown. The bill repeats that but instead of handing the power over to Henry VIII we are handing it over to the Attorney General. He is a nice man but I would not want to give him the powers that previous parliaments gave to Henry VIII. That is what the bill does.

I make light of it in some regards because of the historical context, but it is not a light thing to hand over legislation-making power without constraint to the Attorney General. We do not support the bill as drafted. We have some amendments that seek to constrain the Henry VIII clauses. We are grateful that the Government has come some way in negotiations on that but we are still concerned about the extent of the Henry VIII clauses. The bill also provides a series of changes to the Constitution Act to allow the Executive Council to meet remotely. Obviously we support those changes if they are necessary for the Government to continue to operate and function. It changes the Mental Health Act, and I will have more to say about that. It makes a series of changes to the Local Government Act.

Again, I commend the Government for responding to the concerns that have been raised. A number of councils have said with the lockdowns we need to have some or all of our councillors attend a council meeting electronically because either they are frail or they are concerned for their health, they may have a diagnosis or be concerned about a diagnosis, they may be in self-isolation. Councils are about to go into budget season and have a series of essential work to do. A lot of that work can only be done by the elected council itself; it cannot be delegated to the general manager. We asked the Minister for Local Government to amend the code of meeting practice to allow that to happen and I am grateful to say the bill introduces those amendments. We think they need further clarity. We will propose some amendments to provide that. We understand that they will be supported in Committee. However, councils need the ability to operate. The bill will do that and we support that.

The bill also allows the local government Minister to postpone local council elections by 12 months. Currently the bill provides for a general power. We want to limit that power to concerns arising out of the pandemic. Again, I appreciate that the Government has engaged in good-faith negotiations. I believe those amendments will be agreed to. Therefore, we support that power being given to the local government Minister. It creates a whole lot of concerns across the State for people who have been preselected, who have been campaigning and who are thinking about running for local government. We would appreciate an earlier rather than later call on that to provide some certainty and enable people to plan for an election some time, I would imagine, in 2021. I place on record that I cannot believe Queensland is proceeding on Saturday to a statewide local government election. It is a remarkably dangerous proposal.

**The Hon. Mark Latham:** And two by-elections.

**Mr DAVID SHOEBRIDGE:** Yes, and two by-elections. It is a remarkably dangerous thing that the Queensland Government is proposing. I know they are in the middle of the cycle. I know it would create a large amount of disruption to pull up stumps on that local council election in Queensland. However, I cannot believe, in the face of this pandemic, that Queensland is going ahead with a local council election. It is with an eye to those potential terrible mistakes that we support the additional power being given to the Minister here to postpone a local council election. We cannot possibly do that in New South Wales in the current pandemic.

An aspect of the bill that I am certain will cause controversy is the proposed new section 276 of the Crimes (Administration of Sentences) Act 1999. Right now some of the most at-risk populations in the State are the 14,000-odd prisoners who are held in very tightly packed conditions, many of them in cells that are called double-ups and triple-ups. They are cells designed for one prisoner that have two prisoners and cells designed for two prisoners that have three prisoners. We know that the prison population in New South Wales is increasingly frail and elderly. They have a series of comorbidities. That population is at serious risk from this pandemic if it gets loose. We have already had concerns at Long Bay about the potential for COVID-19 to get into the Long Bay jail population. The Greens have concerns about all jail populations across New South Wales.

We have been calling for overcrowding to be addressed through decarceration measures that will ensure public safety is taken into account and that serious violent offenders will not be released. The amendments to the Crimes (Administration of Sentences) Act being proposed by the Government in item [2.5] of schedule 8 to the bill—proposed new sections 274, 275 and 276—allow for that to happen. The Commissioner of Corrective Services can make orders to grant an inmate parole. Obviously it excludes people who are serving sentences for

serious offences like murder, serious sex offences, terrorism offences or any offence that carries a penalty like life imprisonment.

Proposed new section 276 (4) gives the Commissioner of Corrective Services the power to order parole for an inmate. The first thing the commissioner has to take into account is the risks to community safety of releasing the inmate. The commissioner must also consider the impact of the release of the inmate on any victim whose name is recorded in the Victims Register and, in the case of an inmate who has previously been convicted of a domestic violence offence, the protection of the victim of the domestic violence offence and any person the inmate lives with, the availability of suitable accommodation if the inmate is released and any other matter the commissioner considers relevant. We think that gets the balance about right. However, we do have some concerns about the victims of domestic violence. We have some amendments that we will discuss in Committee about ensuring they are consulted if practicable before a release order is made and that they are definitely notified if the person who offended against them is proposed to be released. We will discuss that further in Committee.

There are a number of significant changes being proposed in relation to how tribunals such as the NSW Civil and Administrative Tribunal [NCAT] operate. A significant number of those changes relate to the way that mental health and guardianship orders are dealt with. My colleague Cate Faehrmann has had ongoing exchanges with the Public Health Association of Australia and with Irene Gallagher, the Chief Executive Officer of Being. They have raised a series of concerns about how those aspects of the legislation will work. I know those concerns have been communicated to the Attorney General and I know dialogue is ongoing in relation to those concerns. Given the time, I will not read them in detail.

However, as an example, I note that Ms Gallagher raises concerns about the proposed reduction in the number of people required to make guardianship decisions from three to two, which will potentially lead to a less balanced decision-making process and to potential failures to respect the rights of those people who are subject to the Public Guardian. The Public Health Association is particularly concerned about the mental health of prisoners and aspects of health care in prisons. They support the decarceration measures. While both of those organisations have some concerns, they both nevertheless support the passage of the bill and those critical decarceration measures.

Finally, the bill makes no specific changes in relation to bail as part of the changes to prisons, parole and sentencing. By protecting the health of the prison population, we also protect the health of the general population because of the large amount of interaction between the prison population and the general population through the services that are provided to prisons and through the prison officers who are going in and out. The health of prison officers also needs to be respected and cared for. The greatest concern and the greatest risk that has been relayed to my office by a number of advocates and workers in the prison system is having new inmates enter the system. Every time a new person from the general population enters the prison system, there is a fresh risk that the pandemic will get into the prisons.

That means we must see some quite significant changes in relation to the bail laws and a reversal of some of the presumptions against bail so that we do what we can to prevent new entrants into the prison system during the pandemic. I understand some of those measures may be achieved through regulation. They are urgent and essential. In relation to the parole powers that are granted, there is an urgent need to consider extending the commissioner's parole powers to granting parole to those inmates who are entering the system so that parole could be granted at the court cell before somebody enters the receiving area of a prison. We need to do all we can to stop this infection getting into prisons and that means some further work on parole and it definitely means significant changes in relation to bail.

The Greens are concerned about some of the excesses. We appreciate the ongoing engagement with the Government. We acknowledge that this is essential. We will support the bill going through today and we will have some further discussion in Committee.

**The Hon. MARK LATHAM (17:37:26):** One Nation supports large parts of the COVID-19 Legislation Amendment (Emergency Measures) Bill 2020. However, we have some proposed amendments. Some amendments are in areas similar to those identified by Mr David Shoebridge. Others differ widely. Obviously the bill has been drafted in great haste because of the public health emergency. Unfortunately, this House is unable to perform its proper review role. Ideally, we should not have received this overnight. Ideally, there should have been a process by which the second reading debate could have taken place today, the Committee could have met tomorrow and had a look at it on Thursday because many of the proposals here are entirely radical and may have unintended consequences. Normally the Legislative Council, as a house of review, would knock off the rough edges and produce better legislation to send back to the Legislative Assembly. However, we are trapped here with the arrangement that has been given to us.

Of course, some of the provisions, while radical, make some sense in the current circumstances. I think it is very good to see, at long last, that the New South Wales planning Minister will make some planning decisions, instead of delegating out to a plethora of panels, commissions and supposedly independent bodies to break the law of New South Wales and come up with a lack of investment. Perhaps the bill provides a role model for the planning Minister to recognise that investment helps in this troubled economic environment and getting on with the job is a very good thing. It works for pop-up hospitals and it works for the conversion of empty hotels—the quarantine centres. Perhaps it can work for Rocky Hill and other United Wambo proposals, where the planning Minister should sweep away the incompetence of the Independent Planning Commission [IPC] and just get on with the job. We really welcome that opportunity for the Minister to make some decisions at long last for the health benefit of New South Wales and look forward to the day when a similar thing happens for the economic benefit of the State.

The first concern that I flag is a matter raised by previous speakers regarding the extraordinary powers granted to the Minister. The Minister basically, through regulation, can control huge aspects of the administration of the justice system in New South Wales. I mentioned earlier that it is the equivalent of martial law provisions you see in Third World countries. It is an equivalent of the power of colonial governors. We learnt it is the equivalent of the powers of Henry VIII. These are extensive powers that, in an environment where the Parliament has adjourned until September, are excessive. They are not needed and they really should have been scaled back. The One Nation proposal is to omit them altogether.

The powers go beyond the normal perspective and workings of a democracy. The Parliament not sitting means that the Minister will not have the accountability of disallowance of regulations. I, for one, believe strongly that the coronavirus should not be allowed to conquer democracy itself. No Minister should have open-ended and extensive powers of this nature. The second concern we have is at part 2.6 of the Crimes (Domestic and Personal Violence) Act 2007. The mother Act reads that in the provisional orders that are granted for domestic and personal violence they are:

... to contain a direction for the appearance of the defendant at a hearing of the application by an appropriate court on a date specified in the order by the issuing officer.

(3) The specified date must be:

(a) the next date on which the matter can be listed—

often in the Local Court of course—

on a domestic violence list at the appropriate court, and

(b) in any case, a date that is not more than 28 days after the making of the provisional order.

The flexibility is now, in the proposed amendments in this bill before the House, to go to six months. Surely anyone who has a concern about domestic violence would think six months of one partner hoeing into another potentially under this provision is completely unacceptable. Even 28 days is a lengthy period in the circumstances we are talking about. To stretch it out to six months is beyond the pale. I do not think in the public health workings of the court that this is necessary at all. In the local courts that we are talking about the visitors have been cleared from the gallery. The social distancing is in place. We know in other courts that jury trials have been cancelled.

Provisions have been made for the courts to operate in a way that is quite similar to the way in which this Parliament has operated today. They need to do that day in, day out. The main public health risk for presiding officers in the court relates to the paperwork. People need to wash their hands and wear gloves. They need the social distancing. But to go to six months' delay in getting on the domestic violence list in the Local Court seems to me to be a huge risk for victims—a huge, unacceptable risk in the community—and really should be deleted from this bill. One Nation will be moving to delete new section 2.6 from the legislation because we believe this goes way beyond any acceptable community standard in relation to domestic violence—and personal violence as well—and that the 28 days getting onto the list really should be the benchmark from which this Parliament never deviates, under any circumstance.

What comes first—the protection of the victims of domestic violence or concern about a public health issue in the courts, which are sitting right now right around New South Wales, seemingly without a difficulty because they have taken all the precautions we have taken in this Parliament? On balance, the proposed amendment is excessive and unnecessary and should be deleted. Our final concern goes to the question at new section 276 of the prisons. This is indeed a strange proposition that somehow the public health and safety of New South Wales would be enhanced by releasing prisoners. When One Nation and my colleague Rod Roberts, in particular, had a look at the list of those who could not be released, it says:

(i) murder,

(ii) a serious sex offence ...

- (iii) a terrorism offence ...
- (b) ... imprisonment for life ...

But it left out others that by any decent community standards would be regarded as high risk: drug peddlers, armed robbers and domestic violence offenders. I thank the Government for listening to our advice to include those in the prohibited class so those people cannot be released from prison. I understand that the Leader of the Government will be moving an amendment to that effect. If that is not possible then we certainly would want those amendments moved and carried under our own name. Let's get this right. There is no way that drug peddlers, armed robbers and domestic violence offenders should be released from New South Wales jails in these circumstances because to release them and allow the possibility that they would repeat those crimes in the community does huge damage to public safety and the community interest in New South Wales. That amendment is absolutely essential.

The legislation has obviously been put together in haste. How that was overlooked beggars belief but the amendment now would be entirely appropriate. Beyond that, the release of prisoners, whether they are low or high risk, does not seem to me to be very smart practice in a public health emergency. If you had to nominate one group in New South Wales most likely to breach the social distancing rules it would be prisoners released—people fresh out of jail who have been major offenders in this State. They needed to be incarcerated. To release them surely jeopardises the whole of the social distancing provisions that the Government has put in place, themselves an offence now.

One Nation is also very worried about the provision at new section 276 (1) (b) that speaks of "the risk to public health or to the good order and security of correctional premises". If you want people to play up in jail, tell them that disorder has a reward. Disorder has a reward of being released. That in itself is high risk. Those words, as I think the Leader of the Opposition indicated, have not been drafted very well. It should have just spoken of the public interest—that is true. The mention of "good order" encourages people to be disorderly in prison and that has adverse consequences in itself. Beyond that, it is clearly wrong to entrust so much of this power solely in the hands of the commissioner. Those of us old enough to remember Rex Jackson would recognise the importance—

**Mr David Shoebridge:** Buckets.

**The Hon. MARK LATHAM:** Buckets Jackson, the former member for Heathcote—Mr David Shoebridge remembers him. I am old enough to remember him. It is a reminder of the importance of the independence and collegiate nature of the parole board—that many people make these decisions instead of one making decisions on prisoner release—and all the pressure of various kinds from criminal elements that can be brought to bear on that single decision-maker. In the principles of administering parole, this in itself is wrong—to concentrate all the power in the hands of the correctional commissioner instead of just using the powers and existing practices of the parole board.

**Mr David Shoebridge:** You cannot compare Peter Severin to Rex "Buckets" Jackson.

**The Hon. MARK LATHAM:** No, I am not. I am saying pressure has come on and the whole purpose of the parole board is to have independent, collegiate arrangements in place where those pressures are not concentrated on a single individual. The member opposite says I am casting some aspersion there; I am not at all. I am just looking at the structure of this. Going back to the Jackson case—which was horrendous—of a single decision-maker, I am saying that with the parole board we have beefed up resources and perhaps a smaller quorum could have administered these issues without the need for these extraordinary powers concentrated in the hands of one person. That is what I am saying.

The process here is wrong. The intent is wrong. And you have also got community safety issues about those who reoffend. You have got the flight risk out there of people who shoot through. You have got the supervision requirements. Are we creating a bigger problem than the one we are solving? People on parole have to be supervised. That involves interactions and social contact where the contagion can spread. I do not think these things have been thought through adequately. We have multiple problems here—problems on every front in the likely consequences of 276.

For that reason, One Nation proposes to delete the provision altogether and urges the Minister and the Government to go back to standard parole board provisions, beefed up if need be with ministerial direction to deal with the issues that supposedly this section is trying to address. There are many good things in the proposed legislation that are worthy of support but three key areas—protection of domestic violence victims, the release on parole of prisoners and these extraordinary unacceptable ministerial powers—cannot be supported by our party and we will be moving appropriate amendments. We are also very keen to have a look at the amendments that The Greens will be moving in some of those key areas. They too may be worthy of our support.

**Mr JUSTIN FIELD (17:49:47):** I speak in general support of the COVID-19 Legislation Amendment (Emergency Measures) Bill 2020. I join with others in raising concerns about the extent of the powers, but we understand where this is coming from and that there are uncertainties, no doubt, about how some of these provisions may operate. I accept in good faith the Government's position is that as it becomes aware that some of these provisions may not deliver what it intended, may need to go further or may need to be changed, the legislation provides that ability. The Government will take that on board to make sure it is acting in the interests of the people of New South Wales. It is concerning when you combine the extent of these powers with the fact that the House will not be sitting and has lost significant oversight potential. I can understand the frustration of members.

I do not want to stand in the way of this bill. I will listen to the arguments put, but I will be unlikely to support some of the amendments. In these times a lot of reliance is put on Executive Government to be able to move with changing circumstances. But we are losing that ability and the ability to react quickly should a difficult issue. It will be difficult. I think we probably will see it in the next six months. The upper House probably will have to reassemble to look at a particular matter. I have some confidence. We have a deeper shared responsibility as members of the Legislative Council, where we are not necessarily concerned with the day-to-day issues within our electorate. What is our role when we are not in this place for six months doing the normal work of a parliamentarian?

I suggest to the Government that there is a lot of expertise, there is a lot of local knowledge, and there are a lot of skills and ideas here. I see this as an opportunity to perhaps establish some informal working group environments with cross-party members; some way to engage them informally in the decision-making or in an advisory way that may well benefit the entire Parliament. It may give the public more confidence to see parliamentarians acting in that way. This would be new, but these are new circumstances. These are things that parliaments have not seen for a very, very long time and we are learning together. I hope that the faith I put in the Government to do the right thing with these powers that we probably will give it tonight will be reflected in its willingness to engage with members, collectively with parties opposite or with other individual members.

I want to raise a couple of specific issues regarding planning. I think I have enough scope within the details of the bill to talk about it. It is more about what is not in the bill, what the Government is choosing to not include the bill, but it relates to some of the specific provisions as it relates to local council. But I want to talk about how it seems as though it is not really envisaged that the planning system will change. It seems that the Government has a willingness to continue with planning as if the planning process has to continue. Recently we saw the planning Minister request the Independent Planning Commission to consider how it can continue to operate and conduct hearings in an online forum. A lot of people in the community have raised with me their concerns about fair process, due process and natural justice. There are some really controversial issues on the planning books in New South Wales at the moment.

Members will understand and be familiar with the fact that since 2011 I have been talking a lot about the Narrabri Gas Project. This project has a legacy; it has been around for a long time. It is hugely controversial. It has had more submissions to the planning process than any other project in the history of New South Wales. This crisis comes at a critical time in the decision-making for that project. It was due for referral potentially at any stage. In fact, the planning Minister has written to the IPC to basically say, "Be prepared to conduct a hearing in regard to this matter." But the planning assessment report has not yet been completed and the referral has not yet been made. But petitioning activities are going on at the moment asking the planning Minister to delay consideration of that project.

People within government have put to me that we cannot pull the handbrake on the planning system in New South Wales. I recognise there will be some real economic incentives to try to get things moving again. But this is a hugely controversial project. It does stand a little a bit alone and separate. I say that if they cannot pull the handbrake up on that planning process or at least give it some special consideration, reflect on the fact that they have pulled the handbrake on what this House is able to do in the next six months. I do not think I am speaking out of turn, but I am confident that if we sat for just one more day this House would have passed the Coal Seam Gas Moratorium Bill 2019 on private member's day tomorrow. That would upend, potentially, some of the thinking around that project. But that process has been put on hold.

We were able to have an inquiry. I have asked questions in the House and in budget estimates. A whole lot of processes could have continued. The normal actions of the Parliament to scrutinise decisions that are being made not just by Government, but the things that are happening within our economy—all of that has been removed, but the planning system is going to continue. I suggest that the idea that you can have public hearings online about a regional project, bearing in mind that the NBN is not great in a lot of places, is not practical. A lot of the people involved are trying to run businesses. They might be sick and may not be able to engage meaningfully. We run the risk of people feeling that, again, it is a vested interest. We know this has been an

ongoing issue in New South Wales, particularly that controversial mining projects are getting the rails run and the community is being shut out. I am not saying the law does not allow it, but the perception issues are real and this project should have special consideration.

A couple of other projects are likely to go to the environmental impact statement [EIS] being on public exhibition in the next couple of months. It is important that the Government consider lengthening those submission times and working out how people can meaningfully engage in the process. Let us not kid ourselves that people are waiting to receive the planning department's announcement of a public submission date. One of the reasons people find out about these things is that a public conversation happens alongside it. Often people like me and community campaigners get stories in the media. Everything is being shut out by COVID-19. Nothing else is going on in the media. Those conversations are not happening; people are not aware of some major decisions that might happen in their backyard. I am particularly concerned about the proposal to raise the Warragamba Dam wall. That EIS could land at any time during this crisis.

I do not think that the communities in western Sydney are aware that two big new incinerator proposals are being put forward for Eastern Creek. This was hugely controversial in the lead-up to the last State election. One was knocked on the head and an EIS is due to be out any time. Let us be real. We are asking the community to change in a lot of ways, we are changing the Parliament, but we should be prepared to make reasonable changes to the planning system to ensure people can feel like they are participating because if we make some bad decisions now, we live with them for generations in relation to the planning system. These are not little things.

This bill looks specifically at how local councils might have to change some of their activities when it comes to planning decisions. Understandably they will try to move some of the meetings online to allow people to participate online. Not all of us are happy with how our councils are operating. We are very much looking forward to local government elections. In the Shoalhaven, in particular, I would say we are looking forward to September local government elections. It is pretty clear from this bill that the elections will be pushed off for six months to 12 months.

A lot of people are saying to me, "If we are postponing it, we think we should put them in caretaker mode and they can't make serious decisions in this time." Maybe the media is not watching that closely or is not able to, but a lot of people will not be able to participate meaningfully in the same way online. Deputations will not happen and the public conversation around significant changes will not happen. When you do not have trust in a local government, I know there will be people down in the Shoalhaven looking forward to these opportunities to quietly get things through. It will take a lot of effort for people to watch closely what is going on in some councils when they were really looking forward to a local government election.

Please consider whether there are some levels of decisions that just may not be in the interests of communities to be made. We have not yet received the findings of the bushfire inquiry. Maybe there are some things we just should not allow to happen because there are bushfire risk consequences or something else should have been done that could make a meaningful change to that community in the future. I recognise that we cannot weigh all this up in a bill that has been drafted very quickly to try to deal with a crisis. I ask the Government to be open to getting advice from people, formally and informally, and being open to changes that will make a difference to the lives of people locally.

I think all members recognise that we are going into a pretty serious shutdown in the next little while. I think that is clear when you look at what has happened in other countries. Our public, personal and mental health will be much better if we can ensure that there are ways for people to engage meaningfully with the outside world. That is much more difficult in the city. I am in the fortunate position to live on the South Coast. I can go to the beach and be the only one there; it is one of the safest places to be. But that is not the reality for a lot of people living in medium- or high-density housing in the cities, in apartments with animals and children. It is going to get tense. There is limited public space. I think there are probably creative solutions—perhaps councils can come up with some.

I know that we need to be careful, as some people will take advantage, but people cannot feel trapped. I do not think Australians will deal that well with it. I think there are some creative ways to provide opportunities for people to get out and enjoy public space. It will be good for them and good for society, and might avoid some of the high-risk outcomes that I think the bill envisages when it comes to social decay as a result of dealing with this crisis. I appreciate that a lot of people have been up late for the past couple of nights drafting this legislation, and we take a degree of it on faith. I am happy to provide that support to the Government. I ask it to be prepared to engage meaningfully with everyone who wants to make sure that this State is better prepared to deal with the crisis and to come out of it on the other side.

**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) (18:01:43):** In

reply: I thank the four members who have spoken in the debate for their comments and the spirit in which they were made. I deal first with some of the remarks by the Hon. Adam Searle relating to public servants working from home. The Government is committed to ensuring the maximum flexibility of its workforce as we deal with the crisis.

The Department of Premier and Cabinet circular *C2020-01 Employment Arrangements during COVID-19* emphasises the need to promote flexible working options as part of the COVID-19 response. The circular makes provision for employees to work remotely from home or other suitable places where the nature of their work permits and they are not directly involved in the pandemic response. Each agency must take into account any of the protection measures recommended by NSW Health. I am advised that the secretaries of each of the departments continue to discuss employee arrangements and are taking action to ramp up access to flexible working across the public sector.

I note the concerns raised by Mr Justin Field. The planning amendments in the bill are about the health, welfare and safety of the community, not the various projects the member mentioned. The office of the planning Minister has indicated that Minister Stokes will engage with him separately on this issue to address his concerns. I note that a number of members raised a range of concerns in the debate. Given the urgent need to pass the bill in response to an emerging situation—the pandemic—I propose to deal with those matters during consideration of amendments in the Committee of the Whole. I apologise, as that is not normally what members would do, but that is probably going to be the most efficacious way of dealing with those concerns. On that note, 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):** To suit the convenience of the Committee, I will now leave the chair. The Committee will resume at 6.30 p.m.

**The CHAIR (The Hon. Trevor Khan):** There being no objection, the Committee will deal with the bill as a whole. I have a number of sets of amendments as follows: Government amendments appearing on sheets c2020-020B, c2020-018 and c2020-019A; The Greens amendments appearing on sheets c2020-013A, c2020-014A, c2020-015A, c2020-016 and c2020-017B; and One Nation amendments appearing on an unnumbered sheet. The first amendments appear on pages 9 and 10 of the bill. I will first go to the One Nation amendment No. 3, which seeks to omit the clause.

**The Hon. MARK LATHAM (18:32:19):** I move One Nation amendment No. 3:

3. Delete section 366 (at pages 9-10).

I spoke about this during the second reading debate. It has variously been described as the power of Henry VIII, or martial law or colonial government in New South Wales. In particular, new section 366 (3) (b) states that regulations made under this section "may override the provisions of any Act or other law." It is quite extraordinary that the Parliament could be suspended for six months and one Minister—a member of the Executive and not of this place—has the power to override the provisions of "any Act or other law". The Minister could, say, implement the various findings of the bushfire inquiry or change school and other education, transport, police and health provisions—all of it without parliamentary reference or even supervision unless this place went to the trouble of petitioning to recall for disallowance.

Do we need to go that far? I think not. I would have thought we stand by the provision that the coronavirus cannot defeat democracy and I regard this provision in the bill as completely undemocratic and unnecessary. The Government cites that the provision is from Henry VIII and, looking at the extent of it, it should be deleted for the reasons I outlined during the second reading debate and that I have reiterated now.

**Mr DAVID SHOEBRIDGE (18:34:25):** By leave: I move Greens amendments Nos 1, 2 and 3 on sheet c2020-013A:

- |       |  |
|-------|--|
| No. 1 | <b>Regulation-making power for criminal proceedings</b><br>Page 10, Schedule 1[1], proposed section 366, line 13. Omit "any Act". Insert instead "any relevant Act". |
| No. 2 | <b>Relevant Act for regulation-making power for criminal proceedings</b><br>Page 10, Schedule 1[1], proposed section 366, line 21. Omit all words on that line.      |
| No. 3 | <b>Relevant Act for regulation-making power for criminal proceedings</b>   |

Page 10, Schedule 1[1], proposed section 366, line 29. Insert "other than this Act" after "Attorney General".

On behalf of The Greens, during the second reading debate I expressed our very strong reservations about the Henry VIII clause that the three amendments address. This is the proposed new section 366 of the Criminal Procedure Act. New section 366 as drafted allows for the Attorney General—by regulation—to amend a series of Acts that are described as relevant Acts, including the Criminal Procedure Act, the Crimes (Administration of Sentences) Act, Crimes (Domestic and Personal Violence) Act, the Bail Act, the Crimes (Sentencing Procedure) Act, Children (Detention Centres) Act, Young Offenders Act, the Evidence (Audio and Audio Visual Links) Act and any other Act administered by the Attorney General.

We are extremely concerned that proposed subsection (3) of new section 366 allows not only the amendment of those Acts—being any relevant Act—but also allows for regulations to "override the provisions of any Act or other law." Literally any law can be overridden by regulation during the prescribed period—during the next six to 12 months. The bill proposes some checks and balances before the Attorney General can exercise some of those powers. A number of those checks and balances are contained in new section 366, which states that the changes can only be used to address the health crisis before us and they must be consistent with the advice of the health Minister or the Chief Health Officer. They must protect the health, safety and welfare of persons in relation to the administration of justice and, to the extent that they affect the courts or tribunals, the heads of those various courts and tribunals need to agree.

We believe those checks and balances are essential for us even to consider granting this power. But the way it is currently drafted means the Attorney General could make a regulation that amended the Act itself. If passed, the provisions will find their way into the Criminal Procedure Act and, as drafted, the Attorney General can make—if it is passed—a regulation to amend the Criminal Procedure Act, which would include stripping out the restrictions and the checks and balances contained in the Act itself. We have raised this matter with the Government. I think it acknowledges the strength of those concerns and will therefore move an amendment to prohibit the Attorney General stripping out the limitations in the Criminal Procedure Act.

Again, that has been the subject of ongoing discussions with the Government. I think they have been good-faith negotiations and we appreciate the foreshadowed amendments, which we will support. They will at least retain the protections in the bill. But that does not deal with the other concern The Greens amendments address, which is the extremely broad power in new section 366 (3) (b) to allow regulations to override the provisions of any Act or other law.

As I understand it—and I would appreciate the Minister confirming this on the record—the Government's position now is that what is otherwise read as an extraordinarily broad power in new sections 366 (3) (a) and (3) (b) is in fact only limited by the purposes and the restrictions contained in new sections 366 (1) and (2). So as to the proposed plenary power in new section 366 (3)—which literally refers to overriding the provisions of any Act or other law—can the Government confirm on the record that its understanding of that broad power is it is limited to the purposes and the strictures contained in new sections 366 (1) and (2)? In other words, is it to deal with arrangements regarding the regulations and advice to the health Minister and to deal with protecting the health, safety and welfare of persons in relation to the criminal justice system?

We would appreciate that confirmation on the record—that is my understanding, from negotiations with the Government, of what they interpret it as. I have to say, on behalf of The Greens and other stakeholders we have spoken to, we are concerned that on a plain reading of new section 366 (3) it goes well beyond that, which is why our amendments would actually delete, effectively, the reference to overriding the provisions of any Act or other law and would restrict the Henry VIII powers only to amending those relevant laws that are the ones set down in new subsection (5). Our amendments also remove the Criminal Procedure Act from those relevant laws, because we do not want the restrictions contained in this newly inserted provision to be able to be removed by regulation. I know that is a somewhat complicated explanation, but it is for those reasons that we move the amendments.

**The CHAIR (The Hon. Trevor Khan):** Before Mr David Shoebridge resumes his seat, I ask this question because I may have become somewhat distracted: Am I right in saying that The Greens are opposing the Hon. Mark Latham's amendment and moving three amendments?

**Mr DAVID SHOEBRIDGE:** I am sorry, I have not addressed the amendment moved by the Hon. Mark Latham. I understand where he is coming from. Ordinarily, we would not support a blanket Henry VIII clause like this, but we are persuaded that if it is significantly restricted down to the relevant Act and for the purposes contained in this new section 366, because Parliament is not going to be returning in order to provide the necessary legislative amendments in a timely fashion, some kind of Henry VIII power probably is required to be handed over to the Attorney General. We lost the argument earlier about having the House return; I am not going to revisit

that argument. But having lost that argument about the House returning, we accept there is going to need to be some Henry VIII clause much more circumscribed than here. I fully appreciate the strength of the argument being put about deleting Henry VIII powers. These are extraordinary circumstances and it is given what has happened today that we find ourselves in this situation.

**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) (18:42:05):** I move Government amendment No. 1 on sheet c2020-019A:

No. 1                    **Regulation-making power**

Page 10, Schedule 1[1]. Insert after line 13—

- (3A) To remove any doubt, subsection (3) does not apply to allow regulations to be made under this section that amend or override this Division.

Having done that, I will now deal with the amendments of the Hon. Mark Latham and Mr David Shoebridge, which effectively will explain why we are moving this amendment. In relation to the One Nation amendment—and frankly there has been debate by a number of members about Henry VIII clauses—I think next week is the twenty-first anniversary of my election to this Chamber and in that very first year I was appointed to the Regulation Review Committee, as it then was, and was one of the people who set up the Legislation Review Committee with former member for Bathurst Gerard Martin and a number of other members who were in the Parliament at that time. Henry VIII clauses and other matters like that are not something that should be used often—in fact, they should be very rare. The fact is that they are not rare and that they do pop up in government legislation from time to time and have done for some years, but still they should be rare.

They are not a mind-blowing new precedent, as might have been suggested in the contributions of some honourable members in the second reading debate. They do get used but they should be used rarely and this is a temporary change that, frankly, is more than justified in the current circumstances. I note that honourable members, including Mr David Shoebridge, made that concession in their contributions. We need to ensure that courts and those who administer sentences are able to make urgent changes where necessary to continue to comply with evolving guidance during the ongoing COVID-19 public health emergency. But we will still introduce any proposed changes as a bill for Parliament's consideration wherever possible.

Coming to the matters raised in debate by Mr David Shoebridge, the power is quite circumscribed. In terms of the assurance he sought, I have been advised by the Attorney General's staff to give these assurances. The use of the power in new section 366 (3) (a) and (b) is limited to those matters in new section 366 (1). The fact is they will only be used according to the limitations and processes outlined in new section 366 (2). The Government will not support The Greens amendments Nos 1, 2 and 3 because in their current form they would limit the operation of the provisions and result in the Government, should an emergency arise, not being able to make the emergency regulations in relation to the Criminal Procedure Act. Whilst we do not necessarily agree with the interpretation that is put forward, out of an abundance of caution I have moved an amendment to address The Greens' concerns about the scope of the emergency regulation-making power.

This amendment, to remove any doubt, makes it clear that new subsection (3) does not apply to allow regulations to be made under the new section that amend or override the division. I think we have reached a position that the Opposition and The Greens have indicated in this debate they can live with. I agree with them because Henry VIII clauses should be exceedingly rare. But this is one time when it is justified and the Attorney General has not done a bad job in making sure it is appropriately circumscribed.

**The Hon. ADAM SEARLE (18:47:35):** After some close consideration, the Opposition will maintain its support for the Government's position on this matter. We note the assurances given by the Leader of the Government on behalf of the Attorney General. We note the Government's proposed amendment to further narrow this otherwise very broad regulation-making power or how it goes further than making regulations to authorise the enactment of primary legislation. I understand the concerns expressed by the Hon. Mark Latham and Mr David Shoebridge. In other circumstances we would find those views compelling, but as a matter of practicality in the current situation and on the basis of the assurance given by the Government and the Government's own amendment, we will support the Government's amendment and not support the other amendments before the Chair.

**The Hon. EMMA HURST (18:48:50):** On behalf the Animal Justice Party I indicate that we support the amendments that have been moved by Mr David Shoebridge on behalf of The Greens. Like everyone in this Chamber, we recognise and we acknowledge that these are very serious times that require serious measures to ensure that we keep public functions operating while at the same time protecting public health. We also appreciate the Government introducing such comprehensive legislation under significant pressure, including time pressures. However, we also believe the current draft of new section 366 would effectively give the Attorney General the

power to rewrite any law or regulation without having to go through that parliamentary process, which is an unprecedented level of power afforded to a single office. We have real concerns that new section 366 as drafted goes too far.

We appreciate that the Government has put up an amendment to bring that back a bit. We also appreciate the amendment put forward by the Hon. Mark Latham, but we consider that the amendments proposed by The Greens find an even, balancing ground from both of those positions and would impose some reasonable safeguards on this power, including limiting the laws that the Attorney General is able to override by regulation, while still leaving the Attorney General with significant powers to adapt laws and regulation to the COVID-19 pandemic as required, but also providing the public with comfort that there are some additional safeguards to exercise power. Therefore, the Animal Justice Party considers that the amendments put forward by The Greens are reasonable and sensible in these circumstances.

**The CHAIR (The Hon. Trevor Khan):** I intend to put the One Nation amendment first. I will then put The Greens amendments in one tranche and then the Government amendment. The Hon. Mark Latham has moved One Nation amendment No. 3 on the One Nation unnumbered sheet. The question is that the amendment be agreed to. It is accepted in the current circumstances that the public gallery will be acknowledged to be part of the Chamber for the purposes of the count.

**The Committee divided.**

Ayes .....4  
Noes ..... 15  
Majority..... 11

**AYES**

Banasiak  
Roberts (teller)

Borsak

Latham (teller)

**NOES**

Ajaka  
Field  
Maclaren-Jones (teller)  
Nile  
Searle

Buttigieg (teller)  
Harwin  
Mallard  
Pearson  
Shoebridge

Farlow  
Hurst  
Mookhey  
Primrose  
Veitch

**Amendment negatived.**

**The CHAIR (The Hon. Trevor Khan):** We will now move on to The Greens amendments. Mr David Shoebridge has moved The Greens amendments Nos 1 to 3 on sheet c2020-013A. The question is that the amendments be agreed to.

**Amendments negatived.**

**The CHAIR (The Hon. Trevor Khan):** We will now move on to the Government amendment. The Hon. Don Harwin has moved Government amendment No. 1 on sheet c2020-019A. The question is that the amendment be agreed to.

**Amendment agreed to.**

**The CHAIR (The Hon. Trevor Khan):** We will now move to the amendments that deal with the omission of clause 276. I invite the Hon. Mark Latham to move One Nation amendment No. 1.

**The Hon. MARK LATHAM (19:01:17):** I move One Nation amendment No. 1:

No. 1 Delete clause 276 (at pages 18-19).

I dealt with this extensively in the earlier debate. We have identified eight or nine major problems in this provision to let inmates out of jail. The Government is ill advised to go down this path. It will cause many more problems than it solves. It is probably shaping up as the next *Ruby Princess* and the unintended consequence of this will be enormous. To expedite the business of the Committee, I will not take any more time than that.

**Mr DAVID SHOEBRIDGE (19:02:09):** I move The Greens amendment No. 1 on sheet c2020-016:

No. 1 Release of inmates convicted of domestic violence offences

Page 19, Schedule 2.5, proposed section 276. Insert after line 4—

- (4A) Also, for an inmate previously convicted of a domestic violence offence, the Commissioner must—
- (a) if practicable, consult with the victim of the domestic violence offence, and
  - (b) notify the victim if a Commissioner's order is made releasing the inmate on parole.

This amendment will insert some additional protections for the victims of domestic violence before the commissioner can issue a release order in favour of an offender who had been convicted of a domestic violence offence. There is an obvious reason why we are moving this amendment. We are deeply concerned that if a domestic violence offender is released on parole they may go back into the household where their victim is or a family member of the victim.

I know there are existing protections in the bill that require the commissioner to have regard to these matters but we believe victims of domestic violence should, if possible, have the right to be consulted before the release is made and definitely be notified if a release is made. Our concerns are particularly elevated because we are all moving into lockdown. If a domestic violence offender is released and goes into the house of their victim for a prolonged lockdown period we are deeply concerned about their safety. In doing that, I note that the Government has some protections in the bill and those protections go some of the way to addressing our concerns. We are moving this amendment because we do not think they go far enough.

For completeness, we will not be supporting the One Nation amendment because we think deleting this entire clause would have significant concerns for the health of the prison population where we may need some release orders to be made to reduce overcrowding and to deal with a potential pandemic. Protecting the health of prisoners also protects the health of the general community in a pandemic. We cannot allow a pandemic to get loose in our prisons. It will inevitably flow from there into the general community. These are difficult issues of balancing public safety. We think the Government has basically got it right in what it has drafted—those two competing concerns about public safety and there are those checks and balances requiring the commissioner to have regard to public safety before making a release order.

**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) (19:05:02):** By leave: I move Government amendments Nos 1, 2 and 3 on sheet c2020-020B in globo:

No. 1 **Parole**

Page 18, Schedule 2.5 (proposed section 276(1)), line 9. Insert "or any other Act or law" after "regulations".

No. 2 **Parole**

Page 18, Schedule 2.5 (proposed section 276(3)(a)(ii)), line 30. Insert "or an offence of a sexual nature" after "offence".

No. 3 **Parole**

Page 18, Schedule 2.5 (proposed section 276(3)). Insert after line 34—

(b1) a serious offender,

I will deal first with amendment No. 1. The Government is grateful to the Hon. Adam Searle for raising this issue. The intent of the amendment was to give the Commissioner of Corrective Services this special power despite the Crimes (Administration of Sentences) Act or any Act. This amendment will rectify the issue that no doubt he will speak about shortly in his contribution. Amendments Nos 2 and 3 are in response to concerns raised by One Nation. The Government will include two further categories of inmate in the lists of inmates who cannot be granted early parole by the commissioner. First, all serious offenders as defined under the Crimes (Administration of Sentences) Act will be excluded from consideration.

A number of offenders caught by this definition were already captured, including an offender who is serving a sentence for life, an offender who has been convicted of murder and who is subject to a sentence in respect of the conviction, or a Commonwealth post-sentence terrorism inmate or a New South Wales post-sentence inmate. The change will add further categories, including an offender who is serving a sentence for which a non-parole period has been set in accordance with schedule 1 to the Crimes (Sentencing Procedure) Act 1999; secondly, an offender who must serve at least 12 years in custody before becoming eligible for release; and, thirdly, an offender who is required to be managed as a serious offender in accordance with the decision of the sentencing court, the parole authority or the commissioner.

The definition of "serious sex offence" will be broadened to include all offences of a sexual nature as defined in the Crimes (High Risk Offender) Act 2006. This will broaden the definition to encompass an expansive range of sexual offences against adults and children, including sexual assault, assault with intent to have sexual

intercourse, sexual touching, sexual acts without consent, child sexual abuse, grooming, bestiality and incest. The definition also covers a range of offences undertaken with intent to commit sexual offences, such as breaking into a house or using an intoxicating substance. Also included in the definition are offences relating to child prostitution, child abuse material, loitering by convicted child sexual offenders near premises frequented by children and offences in relation to observing or filming a child.

Failing to comply with or providing misleading information in relation to reporting obligations under the Child Protection (Offenders Registration) Act 2000 will also now be included and also a contravention of an order under the Child Protection (Offenders Prohibition Orders) Act 2004. The definition will also include a number of similar sexual offenders under Commonwealth law and offences committed elsewhere than in New South Wales that would be considered an offence of a sexual nature if committed in New South Wales. That goes more than just some way, probably not the whole way but—

**The Hon. Mark Latham:** A big improvement.

**The Hon. DON HARWIN:** "A big improvement" I hear the Hon. Mark Latham say. I thank him for his generosity of spirit in making that observation. Having said that, the Government will not support the honourable member's amendment because I think we have gone some way to dealing with the matters he has raised. I should also make some comments relating to parole. The amendments will give the Commissioner of Corrective Services the flexibility to release some inmates on parole early. This flexibility is necessary to protect the health and safety of inmates and Corrective Services staff and to manage correctional centres effectively, particularly if the risk of the widespread transmission of COVID-19 within the system increases.

This extraordinary measure will be used only to respond to the COVID-19 health emergency. The change has been carefully designed to mitigate risks to community safety. The commissioner already has the power to release inmates on temporary leave permits into the community. However, the parole framework is being utilised to facilitate the conditional release of inmates in response to the current emergency, as it is designed to manage people leaving prison in a manner that promotes the rehabilitation of the parolee in the community and protects community safety. Corrective Services staff will use existing release risk assessment and supervision procedures if the power is used and the State Parole Authority will oversee any released inmates.

Community safety will remain central to decision-making. Under the amendments the commissioner will be required to consider the risks to community safety of releasing the inmate. There will be no limit on factors the commissioner is able to take into account in making a decision. Offence seriousness, criminal history, behaviour and progress in custody can all be taken into account. If the release of the inmate is considered to create a significant risk to the community, the commissioner will not release the inmate to parole. With those few remarks, the Government will oppose all One Nation amendments.

**Mr David Shoebridge:** Are you supporting ours?

**The Hon. DON HARWIN:** No, we are not supporting The Greens amendment.

**The Hon. ADAM SEARLE (19:12:08):** The Opposition does not support the One Nation amendment. My personal view is that there should be no possibility of early release for any violent offenders. Nevertheless, I understand the practical matters that the Government is labouring under in managing a large and complex criminal justice system. We support the Government amendments. Amendments Nos 2 and 3 travel a significant distance towards the concerns raised in this place, not only by One Nation of course, but also expressed to the Opposition by a number of the industrial organisations that have a primary concern with the administration of the criminal justice system. The Opposition supports amendments Nos 2 and 3.

In relation to Government amendment No. 1, I thank the Government for addressing what seemed to be a drafting deficiency in the effectiveness of this part of the bill. I thank the Government for being open minded and taking up that proposal. Whether or not members agree with the policy underpinning the legislation, the legislation should be efficacious. In relation to the proposal of The Greens, I understand their concerns about domestic violence victims. Of course, as I indicated in my contribution to the second reading debate, the bill already requires the commissioner to take into account victims of domestic violence and any family members with whom a released inmate is likely to live. Consulting them in the way proposed by Mr David Shoebridge does not amount to an additional safeguard, although I acknowledge the genuineness underpinning his proposal. Regrettably, we will not be supporting The Greens' proposal. We support the Government's proposal.

**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) (19:14:32):** I apologise to Mr David Shoebridge for not making more fulsome remarks earlier about The Greens amendment on sheet c2020-016. For clarity, I place further comments on the record now. The Government's position is that it does not believe the amendment is necessary. Further, we worry it may create some practical complications. To

be clear, before releasing an inmate, the commissioner must be satisfied it is necessary because of the risk to public health or the good order and security of the correctional premises due to COVID-19. Any released inmate will be subject to the standard conditions of parole, which are that the parolee must be of good behaviour, must not commit any offence and must adapt to normal, lawful community life. The commissioner will have the flexibility to impose any other condition considered appropriate.

There is no limit to the conditions the commissioner can impose. Conditions can include home detection, electronic monitoring and/or any other condition. The bill already provides that before releasing an inmate, the commissioner must consider factors including the risks to community safety of releasing the inmate and the impact of the release of the inmate on any victim whose name is recorded in the Victims Register in relation to the inmate. In the case of an inmate who has previously been convicted of a domestic violence offence, the commissioner must consider the protection of the victim of the domestic violence offence and any person with whom the inmate is likely to reside, if released. Victims who have added their name to the Victims Register will be notified of the release of inmates onto parole.

Imposing a notification and consultation requirement is not practical in every case, as Corrective Services will not necessarily have the contact details of every victim. The Crimes (Administration Sentences) Act includes a Victims Register so that victims can choose whether they wish to be contacted about decisions relating to an inmate, including parole. This is an opt-in system that respects the victim's right to choose how and whether Corrective Services contacts them. The provisions of the bill are consistent with the New South Wales Government's commitment to the safety of victims. On that basis, as I indicated earlier, the Government does not support the amendment.

**The CHAIR (The Hon. Trevor Khan):** The Hon. Mark Latham has moved One Nation amendment No. 1. The question is that the amendment be agreed to.

**The Committee divided.**

Ayes .....4  
Noes .....17  
Majority.....13

**AYES**

Banasiak  
Roberts (teller)

Borsak

Latham (teller)

**NOES**

Ajaka  
Farraway  
Maclaren-Jones (teller)  
Nile  
Searle  
Shoebridge

Buttigieg (teller)  
Field  
Mallard  
Pearson  
Secord  
Veitch

Farlow  
Hurst  
Mookhey  
Primrose  
Sharpe

**Amendment negatived.**

**The CHAIR (The Hon. Trevor Khan):** We will now move on to The Greens amendment No. 1 on sheet c2020-016, moved by Mr David Shoebridge. The question is that the amendment be agreed to.

**Amendment negatived.**

**The CHAIR (The Hon. Trevor Khan):** There are three Government amendments on sheet c2020-020B. The question is that Government amendments Nos 1 to 3 be agreed to.

**Amendments agreed to.**

**The CHAIR (The Hon. Trevor Khan):** We will now move on to pages 19 and 20, being One Nation amendment No. 2 seeking an omission.

**The Hon. MARK LATHAM (19:26:21):** I move One Nation amendment No. 2 standing in my name:

2. Delete Part 2.6 Crimes (Domestic and Personal Violence) Act 2007 No. 80 (at pages 18-19).

I note that these provisional orders being extended from 28 days to six months before they get on the Local Court list is a silly move because in the circumstances we all know there has been a lot of criticism of these orders. Many

experts will say they just do not work in the current framework so why extend the duration from 28 days to six months, which is a hell of a long while and in the circumstances, of course, varies greatly? It could well be possible for the six-month duration of the provisional order. It is grossly unfair on the accused to have it running that long and I suppose in terms of the tragic outcomes we sometimes see in this area—terribly so—it could be a real disaster and a terrible problem for the victim.

Why go from 28 days to six months when common sense would tell you the faster all these domestic and personal violence matters are expedited in the courts, the better? Dispense justice in this space as quickly as possible and you may well find we are a safer society in our homes and on our streets. I cannot see the sense in this. I do not see anything in the Government's argument that is about containing the coronavirus in the court system. According to this provision, all I see is the downside of a less safe society in the home and on the streets. It makes no sense and it should be deleted.

**Mr DAVID SHOEBRIDGE (19:28:07):** We understand where the concern is coming from in terms of domestic violence offences. On our reading of it, I think it might come from a slight misunderstanding of how this operates. This will not mean that victims of domestic violence will not have protection. It means the provisional orders will continue for the six months. In some ways the 28-day provision allows the subject or the person who is restricted by the provisional order to have the protection that they will be brought back into a court within 28 days to have their right to have a say on what otherwise has often been determined in their absence. We accept the genuineness of the concerns about domestic violence, but we acknowledge there are going to be all sorts of terrible pressures on the court system. Allowing a delay of up to six months, given that the victims of domestic violence will continue to have protection, is just one of the things we may have to accept in a crisis.

**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) (19:29:14):** Further to the remarks made by Mr David Shoebridge, these amendments will be necessary if the next date on which the provisional order can be listed on a domestic violence list at an appropriate court is not within the currently required 28-day time frame. This may occur, for example, when courts are not able to list matters due to significant staff absences or other critical matters taking priority. The Chief Magistrate's Office has confirmed today that apprehended violence applications and provisional orders will continue to be listed. However, we need to put this amendment in place now to ensure that provisional orders made by police do not lapse if circumstances arise where matters are not able to be listed within 28 days due to the developing public health emergency. These orders are critical and cannot be allowed to lapse, eliminating the protection that they provide, due to any limitations in court capacity that result from the COVID-19 public health emergency.

**The Hon. ADAM SEARLE (19:31:03):** As outlined earlier, we will support the Government position on these matters.

**The CHAIR (The Hon. Trevor Khan):** The Hon. Mark Latham has moved One Nation amendment No. 2 appearing on the unnumbered sheet. The question is that the amendment be agreed to.

**Amendment negatived.**

**Mr DAVID SHOEBRIDGE (19:31:23):** By leave: I move The Greens amendment No. 1 on sheet c2020-014A and The Greens amendment No.1 on sheet c2020-015A in globo.

**No. 1 Postponement of elections (c2020-014A)**

Page 23, Schedule 2.12[1], proposed section 318B(1)(a1), line 33. Insert ", having regard to the COVID-19 pandemic," after "that".

**No. 1 Council meetings (c2020-015A)**

Page 24, Schedule 2.12[3], proposed section 747A(1)(a), line 6. Insert "in whole or in part" after "held".

Each of the amendments deal with the Local Government Act. Amendment No. 1 on sheet c2020-014A simply makes clear that the additional power that is being proposed to give to the Minister to postpone local government elections for up to 12 months can be exercised only having regard to the COVID-19 pandemic. I know that was the intent of the Government in moving its amendments. All this amendment does is clarify that and makes it clear the power is circumscribed in that way. I hope that that persuades the majority of members to support it.

Amendment No. 1 on sheet c2020-015A deals with the fact that as this pandemic unfolds it is very likely that some councillors and in some cases all councillors will not be able to attend a council meeting in person. The code of meeting practice at the moment requires the attendance of a councillor in person for the council, the governing body, to operate. The amendment being drafted by the Government currently says effectively that council meetings, in addition to in person, can be held by electronic means. Our concern about that drafting is it

seems to require either the entire meeting to be done by electronic means or the entire meeting to be done in person.

The Greens amendment proposes that council meetings may be held in whole or in part by electronic means. So if only one councillor is absent—they may be self-isolating or have other reasons that they cannot attend during this crisis—he or she will be able to phone in, or better still appear via videoconference, and the rest of the councillors can be there in person or in any kind of combination. It allows for more flexibility. The Greens commend the amendments to the Committee.

**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) (19:33:39):** I am happy to indicate that the Government will support both amendments. The power to postpone elections is only required to address the impact of the COVID-19 amendments on preparations for and the conduct of the 2020 local government elections. It is the only reason the Minister would need to exercise this power. In relation to the second amendment, the Government does not believe it is required but will support it in the spirit of what we are trying to achieve. The amendment accommodates meetings held wholly or in part by audiovisual links. It is intended that councils will be permitted to meet wholly or partly remotely and can continue to meet wholly physically should they wish to do so, providing they comply with social distancing requirements. This was the intention of the Government. It is important we provide flexibility in the local government sector in these uncertain times. There is no doubt that the amendment as drafted certainly does that.

**The Hon. ADAM SEARLE (19:34:52):** I indicate that the Opposition will also support the two amendments moved by The Greens. There are very sound and cogent reasons why they should be included in the legislative package before us. We see no reason not to support them.

**The CHAIR (The Hon. Trevor Khan):** Mr David Shoebridge has moved The Greens amendment No. 1 on sheet c2020-041A and The Greens amendment No. 1 on sheet c2020-015A. The question is that the amendments be agreed to.

**Amendments agreed to.**

**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) (19:36:00):** I move Government amendment No. 1 on sheet c2020-018:

No. 1 **Arrest of homeless persons who contravene public health order**

Page 26, Schedule 2.16[3], proposed section 71A(2). Insert after line 41—

- (a1) the place specified in the public health order that the person has been ordered to reside, or

The Government proposes this amendment following concerns expressed by the member for Newtown in the other place. Public health orders are orders of last resort and would be made only if a person with COVID-19 or who has been exposed to COVID-19 is posing a risk to the public. A public health order could order a person to stay at their own home or in another safe place, such as a hospital or the house of a relative. If a person is ordered to stay at another safe place and the person breaches the order, the police should have the option to return the person to the place where the order requires them to reside. This amendment addresses those situations—that is, it provides police with the necessary powers to act in situations in which individuals, including the homeless, have been ordered to stay in a place that naturally falls outside the current bill's proposed new sections 71A (2) (a) and 71A (2) (b).

**Mr DAVID SHOEBRIDGE (19:37:00):** The Greens support the Government's amendment. We appreciate the Government acknowledging the issue. I put on record the work of my colleague the member for Newtown, Ms Jenny Leong, in continuing to address this issue. We think the suite of options proposed in the Government's amendment will significantly assist if the police end up having to exercise those powers. Again, we appreciate the good-faith negotiations. We think this improves the bill.

**The Hon. ADAM SEARLE (19:37:35):** The Opposition also supports this amendment for the reasons outlined by both Mr David Shoebridge and the Minister.

**The CHAIR (The Hon. Trevor Khan):** The Minister has moved Government amendment No. 1 on sheet c2020-018. The question is that the amendment be agreed to.

**Amendment agreed to.**

**Mr DAVID SHOEBRIDGE (19:38:10):** I move The Greens amendment No. 1 on sheet c2020-017B:

No. 1 **Regulation-making power for residential tenancies and residential occupancies**

Insert on page 27, after line 15—

**2.16A Residential Tenancies Act 2010 No 42**

**Part 13**

Insert after Part 12—

**Part 13 Response to COVID-19 pandemic**

**229 Regulation-making power**

- (1) The regulations under any relevant Act may provide for the following matters for the purposes of responding to the public health emergency caused by the COVID-19 pandemic—
  - (a) prohibiting the recovery of possession of premises by a landlord, owner or proprietor of premises from a tenant or resident of the premises under the relevant Act in particular circumstances,
  - (b) prohibiting the termination of a residential tenancy agreement, occupancy agreement or site agreement by a landlord, proprietor of premises or operator of a community under the relevant Act in particular circumstances,
  - (c) regulating or preventing the exercise or enforcement of another right of a landlord, proprietor of premises or operator of a community by the landlord, proprietor or operator under the relevant Act or an agreement relating to the premises,
  - (d) exempting a tenant, resident or home owner, or a class of tenants, residents or home owners, from the operation of a provision of the relevant Act or any agreement relating to premises.
- (2) The Minister may recommend to the Governor that regulations be made under this section only if—
  - (a) Parliament is not currently sitting and is not likely to sit within 2 weeks after the day the regulations are made, and
  - (b) in the Minister's opinion, the regulations are reasonable to protect the health, safety and welfare of tenants or residents under the Act.
- (3) Regulations made under this section are not limited by the regulation-making power in a relevant Act.
- (4) Regulations made under this section expire on—
  - (a) the day that is 6 months after the day on which the regulation commences, or
  - (b) the earlier day decided by Parliament by resolution of either House of Parliament.
- (5) In this section—

*occupancy agreement* has the same meaning as in the *Boarding Houses Act 2012*.

*operator of a community* has the same meaning as in the *Residential (Land Lease) Communities Act 2013*.

*proprietor* has the same meaning as in the *Boarding Houses Act 2012*.

*relevant Act* means any of the following—

- (a) *Boarding Houses Act 2012*,
- (b) *Residential (Land Lease) Communities Act 2013*,
- (c) *Residential Tenancies Act 2010*,
- (d) any other Act relating to the leasing of premises or land for residential purposes.

*site agreement* has the same meaning as in the *Residential (Land Lease) Communities Act 2013*.

**2.16B Retail Leases Act 1994 No 46**

**Part 11**

Insert after Part 10—

**Part 11 Response to COVID-19 pandemic**

**87 Regulation-making power**

- (1) The regulations under any relevant Act may provide for the following matters for the purposes of responding to the public health emergency caused by the COVID-19 pandemic—
  - (a) prohibiting the recovery of possession of premises by a lessor or owner of premises or land from a lessee or tenant of the premises or land under the relevant Act in particular circumstances,
  - (b) prohibiting the termination of a lease or tenancy by a lessor or owner of premises or land under the relevant Act in particular circumstances,
  - (c) regulating or preventing the exercise or enforcement of another right of a lessor or owner of premises or land under the relevant Act or an agreement relating to the premises or land in particular circumstances,
  - (d) exempting a lessee or tenant, or a class of lessees or tenants, from the operation of a provision of the relevant Act or any agreement relating to the leasing or licensing of premises or land.
- (2) The Minister may recommend to the Governor that regulations be made under this section only if—
  - (a) Parliament is not currently sitting and is not likely to sit within 2 weeks after the day the regulations are made, and
  - (b) in the Minister's opinion, the regulations are reasonable to protect the health, safety and welfare of lessees or tenants under the Act.
- (3) Regulations made under this section are not limited by the regulation-making power in a relevant Act.
- (4) Regulations made under this section expire on—
  - (a) the day that is 6 months after the day on which the regulation commences, or
  - (b) the earlier day decided by Parliament by resolution of either House of Parliament.
- (5) In this section—

**relevant Act** means any of the following—

  - (a) *Agricultural Tenancies Act 1990*,
  - (b) *Retail Leases Act 1994*,
  - (c) any other Act relating to the leasing of premises or land for commercial purposes.

This amendment seeks to provide powers to make regulations to address the immediate and urgent need for government action to ensure that people are not evicted into homelessness in this crisis and also to enable powers for the Government to act to provide protection for those facing the reality that they are unable to pay their commercial lease. I acknowledge that the amendment has been drafted with the great assistance and support of the Tenants' Union and many other organisations. I again acknowledge, as I think it is right to, the work of my colleague Ms Jenny Leong, the member for Newtown, in drafting and bringing the amendment to Parliament.

Thousands of people have signed a petition in support of a moratorium on evictions. I feel certain that across the political divide we are deeply concerned about evictions happening at the moment. I feel certain we have that concern. This amendment does something about it tonight. It does not seek to pre-empt any action that may be considered and agreed on tonight at the National Cabinet in relation to assistance to renters. Rather, it provides the authority to the relevant Ministers to take immediate action following those decisions to provide the kind of urgent protection to renters so they are not evicted.

Again, The Greens move this amendment noting that we have got a special adjournment agreed to until September. Yes, we may come back earlier but why would we not put in empowering Ministers in this way and empowering the Government to move to protect renters? I accept it pre-empts the decision by the National Cabinet tonight but it does not actually put the protections in place. The protections require further action from the Ministers following this amendment, which would then be consistent with any National Cabinet decision.

By passing this amendment, members empower the Government to act without having to wait until we are next back in this House, whenever that may be, and in the meantime to prevent a massive increase to the homelessness crisis in this State. We also believe it is important that the Parliament sends a clear message to the renters of New South Wales that we as a Parliament are actually hearing them. I am sure all members have been contacted by people deeply concerned that they cannot pay their rent and they are worried about being turfed out

into homelessness. I have had multiple people contact my office in my capacity as an MP. I have had other people just as friends, colleagues, workmates and family members telling me they are worried about being evicted. If we pass this amendment we would be saying to them, "We hear you. We are putting the mechanisms in place", and the Ministers are then empowered to pass the orders and to prevent the evictions going forward. I commend the amendment to the Committee.

**The Hon. ADAM SEARLE (19:41:13):** I indicate to the Committee that the Labor Opposition will be supporting this amendment. It is a different position from those we have taken to date. In my contribution to the second reading debate I canvassed these issues very clearly, that the omission in this legislative package of matters that dealt with forced evictions in these circumstances and, indeed, the positions of commercial lessees were a serious deficiency in the legislation. We have given a lot of latitude to the Government in terms of the changes made to the administration of criminal justice, both the custodial system and the operation of the courts. We have bitten our tongues on retail trading matters. However, this is a matter that is causing clear and present distress.

There are tens of thousands—and soon it will be possibly hundreds of thousands—of casual workers who will be turfed out of work and have their incomes turned off. They will have to wait at least a month for Centrelink payments to start flowing but their rent or mortgage payments will not stop. This is a matter that needs to be addressed and it needs to be addressed clearly, forcefully and with great compassion by this Parliament. To take the Hon. Mark Latham's point, the retail leases regime and the tenancies regime are matters uniquely within the custody and control of the State jurisdiction. It is a matter for members here as to whether we take action on preventing further homelessness of vulnerable people in our society.

As Mr David Shoebridge has indicated, the amendment does not mandate what action must be taken or says that action must be taken. It creates the legislative mechanism for action to be taken. Yes, we understand that this is under discussion at the National Cabinet. It is not the first time that it was under discussion in that forum; we understand that there are ongoing discussions. However, would it not be a ridiculous situation if, having voted for a long adjournment until September, members had to come scrambling back to this House next week or the week after to put in place these very protections for vulnerable people? Let us not wait. Let us do it here tonight. It does not tie the hands of the Government. I urge it to be compassionate, to be forward thinking and to accept this amendment.

**The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (19:43:43):** I have long been on the record as saying that the manner in which retail leases and commercial leases are handled by landlords is one of the issues that is of major concern to the Government. In a speech I gave earlier today in debate on the Treasury Legislation Amendment (COVID-19) Bill 2020 package, which was approved by this House, I was at pains to say that there needs to be cooperation between government, banks and landlords to make sure that there are outcomes that limit joblessness in this community. However, the reason why the Government opposes these amendments is that they pre-empt a comprehensive response by the Government in relation to protecting the rights of tenants in circumstances where an appropriate response is not forthcoming.

I cannot stress enough that the Government is alive and alert to the problems relating to joblessness, homelessness and retail tenants being evicted from their premises. I spoke in this House earlier today of a tenant whose takings are down 90 per cent, who has had to dismiss seven casual employees and is under great stress in respect of being able to make his mortgage and tenancy repayments. Today he has had to let go of his cook. What he is in fact providing in his takeaway coffee shop are goods that he is having to buy elsewhere for the purposes of continuing to run that shop. The Government is alive and alert to that and wants to make a comprehensive response. But to do that tonight against the background of those issues being considered by every jurisdiction in the country so that we get a national response to that is pre-emptive and is in fact something that we ought to avoid.

The Leader of the Opposition makes the observation that it would be superfluous to require the House to resume just to pass legislation that we could pass tonight. In answer to that, I say it is doubtful that we would pass legislation only in this particular area. There are a whole lot of other potential issues that we will need to address in the coming weeks. For that reason, it would not be presumptive to come back. The primary point is this: Why would we not want to get it right in response to a National Cabinet decision and be reflective of that National Cabinet decision to make sure that we get the response right for the whole of the country and in conformity with the whole of the country? I reinforce the point that I have absolute sympathy for the position that has been espoused in the making of this amendment. I must be the first Minister ever to reject being given this sort of lawmaking power, which is encompassed by the—

**The Hon. Daniel Mookhey:** I didn't know we were giving it to you.

**The Hon. DAMIEN TUDEHOPE:** In any event, I plead with those who are seeking to push this amendment that it is potentially not the right amendment and we should get this right.

**The Hon. DANIEL MOOKHEY (19:47:44):** Notwithstanding my longstanding habit of not wanting to award this particular Minister power, I speak in support of this amendment and join with the remarks of the Hon. Adam Searle. Throughout this debate, in this House and in the other House, we have all adhered to the principle that we will pull through this crisis by pulling together as a society. In this context, it means landlord and tenant. It is important to acknowledge that certainly at a household level there are millions of renters in this State who deserve housing security. However, it is equally worth nothing that there are millions of landlords who are also trying to provide that security. They are stepping up and conducting themselves as you would expect a human being with some compassion to conduct themselves in this scenario. That is the spirit in which we should continue.

Nevertheless, we should understand that as a Parliament the imperative is on us to provide some form of legal structure around this so that people have certainty in the marketplace, whether you are a renter or you are a landlord—certainly at a household level. I obviously support the regulation-making powers in that respect on residential leases but I turn my remarks more to what is being proposed about the retail leasing sector. As Labor's shadow small business Minister and, for that matter, shadow finance Minister, I have been inundated with phone calls by a whole variety of businesses, shopping centres and mall owners all making the point that they do not actually know exactly what their obligations are. I, as have many others, including the Minister, have heard stories about businesses having to shutter their doors; they are not cash flow sturdy and they are not in a position to be able to pay leases over the long term, certainly not at the expense of being able to pay staff. A remarkable array of small businesses are having to choose between whether or not they are going to let people go or pay their rent when there is no income coming through the door.

We all have sympathy with those people, as we do with a lot of landlords who are suffering shock and also have obligations to banks or others to make repayments. For those reasons, throughout the course of the last 10 days Labor has been saying that the banks need to step up here. The banks have been given extraordinary support and they are now offering deferrals on leases and lease payments for small businesses and households and mortgages, which is welcome. All of these transactions require some legal certainty around them and we as a Parliament are the only people who can provide that certainty.

It is disappointing that we have not yet had any other opportunity before this House to endorse any alternative legislation that would meet this need. The stories are devastating and we need to provide law in this respect. I hear closely what the Minister says about the need for the National Cabinet to act. I will make the point though that what is being proposed here is simply that we are establishing a regulatory-making power. We are not specifying the regulation or the regime. We are providing Executive Government with a mechanism to translate any decision, which may or may not result from the National Cabinet, to law straightaway without having to recall the Parliament.

This is consistent with the rest of the legislation where we as a Parliament are saying to the Executive, because we are under such a crisis, we are giving you these extraordinary powers so you can act without our immediate consent. That is a powerful tool that will let this Minister and other Ministers act decisively straightaway after the National Cabinet—or for that matter the State Cabinet—resolves to make a decision in this respect. This is about providing speed and certainty to the marketplace. It is not about trying to substitute a regime that we are cooking up tonight. That is all it is doing. It is the case that the sooner we provide the certainty, the sooner everyone can get on with their job. We look forward to a decision from the National Cabinet, be it tonight or tomorrow. We look forward to the Government proposing a regime. All we are saying is that the Government should have the power to enact that regime through regulation.

**The Hon. WALT SECORD (19:52:00):** I feel compelled to make a very short contribution. In the previous piece of legislation, the Treasury Legislation Amendment (COVID-19) Bill 2020, I made reference to the need for protections for renters but also for landlords, tenants and lease holders. At the time I said that we await the deliberations in Canberra at the national level. But I have seen the amendment, I have listened to the arguments and I think that this is a sensible framework that still allows the Government to engage with renters, landlords, owners and tenants. So I think it is a sensible amendment.

**Mr DAVID SHOEBRIDGE (19:52:49):** If I speak, do I close the debate on this amendment?

**The CHAIR (The Hon. Trevor Khan):** No, you would not close the debate.

**Mr DAVID SHOEBRIDGE:** In any event, I will wait until the end of the debate so I can respond to everyone's comments.

**The Hon. ADAM SEARLE (19:53:05):** My second contribution will be very brief. We have taken the Government on faith on a number of matters tonight and we do not resile from that. I said in my contribution to the second reading debate that we would be making proposals for policies, making suggestions or, as in this case,

supporting other people's suggestions and we would urge the Government also to be collaborative and bipartisan. I would urge the Government on this issue to do so. It is my view that something like this is utterly inevitable if we are to prevent mass homelessness in the current situation.

I am sure those opposite do not want to see queues of homeless people who have become homeless because they have lost their jobs. We can do something to prevent that. The Government may ultimately develop a better idea and we would like to hear it. But I would urge the Government to support this amendment, which would simply give the Government a tool to take action on this matter. It would be utterly ridiculous if we were to reassemble here in the near future for the purposes of enacting something like this or other like measures when we could have done so tonight. I did not support Mr David Shoebridge's proposal for a short adjournment until the end of April. I supported the Government's position on adjournment until mid-September. I do not resile from that. Let us address this issue now.

**Mr DAVID SHOEBRIDGE (19:54:40):** I appreciate the debate and can I say that, in relation to what the Minister put forward, I accept that there is a National Cabinet process. The Greens accept and, I think, everybody accepts that there is a National Cabinet process. We also accept that by agreeing to this amendment powers would be put in place ahead of that National Cabinet decision that is happening tonight. I accept that that might create some minor tension between the New South Wales Government and the Federal Government. We are not moving this amendment to put the Government in a predicament—quite genuinely we are not. We are moving this amendment to ensure that if a National Cabinet decision is made to support renters' rights and to stop evictions—and really it is stopping evictions that we are talking about—if that decision is made tonight, and it is extraordinarily likely to be made tonight because otherwise we will see mass evictions, the Minister will have the powers to intervene, issue orders and protect tenants from evictions.

I stress that if for some reason the National Cabinet chooses not to move ahead with that tonight, then all we have done is to empower the Minister and the Government to make these decisions. We are not requiring the exercise of these powers; we are empowering the Government to make these decisions. Obviously The Greens believe—and I think many people believe—that these powers are essential and should be exercised. But what we are doing here is giving the Government the options. It would be a cruel situation in which to put the staff of Parliament, all the support staff and members to come back again in just 24 hours, 48 hours or a week simply to pass a package of reforms that look exactly like this, following the National Cabinet meeting tonight. I urge the Government to accept that we are giving the Government more power and to accept that we think the power is necessary. I stress that it does not have to be used if the National Cabinet goes against us.

**The CHAIR (The Hon. Trevor Khan):** Mr David Shoebridge has moved The Greens amendment No. 1 on sheet c2020-017B. The question is that the amendment be agreed to.

**The Committee divided.**

Ayes ..... 14  
Noes ..... 11  
Majority..... 3

**AYES**

Banasiak	Borsak	Buttigieg (teller)
Faehrmann	Field	Hurst
Mookhey	Pearson	Primrose
Searle	Secord	Sharpe
Shoebridge (teller)	Veitch	

**NOES**

Ajaka	Farlow	Farraway (teller)
Harwin	Latham	Maclaren-Jones (teller)
Mallard	Mitchell	Nile
Roberts	Taylor	

**PAIRS**

D'Adam	Amato
Donnelly	Cusack
Graham	Fang
Houssos	Franklin

## PAIRS

Jackson  
Moriarty  
Moselmane

Martin  
Mason-Cox  
Ward

**Amendment agreed to.**

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

**Motion agreed to.**

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

That the report be adopted.

**Motion agreed to.****Third Reading**

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

That this bill be now read a third time.

**Motion agreed to.**

**The CLERK:** According to the resolution of the House earlier this day, the House will now proceed to the sessional orders.

*Sessional Orders***POSTPONEMENT OF A SCHEDULED MEETING**

**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) (20:09:03):** I move:

That, during the current session, in the event of a public health concern the President, or if the President is unable to act on account of illness or other cause, the Deputy President, following consultation with the leader or designated representative of each party and independent crossbench members:

- (a) be authorised to postpone a scheduled meeting of the House by communication addressed to each member, and
- (b) be authorised to fix an alternative day or hour of meeting by communication addressed to each member of the House.

It would be fair to say that there is a meeting of minds around the Chamber that this is an appropriate thing to do. I am moving this motion to amend the sessional orders as the Leader of the Government and in doing so I reflect upon the fact that, so far as my discussions would indicate, there seems to be a consensus about it. The provision is fairly clear; it basically says that if a sitting day is scheduled as per a resolution of the House but public health concerns indicate that it is best not to proceed, the President has the power to cancel it.

Given that we have a special adjournment to 15 September, that probably reduces the likelihood that this new sessional order will be needed. I certainly hope, and I am sure every member of the House would join me in that hope, that it will not be needed because that would indicate that the public health concerns are very great. Hopefully by 15 September we will be back here getting on with the job. Otherwise the motion is clear and I commend it to the House.

**The Hon. ADAM SEARLE (20:11:35):** The Opposition will be supporting these measures. The Opposition put a number of procedural changes to the Government along these lines and in relation to other matters as well and we are very pleased that the Government, in the spirit of bipartisan cooperation, has taken them up and has put them forward to the Chamber. We congratulate the Government on doing so. We think these are sensible and balanced measures. Hopefully they will not be needed but they are ready to be used should they be required.

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

**Motion agreed to.**

### RECALL OF 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) (20:12:28):** I move:

That, during the current session and unless otherwise ordered, Standing Order 36 be varied to read:

- (1) The President, at the request of an absolute majority of members that the House meet at a certain time, must fix a time of meeting in accordance with that request, and the time of meeting must be notified to each member.
- (2) A request by the leader, deputy leader or designated representative of a party in the Council is deemed to be a request by every member of that party.
- (3) A request may be made to the President by delivery to the Clerk, who must notify the President as soon as practicable.
- (4) If the President is unavailable, the Clerk must notify the Deputy President, or, if the Deputy President is unavailable, any one of the Temporary Chairs of Committees, who must summon the Council on behalf of the President, in accordance with this standing order.

Members will be aware that Standing Order 36 has been in the standing orders for some time now. There are very few changes at all. The most important change is to add "or designated representative of a party in the Council". Otherwise the standing order stays the same. As I referred to this morning in my remarks on the special adjournment, this is the key safeguard for the House and now, with this very simple amendment, it is going to be much easier to use. I commend the motion to the House.

**The Hon. ADAM SEARLE (20:14:45):** Again, this is another one of these outstanding suggestions for a sensitive, modern updating of our standing orders and I wholeheartedly commend it to the House.

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

**Motion agreed to.**

### ELECTRONIC PARTICIPATION

**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) (20:15:10):** I move:

That during the current session, the sessional order for electronic participation in committee proceedings be amended by omitting all words after "That," and inserting instead:

"during the current session, a committee is authorised to conduct proceedings by electronic communication without members of the committee or witnesses being present in one place, provided that:

- (a) when a committee deliberates, members of the committee constituting a quorum are able to speak to and hear each other, and
- (b) when a witness gives oral evidence, members of the committee constituting a quorum are able to hear the witness and to put questions to the witness."

It would be fair to say that there is not a consensus of views about the idea of electronic participation in deliberative meetings; a number of members believe it is inappropriate. But in all of the current circumstances it is necessary. As I have indicated before, the committee system continuing its work during this period of long adjournment, as it will be able to with this change in place, is a very important check, given that there will be such a long adjournment of the House. Therefore it is necessary. I commend the motion to the House.

**The Hon. ADAM SEARLE (20:16:43):** Again, we wholeheartedly support this measure.

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

**Motion agreed to.**

### *Business of the House*

### SUSPENSION OF STANDING AND SESSIONAL ORDERS: COMMITTEES EXTENSION OF REPORTING DATE

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

That standing and sessional orders be suspended to allow the following motions given this day to be moved in globo:

- (1) Extension of reporting date for the Regulation Committee inquiry into the impact and implementation of the Water Management (General) Amendment (Exemptions for Floodplain Harvesting) Regulation 2020.
- (2) Extension of reporting date for the select committee inquiry into animal cruelty laws in New South Wales.
- (3) Extension of reporting date for the Regulation Committee inquiry into making of delegated legislation.

**Motion agreed to.**

*Committees*

**REGULATION COMMITTEE**

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

**Extension of Reporting Date**

**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) (20:17:52):** I move:

- (1) That the reporting date for the inquiry into the impact and implementation of the Water Management (General) Amendment (Exemptions for Floodplain Harvesting) Regulation 2020 be extended until the last sitting day in September 2020.
- (2) That the reporting date for the Select Committee on Animal Cruelty Laws in New South Wales inquiry be extended until 24 September 2020.
- (3) That the reporting date for the inquiry into the making of delegated legislation in New South Wales be extended until the last sitting day in September 2020.

These changes are simply to allow these committees a little longer time to finish inquiries that have been referred to them by the House. The motion is very sensible and I cannot believe that anyone would regard it as anything other than necessary. I commend the motion to the House.

**The Hon. MICK VEITCH (20:18:24):** I advise the House that in consultation with the Regulation Committee via email it is unanimous in its support for the extension of the reporting date.

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

**Motion agreed to.**

**PRIVILEGES COMMITTEE**

**Report of Independent Legal Arbitrator**

**The Hon. PETER PRIMROSE (20:19:04):** I move:

- (1) That this House notes that the opportunity for the House to sit over the coming months may be limited due to ongoing public health concerns.
- (2) That, until the House orders otherwise, if the House is not sitting due to ongoing public health concerns and is not expected to meet within one week:
  - (a) on receiving a report of the Independent Legal Arbitrator appointed to evaluate a disputed claim of privilege on documents returned to the House under Standing Order 52 the Clerk is to refer the report to the Privileges Committee for consideration;
  - (b) the Privileges Committee is authorised to undertake the role usually performed by the House in dealing with disputed claims of privileges over returns to order under Standing Order 52, including taking the decision to make public the report of the Independent Legal Arbitrator and any documents over which privilege has been claimed but not upheld by the Independent Legal Arbitrator;
  - (c) any document authorised to be made public by the committee under this resolution is deemed to have been presented to the House and published by authority of the House; and
  - (d) on the next sitting day, the committee is to report to the House what action, if any, it has taken under this resolution.

In line with many other resolutions today, this is simply a procedure that was trialled over the Christmas break and worked well. The House has already resolved that it be instituted over the Easter break. Given the circumstances we are facing, hence the resolution today to allow this procedure to operate over the extended adjournment of 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) (20:19:50):** While the Government originally opposed this procedure, Government members have decided to acquiesce on

subsequent occasions. In all the circumstances of what we are facing over the next five to six months, we are acquiescing to this motion too.

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

**Motion agreed to.**

*Documents*

**WAGE THEFT**

**Production of Documents: Further Order**

**The Hon. DANIEL MOOKHEY (20:20:30):** I move:

- (1) That this House notes:
  - (a) that on 19 March 2020 the Clerk received a partial return to order of the House of 27 February under Standing Order 52 relating to payroll tax compliance; and
  - (b) that correspondence from the Secretary of the Department of Customer Service advised that the volume of documents required to be produced by that department was likely to run into the many hundreds of thousands of pages, that the department has not been able to produce documents within the relevant time, and that it does not expect to be able to produce the documents until 29 May 2020.
- (2) That, under Standing Order 52, there be laid upon the table of the House within 21 days of the passing of this resolution, the following documents, excluding any documents previously returned under an order of the House, created since 1 May 2015, in the possession, custody or control of the Treasurer, the Treasury, the Minister for Finance and Small Business, the Department of Customer Service or Revenue NSW:
  - (a) any internal audit reports, correspondence, legal advice and notices of assessment relating to any investigation undertaken by Revenue NSW into the payroll tax compliance of the following companies, any franchise related to the following companies, or any other entity related to, or trading as:
    - (i) Wesfarmers;
    - (ii) Bunnings;
    - (iii) Sunglass Hut;
    - (iv) Qantas;
    - (v) Rockpool Dining Group;
    - (vi) the Commonwealth Bank;
    - (vii) Michael Hill Jewellers;
    - (viii) Subway;
    - (ix) Woolworths;
    - (x) 7 Eleven;
    - (xi) Caltex Australia;
    - (xii) Domino's Pizza;
    - (xiii) Coffee Club;
    - (xiv) Foodco;
    - (xv) Crust Pizza;
    - (xvi) Coles Group; and
    - (xviii) Super Retail Group.
  - (b) any legal or other advice regarding the scope or validity of this order of the House created as a result of this order of the House.

I am not intending to recount to the House the full story about this Standing Order 52 application, other than to say after the House passed this application on 27 February 2020 we have had a partial return. It is the view of the Department of Customer Service that over 200,000 documents would be returned to fulfil the order of the House. At the time we moved the order we made it very clear that the Opposition was open to all negotiations with the Government and in fact had at multiple times tried to entice the Government into negotiations that would allow us to focus our Standing Order 52 precisely on the category of documents that we require to do our job to supervise Executive function.

After the matter was returned last week I made contact again with the Government and the Minister for Finance and Small Business, who took me up on the offer. I thank him for that. We have now had the opportunity to have dialogue with the acting chief commissioner and the result is the order that is now before the House, which

would in effect supersede the order of 27 February 2020 and limit the category of return to internal audits by Revenue NSW, correspondence, legals and notices of assessments. This is a good outcome. This allows Revenue NSW to focus on its job right now, which is to provide people with relief from the COVID-19 crisis, but equally it returns documents which allow the House to undertake its inquiries as well. I commend the motion 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) (20:22:15):** In the absence of the Minister for Finance and Small Business—who I am sure would have liked to have spoken on this matter but he is assisting with discussions in relation to the earlier bill, which in terms of the principles is relevant to his portfolio obligations—I can indicate that obviously there have been good faith discussions between the agencies of the New South Wales Government and in particular Revenue NSW with the Hon. Daniel Mookhey and we have reached a position which we can all live with. I commend the motion to the House.

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

**Motion agreed to.**

#### *Members*

### LEAVE OF ABSENCE

**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) (20:23:28):** I move:

That due to the COVID-19 virus, leave of absence be granted to every member of the Legislative Council from the rising of the House this day to the next day of sitting.

Honourable members will be perplexed as to why I am moving this motion. I am moving it for one reason only, and that is because it is being moved in the lower House. As a former President, I make the observation that it would have been my view, if I were still the President, that this was entirely unnecessary—

**The Hon. Penny Sharpe:** Is this the President's fault?

**The Hon. DON HARWIN:** No, it is not his fault. A session runs from prorogation to prorogation, as we all know, and we also have a different basis for electing our House. But let us be abundantly cautious. I commend the motion to the House.

**The Hon. ADAM SEARLE (20:24:18):** Mr President—

**The PRESIDENT:** Do you want to blame me as well?

**The Hon. ADAM SEARLE:** I will not be blaming you or indeed anybody else. The Opposition will support the motion.

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

**Motion agreed to.**

#### *Motions*

### E-PETITIONS

**Mr DAVID SHOEBRIDGE (20:24:54):** I move:

- (1) That this House notes that:
  - (a) the Australian House of Representatives, Queensland Legislative Assembly, Australian Capital Territory Legislative Assembly, Tasmanian Legislative Assembly and Council, and Victorian Legislative Council accept e-petitions which are hosted on their own websites;
  - (b) the Department of Parliamentary Services is currently working on a proposed e-petitions infrastructure on the Parliament's website for the Legislative Assembly; and
  - (c) in its June 2018 report, the Legislative Council Procedure Committee concluded that, "Given the absence of consensus on the question of whether the House should accept e-petitions, the current financial situation of the parliament with respect to information technology initiatives and the limited number of sitting days prior to the expiration of the current parliament, the report does not include any recommendations regarding e-petitions."
- (2) That this House authorises the President and the Clerk to investigate infrastructure to support the receipt of e-petitions hosted on the Parliament's website and presented to the Legislative Council.

- (3) That the President report to the Procedure Committee on a proposed system for the receipt of e-petitions hosted on the Parliament's website and presented to the Legislative Council, including procedures to allow for their introduction.
- (4) That the Procedure Committee be authorised to initiate a trial of an e-petitions process during the coming recess and until the end of 2020.
- (5) That the Procedure Committee report to the House on the operation of the e-petitions trial by the first sitting day in 2021.

I will be extremely brief. We are about to go into a potentially long shut down. Our current petition mechanisms involve paper petitions. They simply will not work when we are in a lockdown. Passing around a paper petition would be a public health danger as well. We urgently need to get on with introducing e-petitions. I know that there has been ongoing discussion about it and there is not perfect unanimity about it. This motion empowers the President.

**The PRESIDENT:** More power.

**Mr DAVID SHOEBRIDGE:** More power to you, exactly. That is what The Greens have been trying to do all day: give other people power. We are giving you the power to move ahead with e-petitions, to work with the Clerks and to present a proposal to the Procedure Committee which hopefully we can have signed off and operating as soon as possible. I know it will require resources. I hope those resources can be made available because we need to have an element of democracy functioning in this State.

**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) (20:26:00):** I thank Mr David Shoebridge for moving this motion in a form that the Government can be happy with. The current situation increases the case for e-petitions and an appropriate way to deal with this is to ask the President and the Clerk to resume where they left off in the last Parliament where they were looking at this procedure. It is timely to get them to restart their work and present it to the Procedure Committee for further consideration. The Government supports the motion.

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

**Motion agreed to.**

#### *Committees*

### **SELECT COMMITTEE ON THE IMPACT OF TECHNOLOGICAL AND OTHER CHANGE ON THE FUTURE OF WORK AND WORKERS IN NEW SOUTH WALES**

#### **Establishment and Membership**

**The Hon. DANIEL MOOKHEY (20:27:10):** I move:

- (1) That a select committee be established to inquire into and report on the impact of technological and other change on the future of work and workers in New South Wales, with particular reference to:
  - (a) changes in the earnings, job security, employment status and working patterns of people in New South Wales;
  - (b) the extent, nature and impact on both the New South Wales labour market and New South Wales economy of:
    - (i) the "on-demand" or "gig economy";
    - (ii) the automation of work;
    - (iii) the different impact of (i) and (ii) on regional New South Wales; and
    - (iv) the wider effects of (i) and (ii) on equality, government and society.
  - (c) the impact of the "on-demand" or "gig economy" and the automation of work on long-term productivity growth and economic growth, as well as the overall attractiveness of New South Wales as an investment destination for the advanced technological sector;
  - (d) the effectiveness of Commonwealth and New South Wales laws in promoting fair competition and preventing monopolies and other anti-competitive behaviour in the "on demand" or "gig economy";
  - (e) the adequacy of the New South Wales skills and education system in helping people adjust to the changing nature of work;
  - (f) the impact of the "on-demand" or "gig economy" and the automation of work on:
    - (i) accident compensation schemes, payroll or similar taxes; and
    - (ii) Commonwealth taxes which support New South Wales Government expenditures.
  - (g) the application of workplace laws and instruments to people working in the "on-demand" or "gig economy", including but not limited to:

- (i) the legal or work status of persons working for, or with, businesses using online platforms;
  - (ii) the application of Commonwealth and New South Wales workplace laws and instruments to those persons, including superannuation and health and safety laws;
  - (iii) whether contracting or other arrangements are being used to avoid the application of workplace laws and other statutory obligations;
  - (iv) the effectiveness of the enforcement of those laws and regulations;
  - (v) regulatory systems in other Australian jurisdictions and in other countries, including how other jurisdictions regulate the on-demand workforce and are adapting to the automation of work; and
  - (vi) Australia's obligations under international law, including International Labour Organization conventions.
- (h) whether current laws and workplace protections are fit for purpose in the twenty-first century, including workplace surveillance laws and provisions dealing with workplace change obligations and consequences;
  - (i) whether workers should have agency over the way the data they generate at work is used and, if so, what legal framework is required to provide this;
  - (j) how employers and other businesses should manage and use the information generated by the workforce;
  - (k) how government as a best practice employer should manage and use the information generated by its workforce;
  - (l) whether, and what, legislative or other measures should be taken to:
    - (i) reform workplace laws and instruments to account for the emergence of the "on-demand" or "gig economy" and the automation of work;
    - (ii) reform the skills and education systems to help people adjust to the changing nature of work;
    - (iii) reform taxation laws to promote economic growth and protect public finances;
    - (iv) reform competition laws to promote fair competition and prevent monopolies in the "on-demand" or "gig economy"; and
    - (v) reform accident compensation schemes and other social insurance schemes to account for the emergence of the "on-demand" or "gig economy" and the automation of work.
  - (m) any other related matter.
- (2) That, notwithstanding anything to the contrary in the standing orders, the committee consist of nine members comprising:
- (a) three Government members, being nominated by the Leader of the Government;
  - (b) three Opposition members, being the Hon. Daniel Mookhey and two members nominated by the Leader of the Opposition, and
  - (c) three crossbench members, being Mr David Shoebridge, the Hon. Mark Pearson and the Hon. Mark Banasiak.
- (3) That the chair of the committee be the Hon. Daniel Mookhey and the Deputy Chair be the Hon. Mark Banasiak.
- (4) That, notwithstanding anything to the contrary in the standing orders, at any meeting of the committee any four members of the committee will constitute a quorum.
- (5) That, unless the committee decides otherwise:
- (a) submissions to inquiries are to be published, subject to the committee clerk checking for confidentiality and adverse mention and, where those issues arise, bringing them to the attention of the committee for consideration;
  - (b) the chair's proposed witness list is to be circulated to provide members with an opportunity to amend the list, with the witness list agreed to by email, unless a member requests the chair to convene a meeting to resolve any disagreement;
  - (c) the sequence of questions to be asked at hearings is to alternate between Government, Opposition and crossbench members, in order determined by the committee, with equal time allocated to each;
  - (d) transcripts of evidence taken at public hearings are to be published;
  - (e) supplementary questions are to be lodged with the committee clerk within two days, excluding Saturday and Sunday, following the receipt of the hearing transcript, with witnesses requested to return answers to questions on notice and supplementary questions within 21 calendar days of the date on which questions are forwarded to the witness; and
  - (f) answers to questions on notice and supplementary questions are to be published, subject to the committee clerk checking for confidentiality and adverse mention and, where those issues arise, bringing them to the attention of the committee for consideration.

I intended to be far more theatrical in my presentation to the House than I will be tonight. I can read the room, so I will save the theatrical performance for a later time. We are hopefully establishing the most expansive inquiry

into the future of work to date in the country. We are doing it by way of select committee. It is necessary for the House to resolve this tonight so we can begin that work; otherwise the opportunity to commence will not arise until September. The structure of this select committee is modelled on the select committee we established to inquire into battery hens. I commend the Hon. Emma Hurst and the Hon. Mark Pearson for setting the precedent. I thank the Leader of the Opposition and the Leader of the Government for pursuing this as a matter of urgency. I sincerely hope that the motion will have the support of all of the House. I promise next time I will be far more theatrical than I am now.

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

**Motion agreed to.**

*Members*

### CODE OF CONDUCT

**Debate resumed from 26 February 2020.**

**The Hon. PETER PRIMROSE (20:29:08):** In reply: I will simply say that I think I am the third chair of the Privileges Committee to be involved in pursuing this matter. The Legislative Council Privileges Committee has resolved this code unanimously and has presented it to the House. The Legislative Assembly committee has also adopted the code and presented it to that House. The Legislative Assembly has passed it and adopted the code. I urge members of this House to do the same.

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

**Motion agreed to.**

*Rulings*

### VALIDITY OF AN ORDER FOR THE PRODUCTION OF DOCUMENTS

**The PRESIDENT (20:29:54):** On Thursday 27 February 2020 the Leader of the Government, the Hon. Don Harwin, MLC, took a point of order in relation to private members' business item No. 375, standing in the name of Mr David Shoebridge, concerning an order for papers under Standing Order 52 in relation to a police investigation into the circumstances of a car collision involving the Minister for Police and Emergency Services. In taking the point of order, the Leader of the Government indicated that while the Government is perfectly happy to discuss the matter and, if ordered by the House, to provide the documents, the order should be made under Standing Order 53 rather than Standing Order 52, as it relates to the "administration of justice". At the time, the Acting President reserved his ruling.

I have given the matter considerable thought. Standing Order 53 provides that the production to the House of papers concerning (a) the royal prerogative, (b) dispatches or correspondence to or from the Governor, or (c) the administration of justice, should be by way of an address to the Governor requesting that the documents be laid before the House. At its essence, the distinction between the application of Standing Order 53 and Standing Order 52 is that Standing Order 53 applies to matters that fall within the purview of the Crown and the courts, notably the administration of justice, whereas Standing Order 52 applies to matters that fall within the purview of the Executive Government. This distinction is a longstanding one in parliamentary practice. The fourth edition of *Erskine May* from 1859 specifically referred to the administration of justice as one matter requiring an address to the Crown rather than an order for papers. The distinction has been consistently upheld by the Legislative Council since the advent of responsible government in 1856.

In addressing this matter, let me first of all observe that the Leader of the Government is entirely correct in observing the significance of this matter and the need to ensure that the order, if it is to be made, is made correctly. My starting point in addressing this matter is the 1992 decision of the High Court in *The Queen v Rogerson* [1992] 174 CLR 268. In that decision, the justices of the High Court found that police investigations of an actual or suspected offence are not part of the "course of justice", which Chief Justice Mason noted is synonymous with "the administration of justice". This is because the police do not administer justice. Chief Justice Mason stated:

... police investigations do not themselves form part of the course of justice. The course of justice begins with the filing or issue of proceedings invoking the jurisdiction of a court or judicial tribunal or the taking of a step that marks the commencement of criminal proceedings.

In turn, Justice Brennan and Justice Toohey observed:

Neither the police nor other investigative agencies administer justice in any relevant sense ... it is their function to bring or to assist in bringing prosecutions as part of their duty to enforce the law and, sometimes, to institute proceedings of a disciplinary nature before an appropriate tribunal under an applicable disciplinary code.

However, the justices of the High Court did acknowledge that the offence of attempting to pervert the course of justice can be committed by engaging in the relevant conduct before the institution of judicial proceedings, including during police investigations. These issues were considered by the House in 2002, when a notice of a motion was given under former Standing Order 18—now Standing Order 52—calling for the production of documents relating to the conviction and custody of Mr Phuong Canh Ngo. Then President Burgmann subsequently sought and obtained legal advice from the Crown Solicitor, which was tabled in the House on 9 April 2002. I read from the critical paragraph of the Crown Solicitor's advice:

There are, I think, several potential interpretations of the phrase "having reference to the Administration of Justice" (as used in former Standing Order 19). The "narrow" view is that only a Paper which refers to identifiable curial proceedings is within it. On that view, a Paper recording only police investigation of an offence will not "refer to" the administration of justice because such a Paper will not refer to or deal with the curial proceedings which follow such. The broader view is that a Paper will be one having reference to the administration of justice if it contains material which relates to the administration of justice. Thus, if conduct in the course of a police investigation may constitute conduct which interferes with the administration of justice in the sense described in Rogerson, it is difficult to see how a Paper dealing with such conduct would not be one "having reference to the Administration of Justice". A literal reading of the Standing Order might support the "narrow" view. However, it seems to me that the object and purpose of the Standing Order are more consistent with the broader view.

On that basis, the then President directed that papers in relation to Mr Phuong Ngo, to the extent that they contained material sufficiently related to prospective court proceedings, should be sought under former Standing Order 19, the equivalent of Standing Order 53 today. The matter arose again in 2004 when the House sought the production of legal advice relating to a police operation. A point of order was taken by the Hon. John Hatzistergos that the order related to the "administration of justice". Debate subsequently ensued, citing the 2002 advice of the Crown Solicitor. The Leader of the Opposition, the Hon. Michael Gallacher, argued that it was proper for the order to be made under Standing Order 52. In the event, following debate on the point of order, then President Burgmann gave an immediate ruling that the motion was out of order on the basis that it called for papers which related to "police investigations and prospective court proceedings" and thus fell within the "administration of justice" under Standing Order 53. I will say candidly that there is some doubt whether this ruling was correctly made.

As stated by Chief Justice Mason, the course of justice only begins with the filing or issue of proceedings invoking the jurisdiction of a court or judicial tribunal or the taking of a step that marks the commencement of criminal proceedings. In this regard I noted that in October and November 2006 the House ordered the production of papers under Standing Order 52 concerning the Sorrenson-Jefferies report, produced in the aftermath of the Cronulla riots, and a report on a police operation, Operation Retz, without any objection being taken that they concerned the administration of justice. Accordingly, I rule that the motion as moved by Mr Shoebridge is in order.

#### *Documents*

### INFORMATION AND PRIVACY COMMISSION

#### Reports

**The PRESIDENT:** I table an erratum to the report of the Information and Privacy Commission entitled *Report on the operation of the Government Information (Public Access) Act 2009: 2018-2019*, received on 18 March 2020.

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

That the document be printed.

**Motion agreed to.**

#### *Adjournment Debate*

### ADJOURNMENT

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

That this House do now adjourn.

### COVID-19

**The Hon. SAM FARRAWAY (20:37:32):** When I was first officially sworn in to this Chamber five months ago I did not expect so much to have happened to change our world and life in New South Wales and in the whole country. Through drought and bushfires, we in Parliament have stood together to help those in need and to support our communities. The New South Wales Government has delivered more than any other State for those facing tough times during drought and fire. We as a government can only do so much. The true legends are the people. Every day they are putting up their hands, rolling up their sleeves and opening their arms to others.

From drought we saw the #BuyFromTheBush campaign, Thankful4Farmers and #OneDayCloserToRain emerge, along with many other groups looking out for the mental health, physical health and vitality of our regional communities. From bushfires we saw the dedication of the Rural Fire Service and emergency service volunteers, putting their lives on the line to ensure the safety of others. We all pitched in where we could, whether through financial donations; donations of clothes, furniture or books; or giving people a home or a free meal. We rallied together and we are still working together, helping many devastated households and businesses recover. There have been concerts on a national scale, events on a local scale and many a carpool and busload has travelled to every corner of the State to help with the fencing and clean-up across New South Wales. We have faced these issues head on. We rally together and lift each other up and we will continue to do so.

Now, however, we have come up against a problem that by its very nature will do its best to divide us. COVID-19 and what it has done not only to Australia but also to the entire world is totally unprecedented. I know in my lifetime I have never experienced anything quite like it. To this day many of us will remember obviously the events of 9/11. I remember it and how the world changed. I thought then that nothing else in my lifetime would have such an effect but coronavirus has proven that thought wrong. The numbers, statistics and other information can be overwhelming.

Coronavirus is all we see on television and read in the local paper and when we scroll through Facebook, Twitter, Instagram and now TikTok. Although there seems to be an over-representation on those platforms of people fighting in supermarkets, not obeying social distancing and isolation rules, stories of loss of life and economic downturn, we must look to the positive stories through all of this. They are stories of neighbours delivering spare rolls of toilet paper, would you believe, and food to our elderly and vulnerable neighbours; people coming together via videoconferencing to host concerts, provide education programs and read stories to children; individuals sharing tips and tricks on how to pass the time, recipes and their favourite books so that others can be inspired; and how businesses are already taking the initiative to deliver their products and services online.

Do not get me wrong, I know that this is a tough time for many individuals, families and many businesses across our State. As a previous small business owner, I understand how tough it can be to tell someone that they are no longer employed or what it is like to struggle to pay off bills, loans and everything else in between while running a business. That is why I have discussed the real implications for small business through this unprecedented pandemic and have encouraged and welcomed payroll tax changes. More needs to be done and will be done, and I am confident in the Minister for Finance and Small Business and the tireless work he and many others are doing advocating for small business owners across New South Wales.

I take this opportunity to thank the department and staff in ministerial offices who are working around the clock to manage the current situation; the Premier, the health Minister and Chief Health Officer Kerry Chant, who update us every day on what is happening throughout this horrible pandemic; the Clerks, Deputy Clerks and the staff of Parliament who support us; and our staff who have ensured that we can be here today to deal with what goes on in Parliament, which is our workplace. Most importantly, I thank the people who are on the front line working day in and day out to keep our State moving and our people safe. This includes doctors, nurses, allied health and other hospital staff, childcare workers, teachers and those caring for others, including those working in the aged care sector. To all our trucking and logistic industries and our farmers, I pass on our many thanks, which will help those people when they are tired.

### COVID-19

**The Hon. PENNY SHARPE (20:42:37):** I thank the City Alliance for sending me this important reflection of Professor Daniel Aldrich:

It is the personal ties amongst members of a community that determine survival during a disaster and recovery in its aftermath.

As we stand here today, never a truer word has been spoken. I speak on this difficult day to say that the only way we can get through today and the difficult days ahead is to come together and work together in a way that we have never done before. We can save lives. We can care for our families, our kids, our grandparents and every one in between. We can support our essential workers. We can support the businesses and livelihoods of those who will lose everything. Some already have. We can ensure that those who find themselves without housing, without food, without work, without access to medical care are able to get those things. We can do it if we work together.

As the shadow Minister for Family and Community Services and the shadow Minister for Disability Inclusion, I acknowledge and thank the community and disability services and charitable organisations that are on the front line of the COVID-19 pandemic. Community organisations are essential services. Their workers and volunteers are heroes. In this crisis what has become clear is that social and community safety nets are also stretched in ways they never have been before. We have communities in drought, we have communities devastated by bushfires, we have a pandemic of violence against women and children and we have people with disability transitioning to the National Disability Insurance Scheme with their advocacy organisations under more pressure

than they ever have been under before. COVID-19 has added infinite complexity and a surge in demand for every community organisation.

I acknowledge the significant amount of work being done in agencies like the Department of Communities and Justice by very hardworking public servants. But it must be noted that they are working under increased pressure with no additional financial support from the Government. In fact the efficiency dividends of millions of dollars are still being required to be delivered to government by July this year. The Government needs to stop those cuts and let our agencies do the work with the staff they need to address this crisis. It is time for the New South Wales Government to step up and support the organisations that support others. This means serious money being invested, not in the future—now.

As the heartbreaking scenes of people lining up outside of Centrelink continue tonight, I call on the Government to do the following. We need a Community Sector Industry Fund to ensure continuity of service delivery, to secure jobs, to ramp up services for people in need and to provide paid leave to keep workers safe. We need money for food pantries and soup kitchens to purchase food and hygiene supplies. They need specific assistance with coordination with food wholesalers and retailers. Part of their issue is they just cannot get access to food. We need to set up a dedicated hotline and door-to-door delivery emergency food packages for people forced to self-isolate due to COVID-19 who have little food and little family support. We need to prioritise access to personal protective equipment for frontline workers in the disability and community sector. Social distancing is not possible if you are working up close with people with disability and dealing with their personal needs.

We need to immediately purchase and distribute mobile phones, laptops and data cards to the community sector so they can stay in touch with clients as people move to remote delivery. Older people are isolated in their homes. No longer can we knock on their door to see if they are okay. They need a phone call. They need access to phones; they need access to data. As hard as staff in our community sector are working, they are just not set up for this. The Government can help. We need to ensure that additional flexible funding for temporary accommodation in hotels and motels is available for homelessness and domestic violence services so that people who have to self-isolate can do so safely and with adequate support.

People are working remotely from home and have some time. Now is the time for us to ask them to spend one or two hours volunteering with local services remotely to help them stay in contact with people in need. We also need to guarantee funding for funded services for the next 12 months and relax contract requirements such as key performance indicators and reporting so that services can respond to the crisis. I do not want one community sector worker to be filling in paperwork. I want them to be helping someone in our community. We can get through this if we work together. Doing everything that we can to stop the spread of this virus is on all of us as individuals, but it is individual action, backed by collective support, that will get us through. We are all in this together. Gladys Berejiklian and John Barilaro, it is time to step up and ensure that no-one is left behind.

### COVID-19

**The Hon. NATASHA MACLAREN-JONES (20:47:30):** We are in quite extraordinary times as our State and nation faces significant challenges of a global health pandemic. I note we are operating with a reduced number of members and I thank all members, particularly those who have volunteered not to come to the Chamber today, to ensure we can maintain a safe distance and conduct the necessary business of the House. I also thank the party leaders, fellow Whips, Presiding Officers, the Clerk, and the staff of the Department of Parliamentary Services for their efforts in ensuring that we are able to safely work and sit in Parliament today in line with the recommendations of health officials in what has been an unprecedented sitting of our Parliament.

The COVID-19 crisis is evolving quickly and it is fair to say that the people are probably quite shell-shocked and certainly concerned at this time. What has unfolded in recent weeks and months has changed our way of life. Our nation faces one of its greatest challenges. We will rise to this challenge as Australians have always done when faced with adversity: We will show strength, compassion, respect and resilience. We must remain united and steadfast in order to slow the spread of the virus and protect lives. We must all work together and do our bit. We have a world-class health system; I believe the best in the world. The official advice is clear: Slowing down the spread will ensure that our health system is able to treat and support our most vulnerable. It is important the Australian people know that all levels of government are working together to limit the spread of COVID-19.

As of yesterday all non-essential services across New South Wales—including restaurants and cafes, pubs, registered and licenced clubs, gyms and indoor sporting venues, cinemas, entertainment venues and religious gatherings, places of worship and funerals—have been restricted in order to slow the spread of COVID-19. These build on our existing measures previously introduced of banning non-essential gatherings of 500 people outside or more than 100 people inside and maintaining social distancing. I understand these measures are restrictive and change the way we live. They may at times be confusing and confronting but this is what is needed to protect us.

We must all follow the rules regarding social distancing, social isolation, non-essential travel and hygiene. I know the people of New South Wales will be greatly impacted by those decisions, as well as financially, but they have not been taken lightly. They are tough conditions but they will keep us safe. If we can slow the spread of COVID-19 we will save lives.

Although our immediate priority during this crisis has been the health of the people of this State, we know we face significant economic implications from the virus. We are determined to support our local communities and businesses during such unprecedented times, especially ensuring that essential health support is provided for all citizens, particularly our most vulnerable. Last week the Premier and Treasurer announced a \$2.3 billion health and economic stimulus package. This is in conjunction with the Commonwealth Government stimulus package to support businesses and those who have been impacted by the virus. The Government is injecting \$700 million into NSW Health to assist in supporting hospitals and medical staff with the increased challenges due to COVID-19. This will go towards doubling intensive care unit capacity, preparing for additional testing, purchasing additional ventilators and medical equipment and establishing acute respiratory clinics whilst also bringing forward elective surgeries. Those measures come in the wake of a rise in confirmed cases of COVID-19 over the past couple of weeks.

New South Wales is Australia's largest State. We must be prepared for the challenges that will occur as numbers continue to rise. I also acknowledge our health professionals who are on the front line helping those in need. To support impacted business and keep people employed we have introduced a range of tax cuts, including a three-month payroll waiver for businesses with a payroll of up to \$10 million. We are also bringing forward the next round of payroll tax cuts by raising the threshold limit to \$1 million. Additional changes to long service leave will create greater flexibility for employers and employees to access leave during this crisis. In addition, we are also injecting funds to waive a range of fees and charges for small businesses, particularly bars, cafes, restaurants and tradies. To keep our State moving we are bringing forward maintenance of public assets and capital works whilst employing additional cleaners for public transport, schools and other buildings to keep them clean and safe.

I understand these are worrying and difficult times but now is the time for us to remain calm and look out for each other, particularly our most vulnerable. I encourage people to stay connected by phone, text and social media to reduce the feelings of isolation and anxiety and, most importantly, to keep informed of official advice provided by the New South Wales and Commonwealth governments. We will get through this and be a stronger nation in the end. God bless and keep the people of New South Wales safe.

### EXCLUSION FENCING

**The Hon. MICK VEITCH (20:52:12):** We are living in interesting and difficult times. As I was preparing this speech last week, the state of affairs in New South Wales was changing markedly on an almost hourly basis, and it still is. Prior to the COVID-19 pandemic that is currently impacting New South Wales, a range of other disasters were creating very challenging conditions for the lives and the livelihoods of our citizens—the ongoing drought, the devastating bushfires and then flooding. The bushfires have provided the perfect opportunity to address two productivity issues with long-term reward for the State: weeds and pests.

Drought conditions facilitate the perfect environment for seed distribution. All of that fodder we have been transporting from interstate to sustain New South Wales livestock unfortunately contains a bounty of unknown weed seeds. Those seeds will either be blown into new areas or they will be distributed by birds and even pests across vast areas. It also impacts upon stock numbers and makes predators more desperate for food, causing them to travel further afield to find that feed. The fires and floods move biomatter in new and unpredictable ways. Indeed, the problem of new weed growth creating extra fuel load for fires in dry conditions into the future is something we should all consider.

The issue of weeds and pests is a wideranging and complex problem that I have raised many times over my 13 years in this Chamber—it is my anniversary today—and during budget estimates hearings with numerous Ministers and public servants. Now is a unique time to invest in one solution: strategic construction of exclusion fencing. Exclusion fencing is specially designed fencing that prevents pest animals from entering properties. It is considered the most humane method of controlling vertebrate pests. A benefit of exclusion fencing is that it protects stock from predatory and feral animals. It stops the spread of disease from wild animals to livestock and is also useful in stopping the spread of weeds during natural sporing and the subsequent infestation advancement and the spread from animals. It helps with grazing management and keeps out wild dogs and wild pigs. Exclusion fencing also assists in managing grazing pressure from kangaroos. A Kondinin Group report from 2016 states that one kangaroo has a dry sheep equivalent, or DSE, of 0.625. That means 1,000 kangaroos will eat as much food as 625 sheep.

Exclusion fencing has some disadvantages. Number one is that it is expensive to build, often prohibitively so. For standard 1,200 centimetre fencing, it can cost \$1,000 to \$1,500 per kilometre for steel strainer assemblies

and up to \$7,000 a kilometre for complete exclusion fencing. It also takes time to monitor and maintain. It would also be naive to think exclusion fencing provides a 100 per cent solution to the issue of weeds and pests. It does not. Breaches still occur, especially at gates and waterways. However, those problems can be ameliorated by employing other control strategies in tandem with the fencing, such as baiting, burrow fumigation, the release of biological agents, shooting and trapping. Two very famous examples of exclusion fencing are the rabbit-proof fence and the dingo fence, now known as the wild dog fence. A lot of boundary fencing was destroyed in the fires. During the budget estimates hearing for the Deputy Premier on Tuesday 17 March, Mr Scott Hansen advised Portfolio Committee No. 4 - Industry on the subject of the cost of repairing fire damage to boundary fences. He said:

... 88,830 kilometres of dividing fences, 41,486 of those are adjoining public lands—State forest, Crown lands, national parks, travelling stock reserves. Going off an average market rate at the moment of about \$10,000 per kilometre, in terms of repairing boundary fences, that is a replacement value of about \$440 million.

This is what makes now a critical time to invest in exclusion fencing. It is imperative to repair and replace the destroyed boundary fencing. But I say to the Government, why not take the opportunity to improve boundary fencing by erecting strategically located exclusion fencing and ensuring future productivity gains for farmers and agricultural producers who have faced so much uncertainty in recent times. Almost half of all land in New South Wales is owned by the Crown. At present there is no requirement on agencies such as roads authorities, WaterNSW and Forestry Corporation, to name a few, to share or contribute to the cost of fencing on shared boundary lines. This makes it a significant cost to farmers, especially those in western divisions, to erect and maintain fences on these boundaries. NSW Farmers is calling for a review of the Dividing Fences Act 1991 to review this situation.

At the recent budget estimates hearing for Regional New South Wales on 17 March, the Deputy Premier confirmed that in the \$250 million package of infrastructure programs money had been set aside for Crown lands fencing and that if landowners wanted to they could use this funding for exclusion fencing. It remains to be seen how much funding is available and I will be watching with great interest. This is not to mention that the return on every dollar spent on weed management is high. The NSW Biosecurity Strategy 2013-2021 suggests an indicative return of 1:100 for prevention action and 1:25 for the eradication of weeds. I urge the Government to look at a strategic program for exclusion fencing post the fires. Now is the time to invest in a serious productivity issue that will pay dividends for our agricultural sectors well into the future.

### COVID-19

**Ms CATE FAEHRMANN (20:57:14):** Just one month ago this Parliament was focused on the devastating and unprecedented bushfire season. Now the entire country is in partial shutdown, hundreds of thousands of people have lost or are about to lose their jobs and some States have closed their borders. Yet millions of Australians, among them infectious diseases experts, are worried the actions taken by our governments to date are not enough to save lives. Pubs, bars, cafes, restaurants, cinemas, gyms and all events where people come together have been shut down. The Government is asking people to work from home where possible, to self-isolate if sick and to quarantine for 14 days if they have returned from overseas or been in contact with a known case. However, a significant portion of the population will not do this. Of course, some people still have to work or attend school or university in unsafe conditions.

Today Federal health Minister Greg Hunt even pleaded, "don't have any more house parties". The Government needs to do much more than plead for people to follow the rules because here is what the maths says could happen in New South Wales if they do not. Today on 24 March 2020 we are at 818 cases with six deaths. Since 6 March cases have increased on average by roughly 21 per cent each day. If this trend continues—and why would it not—within one week there will be over 3,000 cases of COVID-19; within two weeks over 11,000; within three weeks, 44,000; and 170,000 within four weeks. The World Health Organization says 5 per cent of these cases will end up in the intensive care unit.

For New South Wales this means 150 patients needing intensive care within a week, 500 within two weeks, 2,000 within three weeks and over 8,000 within one month. New South Wales currently has 874 intensive care unit beds. The Government has committed to doubling that. Even then we could run out of capacity within three weeks, which is 14 April. On the other hand, based on Australian demographics the Grattan Institute has said we might have just 2.2 per cent of people infected with COVID-19 who will require intensive care. Even at 2.2 per cent, that means over 2,000 people will require intensive care within one month. We are nowhere near flattening the curve.

Our curve is heading in the same direction as in the United States, Italy, the United Kingdom and Spain. Research estimates indicate that around 60 per cent of people with the virus show mild or no symptoms and that people are most contagious in the early stages of the infection. This is why asking people to self-isolate only after showing symptoms is not going to stop the spread of COVID-19. Singapore stands out as a leader in dealing with

the pandemic. By mid-February it was the worst hit country outside of mainland China with 80 cases. Just one week after Wuhan was locked down, Singapore set up a virus-fighting task force, imposed strict hospital and quarantine measures, banned large-scale gatherings and tracked down, tested and isolated every person who had contact with a confirmed case of COVID-19. Now Singapore has only 390 cases and just two fatalities.

The rest of the world on the other hand has taken the approach of let us wait until it gets worse and then act. Italy fumbled its early attempts to stop the virus, not wanting to introduce measures that would slow the economy. With 6,000 deaths and more than 50,000 people infected in Italy, it now stands as a warning of what we face if we do not take decisive action to stop the spread of this deadly coronavirus. The United States was also extremely slow to act. It now has 33,000 infections and 417 deaths, with frightening predictions of what is to come in the next few weeks. In New South Wales, the Government is sending out irresponsible messages about school attendance, while bungling the screening of passengers leaving the *Ruby Princess* cruise ship from which one woman died today from COVID-19 and at least another 141 people are infected. Seven cruise ships wait off our shores.

The exponential nature of a viral outbreak means that every action taken has an exponential impact. Every day we waited to close bars and restaurants and enforce social isolation. Every infected passenger we have allowed to enter this State via planes or cruise ships has increased the magnitude of the pandemic by the order of thousands. The Government has been slow to act. It must do more now, not in a few days' time. People must be ordered to stay home. We must go into lockdown now and provide a wage guarantee so that no-one is left behind. It is going to be very painful but this is what we must do to literally save many thousands of lives.

### COVID-19

**The Hon. MARK BUTTIGIEG (21:02:21):** First, I express my overwhelming gratitude to all health workers across New South Wales. Those brave individuals are on the front line at all hours, working to help the people of New South Wales throughout this pandemic and during the most challenging circumstances that many of us have witnessed in our lifetimes. We are asking healthcare workers to help our communities under the most trying and dangerous of circumstances. In turn, the Government has a responsibility to ensure that they are protected. It is simply not good enough that health workers are coming forward and stating that they do not have personal protective equipment that is required for them to carry out their jobs.

We know that health workers are at a heightened risk of contracting the COVID-19 virus, which has extremely serious and deadly consequences. The lives of those workers must not be put at risk due to inadequate resourcing. The Health Services Union has also expressed that in addition to health workers, aged care workers do not have adequate supplies to combat the virus. Healthcare and aged care workers are protecting our most vulnerable members of the community and need further resourcing. If those people do not have adequate amounts of personal protective equipment, it also puts communities in New South Wales at further risk and contributes to the spreading of the virus. The Government must prioritise ensuring there are adequate staffing levels across hospitals and aged care facilities so those workers can continue helping the people of New South Wales that need it the most.

We know that like hospital workers, general practitioners are also on the front line of the crisis. It is crucial that GPs and their practices are able to obtain the supplies they require for both their protection and the protection of the public. Cleaning staff at healthcare facilities are saying they are not being adequately resourced with enough supplies. This needs to change if we are going to protect workers across the healthcare sector and residents of New South Wales. We must remember that the work that these cleaning staff are carrying out will save lives and they need to be resourced appropriately. It is also of vital importance that healthcare workers are protected from violence. There are many New South Wales hospital workers that have been experiencing increased aggression and abuse regarding virus testing confusion and lengthy wait times. There needs to be an urgent increase in security staff to protect our frontline workers. Healthcare workers are already working in a very high-risk environment. The Government has a responsibility to put a stop to any further safety risks. Therefore increases in security staff are urgently required now.

During this incredibly stressful time for our health workers, we need to ensure we support them through providing adequate access to medical health resources. There is a large amount of confusion amongst communities regarding the virus. If the public is better informed, this will only help our healthcare workers who are on the front lines dealing with very upset and very confused people. As our Labor leader Jodi McKay has been emphasising, New South Wales requires an urgent and robust public health information campaign and alert system such as New Zealand's. The campaign must explain to the community what steps the Government is taking to protect us and provide advice on health and on our own obligations as residents of New South Wales. It is also vital that we do not leave regional and rural New South Wales behind. It is important that our regions have the same level of health care as does Sydney.

It is in everyone's best interests that further clinics be opened across the State to help residents of New South Wales. We are depending on brave health workers to fight this virus. Regardless of politics, we must all come together to ensure that we take action to protect our frontline workers. Serious measures are required to keep them safe. Healthcare workers are leaving their loved ones day and night to help the people of New South Wales in what is our darkest hour. We must do everything we can humanly do to help protect them.

*[Business interrupted.]*

*Bills*

**COVID-19 LEGISLATION AMENDMENT (EMERGENCY MEASURES) BILL 2020**

**Messages**

**The PRESIDENT (21:06:59):** I report receipt of a message from the Legislative Assembly agreeing to the Legislative Council's amendments to the bill.

*Adjournment Debate*

**ADJOURNMENT**

*[Business resumed.]*

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

**Motion agreed to.**

**The House adjourned at 21:08 until Tuesday 15 September at 14:30.**