



New South Wales

Legislative Council

PARLIAMENTARY DEBATES (HANSARD)

**Fifty-Seventh Parliament
First Session**

Thursday, 24 September 2020

Authorised by the Parliament of New South Wales

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LEGISLATIVE COUNCIL

Thursday, 24 September 2020

The PRESIDENT (The Hon. John George Ajaka) took the chair at 10:00.

The PRESIDENT read the prayers.

Documents

ICARE AND STATE INSURANCE REGULATORY AUTHORITY

Tabling of Documents Reported to be Not Privileged

The Hon. DANIEL MOOKHEY (10:01:34): I seek leave to amend private member's business item No. 802 by omitting paragraphs (1), (2) and (3) and inserting instead:

- (1) That, in view of the interim report of the Independent Legal Arbiter, the Hon. Keith Mason, AC, QC, dated 22 September 2020, on the disputed claim of privilege relating to Insurance and Care NSW and the State Insurance Regulatory Authority, the following documents upon which claims of legal professional privilege were made and which are considered by the Independent Legal Arbiter not to be privileged, be laid upon the table by the Clerk:
 - (a) the document known as Project Stanley and associated documents which are identified as documents Nos 41 to 45 in Annexure E to the Arbiter's report;
 - (b) documents numbered 2, 8, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 34 and 37 in Annexure E to the Arbiter's report; and
 - (c) documents numbered 1, 3, 7, 9, 10, 11, 12, 13, 15, 16 and 18 in Annexure E to the Arbiter's report, subject to the redactions recommended by the Arbiter.
- (2) That this House orders that the Department of Premier and Cabinet produce within seven days of passing of this resolution the redacted versions of the documents referred to in paragraph (1) (c).
- (3) That the documents returned to the order of the House relating to Insurance and Care NSW and the State Insurance Regulatory Authority over which icare waived privilege in its submission to the Arbiter be laid upon the table by the Clerk.

Leave granted.

The Hon. DANIEL MOOKHEY: Accordingly, I move:

- (1) That, in view of the interim report of the Independent Legal Arbiter, the Hon. Keith Mason, AC, QC, dated 22 September 2020, on the disputed claim of privilege relating to Insurance and Care NSW and the State Insurance Regulatory Authority, the following documents upon which claims of legal professional privilege were made and which are considered by the Independent Legal Arbiter not to be privileged, be laid upon the table by the Clerk:
 - (a) the document known as Project Stanley and associated documents which are identified as documents Nos 41 to 45 in Annexure E to the Arbiter's report;
 - (b) documents numbered 2, 8, 19, 20, 21, 22, 23, 24, 25, 26, 27, 28, 29, 30, 31, 32, 34 and 37 in Annexure E to the Arbiter's report; and
 - (c) documents numbered 1, 3, 7, 9, 10, 11, 12, 13, 15, 16 and 18 in Annexure E to the Arbiter's report, subject to the redactions recommended by the Arbiter.
- (2) That this House orders that the Department of Premier and Cabinet produce within seven days of passing of this resolution the redacted versions of the documents referred to in paragraph (1) (c).
- (3) That the documents returned to the order of the House relating to Insurance and Care NSW and the State Insurance Regulatory Authority over which icare waived privilege in its submission to the Arbiter be laid upon the table by the Clerk.
- (4) That, on tabling, the documents are authorised to be published.

Motion agreed to.

TALLAWARRA POWER STATION

Tabling of Documents Reported to be Not Privileged

Ms ABIGAIL BOYD: I move:

- (1) That, in view of the report of the Independent Legal Arbiter, the Hon. Joseph Campbell, QC, on the disputed claim of privilege on papers regarding contamination at power station associated sites, dated 18 September 2020, this House orders that the documents considered by the Independent Legal Arbiter not to be privileged be laid upon the table by the Clerk, subject to paragraph 2:

- (a) redacted versions of the following documents to remove any references to power stations other than those contained in paragraph (a) of the contamination at power station associated sites order made under Standing Order 52 on 22 August 2019:
- (i) document no. 3 (the part upon which privilege has been claimed);
 - (ii) document no. 4;
 - (iii) document no. 5;
 - (iv) document no. 44;
 - (v) document no. 45;
 - (vi) document no. 46; and
 - (vii) document no. 47.
- (b) redacted versions of all documents where the claim of privilege has not been upheld to remove any reference to personal identifying information, including full names, contact details, direct telephone numbers and email addresses of various employees or other officers of private sector employees and of government departments or instrumentalities.
- (2) That this House orders the Department of Premier and Cabinet to produce, within seven days of the date of passing of this resolution, redacted versions of the documents referred to in paragraphs 1 (a) and 1 (b).
- (3) That, on tabling, the documents are authorised to be published.

Motion agreed to.

TABLING OF PAPERS

The Hon. DAMIEN TUDEHOPE: I table a report on the review of the Mutual Recognition (Automatic Licensed Occupations Recognition) Act 2014, dated September 2020. I move:

That the report be printed.

Motion agreed to.

Committees

PORTFOLIO COMMITTEE NO. 4 - INDUSTRY

Reports

The Hon. MARK BANASIAK: I table report No. 45 of Portfolio Committee No. 4 - Industry entitled *Provisions of the Prevention of Cruelty to Animals Amendment (Restrictions on Stock Animal Procedures) Bill 2019*, dated September 2020, together with transcripts of evidence, tabled documents, submissions, correspondence, answers to questions on notice and supplementary questions, responses to an online questionnaire and a summary report of responses relating to the inquiry. I move:

That the report be printed.

Motion agreed to.

The Hon. MARK BANASIAK (10:04:58): I move:

That the House take note of the report.

Motion agreed to.

Debate adjourned.

COMMITTEE ON CHILDREN AND YOUNG PEOPLE

Reports

The Hon. MATTHEW MASON-COX: I table report No. 2/57 of the Committee on Children and Young People entitled *2020 Review of the annual reports and other matters of the Office of the Advocate for Children and Young People and the Office of the Children's Guardian*, dated September 2020. I move:

That the report be printed.

Motion agreed to.

The Hon. MATTHEW MASON-COX (10:05:32): I move:

That the House take note of the report.

Motion agreed to.

Debate adjourned.

Documents

AUDITOR-GENERAL

Reports

The CLERK: According to the Public Finance and Audit Act 1983, I announce receipt of a Performance Audit Report of the Auditor-General, entitled *Support for Regional Town Water Infrastructure*, dated September 2020, received out of session and authorised to be printed this day. [*During the giving of notices of motions*]

Notices

PRESENTATION

The PRESIDENT: I remind honourable members that interjections are disorderly when a member is giving a notice of motion. Interjections will compel me to ask the member to re-read the notice of motion. I must be able to listen to the notice of motion carefully so that if there is an issue, I will have to look at it and reserve my ruling. If there is an issue, I would like to know at the time the motion is being given.

Later,

The PRESIDENT: I remind members that interjections are disorderly at all times.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. ADAM SEARLE: I move:

That business of the House notice of motion No. 2 relating to a sessional order varying Standing Order 65 (5) for answers to questions to be directly relevant be postponed until Thursday 12 November 2020.

Motion agreed to.

Ms ABIGAIL BOYD: I move:

That business of the House notice of motion No. 1 relating to a sessional order to vary Standing Order 28 be postponed until Thursday 12 November 2020.

Motion agreed to.

The Hon. COURTNEY HOUSSOS: I move:

That the matter of public importance relating to New South Wales schools be postponed until the next sitting day.

Motion agreed to.

Rulings

TAKE NOTE OF ANSWERS TO QUESTIONS

The PRESIDENT (10:15:30): During the debate on the motion to take note of answers to questions yesterday, the Deputy Government Whip took a point of order in relation to the contribution from the Hon. Walt Secord. I anticipated the substance of the point of order and indicated that I would rule on the matter after speaking to the Clerk and reviewing the transcript. Having reviewed the transcript and considered the text of Sessional Order 31, I note it provides:

That, during the current session:

- (1) Immediately following the conclusion of Questions, a motion may be moved without notice: "That the House take note of answers to questions".
- (2) Debate on the motion may canvass any answers to oral questions asked that day and any deferred answers, answers to written questions or written answers to supplementary questions.
- (3) A speaker will be in order as long as the contribution is relevant to the subject matter of the question asked and the answer given.

Although the sessional order has been amended to broaden the scope of matters that are able to be debated, I cannot see how it can be in order to debate the subject matter of a question that has been ruled out of order. For any question that is ruled out of order, there is in fact no question or answer to take note of. That is not to say that members cannot utilise the forms and procedures of the House to robustly debate a range of matters. However, the debate to take note of answers to questions is just that: a debate about the questions asked and the answers provided.

On reading the transcript, I observed another matter that I had not observed when it was stated. When referring to the Regional Cultural Fund, the Hon. Walt Secord stated, "The Minister and the Deputy Premier have had their greasy fingers all over this fund." Standing Order 91 (3) provides that, "A member may not use offensive words against either House of the Legislature, or any member of either House, and all imputations of improper motives and all personal reflections on either House, members or officers will be considered disorderly." In my view the words "greasy fingers" are offensive as they impute an improper motive to the Minister and the Deputy Premier. As I have previously ruled, the take-note debate on answers to questions under Sessional Order 28 is not the time or opportunity to make imputations or reflections on a member from either House.

The Hon. Damien Tudehope: In view of that ruling I request that the Hon. Walt Secord withdraw the allegation he made yesterday.

The PRESIDENT: For that to occur, it must come from the Minister to whom the imputation was made, not from the Hon. Damien Tudehope. My memory is that it was made to the Hon. Don Harwin.

The Hon. Walt Secord: And the Deputy Premier.

The PRESIDENT: He is not here. I understand the Hon. Don Harwin is not seeking to have the comment withdrawn.

Bills

BETTER REGULATION LEGISLATION AMENDMENT BILL 2020

In Committee

The CHAIR (The Hon. Trevor Khan): There being no objection, the Committee will deal with the bill as a whole. I have three sets of amendments. Subject to what I am told, the order of events will be to deal with Opposition amendment appearing on sheet c2020-009B, followed by Opposition amendment appearing on sheet c2020-122K and then Government amendment appearing on sheet c2020-132A.

The Hon. ADAM SEARLE (10:23:32): I move Opposition amendment No. 1 on sheet c2020-009B:

No. 1 **Names and addresses to be provided by landlords**

Page 12, Schedule 5.1. Insert after line 12—

[2] **Section 27(1)**

Insert at the end of the subsection—

Maximum penalty—20 penalty units.

[3] **Section 27(2)**

Insert at the end of the subsection—

Maximum penalty—20 penalty units.

As I indicated in my contribution to the second reading debate, this amendment is about attaching penalty units to a landlord's failure to provide contact details to tenants. The requirement to provide those contact details to tenants was one established by the Government to require that residential tenancy agreements include contact details, presumably to help establish jurisdiction for the NSW Civil and Administrative Tribunal [NCAT] should there be a dispute. I indicated in my contribution to the second reading debate that while it is a breach of the tenancy agreement for a landlord not to comply, the practical impediments of the cost to the tenant of enforcing the law is often too high.

The Opposition took the view in consultation with stakeholders that a penalty provision should be added to the section to help resolve the situation. This will provide a clear signal from the Parliament to landlords of the need to comply with the provision and provide penalties in the amount of 20 penalty units. I urge all honourable members and the Government, in the spirit of lifting the bar on these things, to support the Opposition's sensible amendment.

The Hon. SCOTT FARLOW (10:25:03): The Government opposes the amendment as moved by the Opposition. Today's bill introduces a new requirement for landlords to disclose their State of residence, and clarifies existing provisions relating to disclosure of landlord contact information. These are minor but important changes that aim to reduce the potential for misunderstandings of how disputes between landlords and tenants are dealt with in New South Wales. Section 27 of the Residential Tenancies Act 2010 currently requires:

- (1) A landlord must give the tenant written notice of the following matters before or when the tenant enters into the residential tenancy agreement or include the following matters in the agreement—

- (a) the name, telephone number and business address of the landlord's agent (if any) and the name and telephone number or other contact details of the landlord,
- (b) if there is no landlord's agent, the business address, or residential address, and telephone number, of the landlord,
- (c) if the landlord is a corporation, the name and the business address of the corporation.

As I have just outlined, section 27 does not currently contain a penalty provision. The need for a penalty in relation to these requirements was not identified as part of the statutory review of the tenancy laws, the outcomes of which were developed and omitted following extensive consultation with the property services sector. Any consideration of whether to introduce a new penalty to this provision should be accompanied by further engagement with stakeholders to ensure that the impact on all parties can be carefully considered. At the same time, safeguards already are in place under the Act for a failure to comply with the requirement, specifically that noncompliance would constitute a breach of the tenancy agreement. This means that a tenant could issue a termination notice under the Act or apply to the NSW Civil and Administrative Tribunal for appropriate orders. For these reasons the Government does not support the proposed amendment as moved by the Opposition.

The CHAIR (The Hon. Trevor Khan): The Hon. Adam Searle has moved Opposition amendment No. 1 on sheet c2020-009B. The question is that the amendment be agreed to.

Amendment negated.

The Hon. ADAM SEARLE (10:27:02): I move Opposition amendment No. 1 on sheet c2020-122K:

No. 1 **Price gouging**

Page 15, Schedule 7. Insert after line 12—

7.1A Fair Trading Act 1987 No 68

Part 4C

Insert after Part 4B—

Part 4C Price gouging of declared goods or services

Division 1 Preliminary

59A Definitions

In this Part—

Consumer Price Index means the Consumer Price Index (All Groups Index) for Sydney published by the Australian Bureau of Statistics in the latest published series of that index.

declared goods—see section 59B(1)(a).

declared services—see section 59B(1)(b).

essential goods means—

- (a) personal hygiene products and medical supplies, including medicine, and
- (b) personal protective equipment, and
- (c) perishable goods, and
- (d) non-perishable food products or ingredients.

essential services means services that are essential to the health, safety and mental and physical wellbeing of a person or a class of person.

Note. For example, medical services.

person includes a manufacturer, supplier or wholesaler.

price of goods order—see section 59C.

price of services order—see section 59H.

service does not include a government monopoly service within the meaning of the *Independent Pricing and Regulatory Tribunal Act 1992*.

59B Minister may declare goods and services

- (1) The Minister may, by order published in the Gazette, do the following—
 - (a) declare essential goods or a class of essential goods to be declared goods for the purposes of this Part (the **declared goods**),
 - (b) declare essential services or a class of essential services to be declared services for the purposes of this Part (the **declared services**).

- (2) A declaration made by the Minister under this section may apply generally or in the following ways—
 - (a) it may apply to a person or body or class of persons or bodies,
 - (b) it may apply to the State or a part of the State,
 - (c) it may be subject to conditions or unconditional,
 - (d) it may be subject to specified exceptions.
- (3) The Minister may make an order under this Part only if the price of the essential goods or essential services or class of essential goods or essential services to which the proposed order relates is inflated, or likely to be inflated, because of—
 - (a) a risk to public health that is the subject of an order made by the Minister of Health and Medical Research under the *Public Health Act 2010*, or
 - (b) a natural disaster, or
 - (c) a state of emergency within the meaning of the *State Emergency and Rescue Management Act 1989*, or
 - (d) another public emergency.
- (4) Unless repealed sooner by the Minister, an order made under this Part is repealed on the date that is 12 months after the commencement of the order.

Division 2 Price fixing of declared goods

59C Tribunal may fix maximum price of declared goods

- (1) The Tribunal may, with the concurrence of the Minister, publish an order in the Gazette to fix the maximum price at which declared goods may be sold (a *price of goods order*).
- (2) Without limiting subsection (1), a price of goods order may fix the following for the declared goods—
 - (a) different maximum prices according to—
 - (i) differences in quality or description or in the quantity sold, or
 - (ii) different forms, conditions or terms, or
 - (iii) different localities of trade, commerce, sale or supply, or
 - (iv) different parts of the State, or
 - (v) different persons or bodies or classes of persons or bodies,
 - (b) maximum prices on a sliding scale,
 - (c) maximum prices for cash or delivery, inclusive or exclusive of the cost of packing or delivery,
 - (d) maximum prices relative to weight, size or other measurement of the goods,
 - (e) maximum prices that vary in accordance with time, profits, wages or standards, including in accordance with the Consumer Price Index.
- (3) Before making a price of goods order, the Tribunal must consider whether the making of the order would be contrary to the public interest.
- (4) A price of goods order made under this section may be subject to conditions or unconditional.

59D Duration and repeal of price of goods order

- (1) A price of goods order comes into force on the day specified by the Tribunal in the order, being a date not earlier than the date the order is published in the Gazette.
- (2) A price of goods order is repealed on whichever date occurs first—
 - (a) the date that is 12 months after the commencement of the order, or
 - (b) the date that the goods to which the order relates cease to be declared goods.

59E Amendment, variation and repeal of price of goods order

An amendment, variation or repeal of a price of goods order takes effect on the date specified by the Tribunal in the order, being a date not earlier than the date the order is published in the Gazette.

59F Sale of declared goods at price greater than maximum price prohibited

- (1) This section applies to declared goods for which a price of goods order has been made and is in force.
- (2) A person must not sell, or offer for sale, declared goods at a greater price than the maximum price fixed by the Tribunal.

Maximum penalty—1,000 penalty units for a body corporate or 200 penalty units for an individual.

- (3) For the purposes of this section, a person is taken to have sold, or offered for sale, declared goods at a greater price than the maximum price fixed by the Tribunal if the goods are sold or offered for sale—
 - (a) on behalf of the person, or
 - (b) at the person's place of business, including on a website or social media platform in connection with the business.
- (4) A court may, in addition to a penalty imposed for an offence under this section, order the defendant to refund to the purchaser the difference between the maximum price fixed by the Tribunal and the price at which the declared goods were sold.
- (5) In this section—

offer for sale, in relation to declared goods, includes—

 - (a) notifying the price proposed by the person for the sale of goods, whether verbally, in writing, electronically or otherwise, and
 - (b) displaying the goods for sale in association with a price in a physical location or on the internet.

59G Offer to pay greater price for declared goods prohibited

- (1) This section applies to declared goods for which a price of goods order has been made and is in force.
- (2) A person must not, without reasonable excuse, do the following in relation to declared goods at a greater price than the maximum price fixed by the Tribunal—
 - (a) pay for, or offer to pay for, the goods,
 - (b) offer to act in connection with payment for the goods,
 - (c) hold themselves out as being willing to pay for, or offer to pay for, or being willing or able to obtain another person to pay for, the goods.

Maximum penalty—1,000 penalty units for a body corporate or 200 penalty units for an individual.

Division 3

Price fixing of declared services

59H Tribunal may fix maximum rate of declared services

- (1) The Tribunal may, with the concurrence of the Minister, publish an order in the Gazette to fix the maximum rate at which declared services may be provided (a *price of services order*).
- (2) Without limiting subsection (1), a price of services order may fix the following for the declared services—
 - (a) different maximum rates according to—
 - (i) differences in quality or description or in the volume of services provided, or
 - (ii) different forms, conditions or terms, or
 - (iii) different localities of trade, commerce or supply, or
 - (iv) different parts of the State, or
 - (v) different persons or bodies or classes of persons or bodies,
 - (b) maximum rates on a sliding scale,
 - (c) maximum rates for cash or on terms,
 - (d) maximum rates that vary in accordance with time, profits, wages or standards.
- (3) Before making a price of services order, the Tribunal must consider whether the making of the order would be contrary to the public interest.
- (4) A price of services order made under this section may be subject to conditions or unconditional.

59I Duration of price of services order

- (1) A price of services order comes into force on the day specified by the Tribunal in the order, being a date not earlier than the date the order is published in the Gazette.
- (2) A price of services order is repealed on whichever date occurs first—
 - (a) the date that is 12 months after the commencement of the order, or
 - (b) the date that the services to which the order relates cease to be declared services.

59J Amendment, variation and repeal of price of services order

An amendment, variation or repeal of a price of services order takes effect on the date specified by the Tribunal in the order, being a date not earlier than the date the order is published in the Gazette.

59K Charging excessive rate for declared services prohibited

- (1) This section applies to declared services for which a price of services order has been made and is in force.
- (2) A person must not provide, or offer to provide, declared services at a greater rate than the maximum rate fixed by the Tribunal.
Maximum penalty—1,000 penalty units for a body corporate or 200 penalty units for an individual.
- (3) For the purposes of this section, a person is taken to have provided, or offered to provide, declared services at a greater price than the maximum rate fixed by the Tribunal if the services are provided or offered to be provided—
 - (a) on behalf of the person, or
 - (b) at the person's place of business.

59L Offer to pay greater rate for declared services prohibited

- (1) This section applies to declared services for which a price of services order has been made and is in force.
- (2) A person must not, without reasonable excuse, do the following in relation to declared services at a greater rate than the maximum rate fixed by the Tribunal—
 - (a) pay for, or offer to pay for, the services,
 - (b) offer to act in connection with payment for the services,
 - (c) hold themselves out as being willing to pay for, or offer to pay for, or being willing or able to obtain another person to pay for, the services.Maximum penalty—1,000 penalty units for a body corporate or 200 penalty units for an individual.

Division 4**Miscellaneous****59M Tribunal to give prior notice of order to affected parties**

- (1) The Tribunal must, if practicable, give prior notice of an order proposed to be made by the Tribunal under this Part to the following persons—
 - (a) for a price of goods order—the manufacturer, supplier or wholesaler concerned,
 - (b) for a price of services order—the provider of the services concerned.
- (2) If the good is a foreign good, notice may instead be given to an Australian importer or supplier of the good.
- (3) If practicable, notice is to be given at least 48 hours before the order is published in the Gazette.
- (4) The Tribunal may also comply with a requirement to give prior notice of an order under this section by publishing a notice, or causing a notice to be published, of the Tribunal's intention to make an order on the Department's website.
- (5) However, the Tribunal is not required to give prior notice of an order if—
 - (a) the Tribunal believes on reasonable grounds that, in the public interest, the publication of the order should not be delayed, or
 - (b) the Tribunal is unable, after making reasonable inquiries, to ascertain the identity of, or to locate, the person to whom the notice would otherwise be required to be given.

59N Description of goods and services

An order under this Part may specify declared goods or declared services to which it applies by reference to the following—

- (a) the description or brand,
- (b) for goods—
 - (i) the manufacturer, supplier or wholesaler of the goods, or
 - (ii) the period in which the goods are, or were, manufactured, supplied or sold, or
 - (iii) the country of origin of the goods, or

- (iv) if the goods originated in Australia, the location in Australia from which the goods are, or were, manufactured, supplied or sold.

For over 70 years the Prices Regulation Act 1948 gave the New South Wales Government the power to intervene to deal with price gouging on designated goods or services. Introduced in the years following the Second World War, it was intended to prevent price gouging on essential grocery items like bread and milk. Under the Berejiklian Government's "one in, two out" principle of introducing new legislation, these provisions were repealed in July 2019 on the basis that the Government considered it archaic. This was, in part, because it had so seldom been used and had not been used in nearly 25 years. However, following the outbreak of COVID-19, New South Wales has seen significant price gouging in relation to essential items. Examples include opportunistic price hikes in goods such as personal protective equipment, hand sanitiser, basic medicines like paracetamol, and household items. A similar situation emerged during the bushfire crisis in which N95-type face masks were being sold at an inflated price as people sought protection from the impact of the smoke and particulate matter blanketing Sydney.

As face masks have become mandatory in some States, some retailers have taken the opportunity to greatly increase their prices. Of course, it is a matter of record that my side of politics has been pushing for free face masks to be provided by the Government in some instances, for example, on public transportation if masks were to be made mandatory. Introducing price-gouging measures should be seen as a complementary measure to ensure that the public is financially protected from the unconscionable conduct engaged in by some businesses. In July the former fair trading commissioner criticised the abolition of the Prices Regulation Act 1948 and highlighted that price gouging as a consequence of the COVID-19 pandemic could have been dealt with by the State Government using that old legislation. In addition, he defended its role in encouraging ethical behaviour on the part of business and industry without even the need to invoke its provisions. He said:

You could actually warn people involved in these practices that the Government could move to set a maximum price. You had a pretty big stick to wave at people that we don't have now. Back in the 1990s we were using it to deal with scalping events like the Rugby League Grand Final.

He was saying that although it may not have been invoked formally for some 25 years, the fact that it existed and was available to the Government in the appropriate circumstances sent a powerful message to industry to engage in restraint. In contrast the current fair trading commissioner, Ms Rose Webb, has encouraged people to shop around in the middle of the pandemic contrary to the advice to travel sparingly and limit all non-essential travel or commerce, saying:

In Australia people are free to sell things for what they can. You should shop around and find a cheaper product and people who price too high don't end up selling anything. [In times of crisis] we ration instead—we saw that with toilet paper—and that will tend to the price increasing even more.

CHOICE received submissions of examples of this happening at various local shops including FoodWorks, Chemist Warehouse, Priceline Pharmacy, online platforms such as Amazon and eBay, and Australian online retailers such as Kogan, Mosaic Brands, Rivers, Millers and others. These examples included face masks being sold for 10 to 20 times their regular price and hand sanitiser doubling or tripling in price. This demonstrates there is a gap in the legislation that leaves Government with no mechanism to dissuade price gouging during crises such as the one we are presently facing.

As we have seen during the COVID-19 pandemic, some businesses have exploited this through panic marketing and sharp price increases. CHOICE has a national petition which currently has close to 10,000 signatures—some 9,291 of which are from in New South Wales residents. In addition, 1,676 people have written to the Minister calling for the introduction of the type of measures included in the Labor amendment. Given there were no reported problems with the previous Prices Regulation Act 1948, there should be no adverse impact on businesses if this amendment is enacted.

The proposed amendment to the Fair Trading Act 1987 is based on the relevant section of the repealed Prices Regulation Act 1948, but it has been modernised to capture online retailers and social media platforms where a retailer has a presence. It is limited in its scope to capture only essential products and services during emergencies or crises. The Minister is required to identify these and declare them before the tribunal—with the concurrence of the Minister—may publish an order in the gazette fixing the maximum price at which declared goods or services may be sold.

The amendment as drafted would allow the better regulation Minister to declare essential goods or services—such as medicines, health services, personal protective equipment and essential groceries—identified by the Minister as susceptible or subject to price gouging during health crises, natural disasters or public emergencies. These are important restrictions on the power of the Minister in this circumstance that are not present in the original 1948 legislation. In practice the Minister would declare the goods or services in the gazette and has the discretion to allow goods or services to be subject to an order by location, country of origin of the product, to particular groups of people or any other condition the Minister deems necessary.

However, the Minister is not ultimately responsible for the price setting, minimising the scope for politicisation of the process. The maximum prices for declared goods or services would be set by the NSW Civil and Administrative Tribunal [NCAT]. Repeal of the price setting measure will remain the responsibility of the Minister when the Minister feels the order is no longer in the public interest. Crucially, while the decision to refer a good or service to NCAT is made by the Minister, the deliberation on that referral is undertaken by members of the tribunal at arm's length from the Government.

NCAT must apply a public interest test before making an order to set prices for a good or service. Since by definition price gouging occurs only where no other market distortion exists apart from opportunistic price setting by retailers, wholesalers or manufacturers, instances where supply constraints drive up prices would not invoke the legislation. The former Prices Regulation Act 1948 was never invoked to deal with the high price of bananas in the wake of Cyclone Yasi or the high prices of lamb caused by drought. Furthermore, NCAT and the Minister are required under the amendment to give advance notice to the relevant stakeholders—such as businesses and manufacturers—under division 4 of the amendment of any order to set prices of goods or services. Labor thinks these measures fulfilled a useful function for many years in preventing businesses taking undue advantage of strained market circumstances caused by crises.

It is contrary to the public interest that the current Government does not have a mechanism of that kind available to it. We do not overtly criticise the repeal of those mechanisms in 2019, but they should be restored in an updated, modernised fashion. Even if they are never used we need to send the market a clear signal that price gouging and exploitation of people in circumstances such as the one we are in, should not be engaged in by any business. Even if these practices are not widespread and only impact a small minority of people, we think that is too much and it would be a good thing for the major parties and the crossbench to send a strong signal that we will not stand for price gouging. We will protect consumers in these circumstances. Let us restore these measures to the statute.

The Hon. SCOTT FARLOW (10:36:12): The Government opposes the amendment. As much as I trust the better regulation Minister—and he is a wonderful Minister—having such broad powers would be extraordinary. The Opposition has no understanding of the problem that the amendment seeks to solve. Existing consumer protection laws, and compliance and enforcement measures in New South Wales are sufficient to ensure businesses do not engage in unfair pricing practices. The COVID-19 pandemic has been a challenging time for all, and the Government is aware of isolated examples where a few businesses and private online sellers sought to take advantage of the situation by increasing the price of certain essential items.

This can lead to a community perception that all businesses are doing this and nothing can be done about it. We have seen those hoarding toilet paper left with no market in which to sell it. Existing consumer protection laws, and compliance and enforcement measures in New South Wales are sufficient to ensure businesses do not engage in unfair pricing practices. Firstly, a Federal Government biosecurity determination in March 2020 prohibited any person in Australia from engaging in price gouging of essential health items. These included disposable face masks, hand sanitiser, alcohol wipes, disposable gloves, disposable gowns, goggles, glasses and eye visors. These items are considered essential because they prevent and control the spread of COVID-19.

The Commonwealth's determination prohibits private sellers from purchasing essential items in a retail transaction and reselling them for more than 120 per cent of the purchase price. This deters persons from bulk-buying these essential items from retailers and reselling them to the community at excessive prices. The determination does not apply to major suppliers that generally purchase goods wholesale, nor to manufacturers of these goods. These entities are integral to maintaining Australia's supply chains for essential goods and are therefore not bound by this prohibition. If the amendments proposed by the Opposition are agreed to and New South Wales imposes pricing controls on essential items, this could interfere with Commonwealth rules currently working successfully across the nation. There would be legal doubts about whether State-based pricing controls are even constitutional given that the Commonwealth has entered the field in this matter.

Secondly, businesses across New South Wales and Australia are subject to the Australian Consumer Law, which prohibits misleading, deceptive or unconscionable conduct. If a business makes misleading claims about the reason for price increases it may be breaching the Australian Consumer Law. In limited circumstances excessive pricing may be unconscionable, for example where the product is critical to the health or safety of vulnerable persons. However, in many cases price rises for essential items are perfectly justifiable where demand outstrips supply and the costs for a business in obtaining goods from their supplier have increased. It does not necessarily follow that simply because some items cost more this year than they did last year that government intervention is warranted. Early in the pandemic we saw that many gin distilleries across New South Wales transferred their workforces into producing hand sanitiser. That was something that was dictated by the market. A price signal led manufacturers to retool in such a way. NSW Fair Trading will intervene if there is evidence of businesses engaging in misconduct or breaching the Australian Consumer Law.

Thirdly, if a business in New South Wales is found to be charging excessive prices on essential items without a legitimate business reason, the Government can issue a public warning about the business if it is in the public interest to do so. No public warnings have been issued to date as none have been warranted. Most businesses since COVID-19 began have been doing the right thing. We have seen the market respond to increased demand for essential goods. More broadly, retailers such as supermarkets and chemists have responded to increased demand by implementing quantity caps for sought-after essential items, as we saw with the toilet paper incident and meat at some point. Producers have also increased production to meet increased demand. As a result, essential goods such as masks, toilet paper and hand sanitiser became accessible in stores within a reasonable amount of time and at reasonable prices. The best way to control prices is to ensure the market has adequate supply.

This Government has boosted supply of essential goods like sanitiser and masks to keep downward pressure on prices. On 1 April the Premier announced an emergency supplies portal for businesses to register their ability to supply or manufacture vital personal protective equipment [PPE] to the New South Wales Government during the COVID-19 pandemic. The Government purchased almost \$1 billion of personal protective equipment to help contain the spread of COVID-19 and to protect frontline emergency workers, medical staff and the public. It is confident it has secured adequate PPE stock for the medium term and the portal is now closed. Through that process it was clear that there was also high industry and community demand for PPE, particularly for face masks, disinfectant, hand sanitiser and gloves. In response, the New South Wales Government has set up a PPE supplies portal for industry and the community, which is effectively a business-to-business portal. The majority of the more than 900 businesses on the portal are New South Wales businesses who are now ready to supply industry and the community with the PPE that they need.

Many have responded to the call to arms and pivoted their businesses to manufacture PPE products in the State. For instance, the Bomaderry factory in Shoalhaven, which is situated in the Hon. Gareth Ward's electorate of Kiama and which has processed wheat to produce flour, gluten and starch since 1979, will now shift its capability to produce 120 megalitres of hand sanitiser and 1.5 megalitres of hand sanitiser-grade ethanol. This pivot in production will also create an additional 24 jobs for the factory. Is Labor seriously suggesting that we artificially cap the price that these new entrants can charge for goods and penalise them if they do not comply? Such draconian measures will actually have the opposite effect to what the members opposite intend. They will stifle competition and dissuade new entrants from manufacturing and retailing these essential goods at a time of crisis like the last seven months. Without these new entrants, supply would be scarce and consumers would miss out on these essential goods. We would run the risk of prices rising unreasonably.

This amendment is nothing short of socialism. It sets a dangerous precedent for the role of government in people's everyday lives. Throughout the pandemic the market has responded as it always does: managing supply and demand for goods and services. Government has no role to play in setting prices and no justification for stepping into this market-driven force. Any suggestion otherwise is promoting anti-competitive and anti-free-market behaviour. It makes us akin to failed and oppressive states like communist Russia or potentially Poland, as was discussed in debates yesterday.

The Hon. Mark Buttigieg: And Victoria.

The Hon. SCOTT FARLOW: I acknowledge that interjection. If the Hon. Mark Buttigieg wants to add Victoria to that list, let him go for it. Let us turn our attention to the evidence at hand. Between 1 January 2020 and 25 August 2020, NSW Fair Trading received 170 complaints and 223 inquiries about pricing related to COVID-19. Out of 170 complaints, only five complaints alleged price gouging. If there is evidence of price gouging, NSW Fair Trading will investigate and businesses will be asked to justify any significant price increases on essential items. Existing compliance and enforcement measures are sufficient to respond appropriately to the small number of alleged price-gouging practices in the State and ensure businesses are operating fairly. Further, the Fair Trading Act 1987 already contains offence provisions against misconduct in the market. Sections 41 and 42 of the Act prescribe offences for speculating on goods for profit or attempting to corner the market. Strong penalties including jail time and the forfeiture of all goods purchased can be imposed if a person is found guilty of those offences.

These provisions were retained and transferred upon the repeal of the Prices Regulation Act 1948, which the Leader of the Opposition mentioned. It was repealed in July 2019 as part of the Better Business Reforms. A discussion paper released for public consultation in July 2018 identified and proposed repealing a number of outdated and redundant Acts. Those slated for repeal included the Prices Regulation Act. The consultation paper noted that many of the Act's provisions were no longer needed or already adequately dealt with under either New South Wales or Commonwealth legislation. It had been more than 20 years since the Prices Regulation Act was last used. The last orders were made in 1995, when it set a price cap on the resale of NRL grand final tickets. We now have ticket scalping laws in place to address such issues. Prior to the 1995 order the Act was used in the 1970s by the then Labor Government to regulate the prices of petrol and bread. Consideration was also given

around this time to fixing the price of basic funeral services, but this was never implemented. We now have a mandatory information standard under the Fair Trading Act 1987, which provides consumers with price transparency over funeral goods and services.

It is clear that the Prices Regulation Act was outdated and archaic. It was a legacy of wartime rationing designed to control inflation and profiteering in the immediate postwar period. It had long ago outlived its usefulness and did not need to be kept on the statute books. During the extensive consultation of the Better Business Reforms, no groups or individuals made submissions opposing its repeal. Likewise when the legislation came before the Parliament in late 2018, no opposition was voiced at the time about the amendment repealing the Prices Regulation Act. In fact Labor's shadow Minister for consumer affairs, the member for Swansea, noted the repeal of the 1948 legislation in her speech. Labor supported the repeal. Why then is this amendment now being sponsored in this House? One can only assume it is to score cheap headlines, as those opposite seek to legislate for a problem that simply does not exist. The Opposition's amendments to the bill are a thinly disguised attempt to reverse the repeal of the Prices Regulation Act. The amendments seek to revive the substantive provisions of Act and insert them into the Fair Trading Act 1987.

In contrast to the broad consultation the Government undertook on the original repeal of the Prices Regulation Act, it is unclear whether the Opposition has carried out consultation on its proposal to reinstate such provisions. I acknowledge the Opposition has made a number of refinements to the original set of amendments. These refinements now seek to limit the price-fixing powers that would have applied to any goods or services and allowed price caps for any reason to be put in place for an endless period of time. Despite these improvements, a number of significant issues remain with the drafting of the Opposition's amendments that would cause major problems were these amendments accepted by this House and subsequently the Parliament. While the new definition of essential goods proposed in section 59A would carve out goods like footballs, beanbags and toasters, it is still sufficiently broad based to enable price fixing on perishable items like ice cream, flowers and chewing gum. These are hardly the type of goods that the public would consider as essential in a time of crisis.

New section 59B (4) provides that, unless repealed sooner by the Minister, an order made under this part is repealed 12 months after its commencement. The amendments give no indication of the process the Minister needs to follow to repeal any such order. Can the Minister simply declare that it is repealed or does some form of repeal order need to be published in the *NSW Government Gazette*? Is some other process meant to be followed? Similarly references to the commencement of a declaration order made by the Minister creates another grey area of uncertainty. The Opposition's amendments give no indication of the date upon which such an order commences. This could mean that an order is to commence the date it is published in the gazette. It could also be open to the Minister to state the date on which the order commences. If this latter view is correct, there is nothing in the draft amendment that would prevent a ministerial order from being backdated and applied retrospectively.

New section 59M (3) will give manufacturers, suppliers, importers or wholesalers only 48 hours if practicable before a price of goods or price of services order is published in the gazette. This is much too short a period of time for effective businesses to respond adequately and make appropriate adjustments to their operations. There was no such equivalent short notice period in the old Prices Regulation Act. Updating prices of goods and services to comply with any order would take considerable time and resources for small and large businesses alike. The Opposition has failed to take that into consideration in the drafting of its proposed amendments. Proposed section 59N would allow price gouging orders to refer to specific brands. Identifying and singling out a particular brand is neither appropriate nor efficient. The amendments proposed by the Opposition give a range of functions and powers to the tribunal, which will play a crucial role in fixing the maximum prices of declared goods and services, publishing orders, varying and amending orders, and giving notice of any orders to affected parties. Similar functions and powers were given to the tribunal under the repealed Prices Regulation Act. That Act defined "the tribunal" as the Independent Pricing and Regulatory Tribunal [IPART].

Presumably the Opposition would want IPART to continue with that role, but its amendments do not name the tribunal or contain any definitions. Consequently the price gouging functions and powers would fall to the NSW Civil and Administrative Tribunal [NCAT], which is the defined tribunal under the Fair Trading Act. If the Opposition wants IPART rather than NCAT to play that role, that is a large drafting oversight. This is basic economics and it is everything that every consumer in New South Wales knows. The market is meeting the challenge ahead and the Government is confident that the existing consumer protection laws are adequate and appropriate to protect consumers in New South Wales against unfair prices. The Government will not support the amendment.

Ms ABIGAIL BOYD (10:50:42): On behalf of The Greens I support the amendment. I thank the Hon. Adam Searle and the Opposition for bringing the issue to the Parliament's attention and seeking to correct what we now know to have been an oversight when Prices Regulation Act was repealed in July. It is fair to say that at that time the coming crisis was not front of mind for anybody in the House. Capitalism loves a crisis—and

I mean the system, not the individual actors. It is a design of capitalism for profit-seekers to use opportunities like COVID-19 to increase profits. They are not required to consider the broader social and economic factors when they do that. That is exactly why the Government has a range of regulations and procedures in place to correct the market at times.

I always find it interesting to listen to the Government talk about the market because, on the one hand, it seems to be touting the free market while, on the other hand, acknowledging the amount of regulation required to keep businesses in check so that we have a workable economy for society. It is up to Government to intervene, to ensure that businesses have regulations in place and that they are not doing things during a crisis that will result in the suffering of everyday people, who are going about their lives. We all saw that during COVID-19. I understand that it took a while for the Government to get on top of it. I hear the immense trust and confidence that the Government has in the Federal Government to deal with this, but the fact is that we had an extraordinary lack of foresight when dealing with the crisis.

The amendment is about giving back the option to act quickly in extraordinary cases, to ensure that price gouging and rapidly increasing prices do not unfairly impact on the most vulnerable people in our society. The Government was caught by surprise in the current crisis, which is understandable, but it does not fill me with confidence that it is now comfortable to not have those options in the future to deal with further circumstances that it is unprepared for. I am concerned by the lack of understanding from Government members about the complex economic system that we live in. The idea that it is all about supply and demand keeps getting trotted out in this place. I find it quite extraordinary that we have not moved on from the 1850s in our understanding of just how complex the economic system that we are currently within is. With all of that in mind, The Greens support the option for the Government in the future to be able to act quickly to protect consumers from rapidly increasing prices during a crisis.

The Hon. ROD ROBERTS (10:54:30): I make a short contribution to the debate. One Nation will not support the amendment. I pride myself on coming from working-class stock and continuing to associate with working-class people. At no stage during the pandemic has anybody ever mentioned to me any issues about price gouging. They talked to me about the lack of jobs, and job security and the economy in general, but at no stage has anybody said that they have been gouged on prices. I heard from the Hon. Scott Farlow the statistics from NSW Fair Trading: There were 170 complaints and only five of them relate to price gouging. I do not believe it is the issue that it is being made out to be. There may well be isolated examples, but there is no monopoly on the supply of any of those products. Consumers have the option to shop elsewhere, the same as I do and, in all honesty, the same as every other member of this Chamber does.

We are faced with options of where we can shop, depending on the price, and we all move around and shop where it is appropriate; I do not think that is much of an issue. Simply because somebody increases the retail price of a good does not mean their profit margin is going up commensurate. A retailer buys a good for a certain price and puts a profit margin on it. If the goods cost him more to purchase because of production cost changes, the wholesale purchase price or increase in supply chain costs, it does not mean he is gouging the end consumer. It simply means his initial costs have gone up as well. In summation, I do not believe the Government should interfere with the setting of prices for goods and services. We have only got to look at communist Russia to see what happens when that is done.

The CHAIR (The Hon. Trevor Khan): The debate could get very wide with a return to the Soviet Union or the like, but it is actually about a set of amendments. I have the feeling this is going to become a cause célèbre. I encourage members to keep their focus on what we are doing here.

The Hon. NATALIE WARD (10:57:15): Thank you, Mr Deputy President. I will abide by your ruling. I was going to refer to the Fabian Society rather than communist Russia—we all have our own angle. Labor's real issue appears to be about the member for Swansea complaining about the prices charged for products sold at corner stores in her electorate. That is what it is really about. The member for Swansea has suggested to the office of the Minister for Better Regulation and Innovation that a key motivation for the amendment is to protect consumers from paying higher prices at smaller retailers, high street shops and convenience stores for items such as sanitiser and face masks. She seems completely unaware that those retailers have that as their business model.

Prices charged at convenience stores and high street shops are always higher compared with a Coles, a Woolworths or an ALDI because they do not have the same wholesale purchasing power. They also do not sell the same volumes as large retailers do. They have higher staff and rent overheads due to the fact that they are open longer hours than other retailers. That means that to be profitable they need to charge more for the same goods compared to the large retailers; that is how retail works. The Minister, to his credit, has done some research into the cost of some of the everyday items in the electorate of Swansea, just to get some facts into the argument to illustrate the point.

The CHAIR (The Hon. Trevor Khan): This is a debate on an amendment; it is not a debate on the member for Swansea. The House knows that I pull up Opposition members all the time for going beyond the remit of the debate. The amendment was moved by the Hon. Adam Searle, not by the member for Swansea. What might have been said in the lower House does not apply here. Otherwise, the debate will get hopelessly out of control. I have made an observation as opposed to a ruling.

The Hon. NATALIE WARD: I return to the facts. For illustration I refer to price comparison research that has been done in the Swansea electorate. Hand sanitiser sells for \$4.95 at the Belmont Caltex and \$7.95 at Darby's corner store down the road, which illustrates the difference between the two retail models—the same good sells for different prices. Disposable face masks sell at those stores for \$2.00 and \$2.45, respectively, while the same masks cost \$1.50 at Chemist Warehouse; again, different venues, different retailers, different prices. White bread sells for \$3.00 at Caltex, \$3.50 at Darby's and \$1.60 at Woolworths. Panadol tablets sell at Caltex for \$7.00, \$8.95 at Darby's and the same packet sells for \$4.00 at Woolworths. Milk costs \$3.50 at Darby's and \$2.50 at Woolworths.

No-one is playing games here. It is a simple fact that retail prices differ according to the business model. As those examples show, corner stores and high-street retailers are not price gouging on masks and sanitiser. For the same reason that those retailers charge more than their larger competitors for essential items such as milk and bread, they have to charge more for all goods. It is basic economics. Every New South Wales consumer knows that if they shop at the corner store or the convenience store, or if they pop up to their local IGA supermarket, it will cost them more; they pay a premium because those stores are open for longer. In its attempt to socialise retail pricing, the New South Wales Labor Party is hell-bent on running small businesses and convenience stores out of business. The Government opposes the motion.

The Hon. DANIEL MOOKHEY (11:01:07): I paid close attention to the contributions of Government members. I did not anticipate having to do this, but I assure the House that the Labor Opposition is quite unlikely any time soon to win the Order of Lenin for moving its amendment. Some 101 years have passed since the Bolsheviks arrived in Russia by train from Germany. I am sure their ambition was not to introduce price gouging legislation on arrival in Moscow; nor is it our ambition to introduce communism by way of price gouging legislation and better trading regulation.

The Hon. Damien Tudehope: Point of order: I refer to the Chair's earlier reminder that members must confine their contributions to the amendment and not give history lessons on communism. Notwithstanding the Hon. Daniel Mookhey's allegiance to that form of political—

The Hon. Adam Searle: To the point of order: The Hon. Damien Tudehope is engaging in personal reflection on the member.

The Hon. DANIEL MOOKHEY: To the point of order—

The CHAIR (The Hon. Trevor Khan): I do not need to hear members further on the point of order. If a member in this place is a socialist, more strength to their arm; they are entitled to be.

The Hon. Damien Tudehope: I am mindful of your earlier observation.

The Hon. Adam Searle: Further to the point of order: At least one Government member suggested that this bill was inspired by a commitment to socialism. The Hon. Daniel Mookhey is entitled to respond to that suggestion.

The Hon. Natalie Ward: So you agree that it is.

The Hon. Adam Searle: No, I do not. I am saying he should be given the opportunity to answer the charge.

The CHAIR (The Hon. Trevor Khan): This is not a time for interjection. I have been asked for a ruling. Frankly I do not understand why, after two extraordinarily late nights, we would enter into some bizarre political debate. The House can sit all night; I will sit in this chair and become increasingly grumpy. We have before us an amendment that is still to be moved. The Hon. Daniel Mookhey has made some introductory remarks. He knows how I treat these things. I am sure he will proceed accordingly. This is not a philosophical debate on economics, if that is the correct terminology. It is about the merits of the proposed amendment. It is not an opportunity to sling mud about members' political affiliations.

The Hon. DANIEL MOOKHEY: I thank the Chair for his wise ruling. I was simply saying that the substance and purpose of the bill and Labor's reasons for introducing it are more inspired by the practices of ordinary working people than they are by any other historic event with which the Government seeks to draw parallels. The Leader of the Opposition explained that eloquently. The Hon. Scott Farlow's reply asked whether

Labor had consulted in the development of the amendments. I put on record our thanks to the Council of Small Business Organisations Australia for its extensive feedback in the development and refinement of the amendments. It made a persuasive case about how small business would see the amendments. It is clear from our dialogue with the council that small business is not troubled by the amendments in any respect. In fact, part of the reason why they are not troubled and part of the reason that they were so persuasive is that they were able to explain the supply chain dynamics that affect retail prices in far more depth and sophistication than members have heard from the Government today.

I note that the Council of Small Business Organisations Australia, like the NSW Farmers Association and many people in the transport industry, look at all industry pricing from the perspective of supply chains. They understand market dynamics and the power asymmetry that often occurs between big business and small business. They understand that small business is often at the mercy of forces and powers of big business that are far superior and that, at times, they need protection. As I have said previously, that is an important perspective because the price gouging amendment that Labor has proposed has been written with a supply chain perspective in mind. It provides the NSW Civil and Administrative Tribunal and others with the ability to direct the order to whomever they consider is creating a price-gouging disruption in the supply chain. To the extent to which Government members wish to characterise that as directed at small business, they are incorrect. They would be wise to read the amendment before the Committee.

The Parliamentary Secretary invited the Opposition to provide further evidence as to why the amendment is necessary and why, following the repeal of the bill a year ago, we are raising the amendment again now. I simply say that in the year since there has been an intervening event—a global pandemic that has led to a public health order that created a great degree of consumer panic in the early part of the year. We acknowledge that some past practices came to an end as a result of consumers recovering their confidence in the quality and depth of Australia's supply chain and many consumers came to understand the resilience of Australian manufacturing. We put on record our sincere views about that resilience. Over the past 20 years Australian manufacturers have had to survive a lot. That did help curb the practice but, as the Leader of the Government said, the whole purpose of having a power like this on the books is not necessarily to use it, but to send a clear message that if the behaviour occurs the power will be used. As is often the case in criminal law and in many other areas of law, we have such laws on the statutory books not necessarily to use them, but to send a very clear message of deterrence: that we can act and we can act quickly.

The Parliamentary Secretary said that such legislation was unnecessary because of existing Commonwealth laws. The Commonwealth laws were not applied during the New South Wales bushfire crisis. That is the inherent reason for Labor's view that the sovereign New South Wales Government should have its own powers to act. It is entirely possible that the State will experience natural disasters that do not affect other States and do not prompt the Commonwealth to act so it is important that New South Wales acts. The Parliamentary Secretary spoke about the Australian Consumer Law, but failed to point out that that is a joint set of laws between New South Wales and the Commonwealth. The State has not ceded to the Commonwealth the power to make consumer laws. New South Wales also has that power. We have a lot of power under the Australian Consumer Law, which requires the State's agreement. At various times the Opposition and the member for Swansea, in particular, have pushed the Government to take a more proactive modernist stand on the Australian Consumer Law. It is becoming out of date because it has not been looked at properly or refined for 15 or 20 years. That is my second point.

As for the technical drafting difficulties that the Parliamentary Secretary pointed out, they are figments of the Government's imagination. It is quite similar to a law that was on the statute books for 70-odd years and did not create any of the problems with which the Parliamentary Secretary seeks to alarm members. In summary, small business needs protection; consumers need protection. To pit the two against each other is a standard tactic that the conservative side of politics has run for at least 110 years. That must end because small business and consumers understand that a proper market design creates a proper balance of power in the market. Currently Australia suffers from excessive concentration of industries. As a result, this type of law is required on the books to send a clear message to anybody who wishes to price gouge that if they do so the New South Wales Government has the power to act.

The Hon. CATHERINE CUSACK (11:09:07): I welcome the debate because the issue of prices was a hot topic during the pandemic. Many people wondered about and feared price gouging, which, as the Parliamentary Secretary has said, did not come to fruition in Australia. We saw some evidence of it occurring overseas but our pandemic experience seemed to be that we were the first to start panic buying. There may have been some businesses over inflating their prices but of all of the problems and fallouts, price gouging did not materialise as one.

I note that during the pandemic the Minister and the Premier put all businesses on notice. I take up the point made by the Hon. Daniel Mookhey, who said that sometimes with legislation the plan is to send a message,

not to use it. That is a legitimate position to take. We have many laws that we hope not to have to use but those laws shape the environment in which businesses make better decisions. I understand that. But that was already done during the pandemic with the approach taken by the Premier and the Minister, whereby complaints could be made to the Office of Fair Trading, which would contact the business to seek an explanation. So people who had those anxieties were given an opportunity and a place where they could be put.

I am not familiar with the statistics or the outcomes of that but I say to the Minister that I am interested in them. The issue of prices being discussed here in 2020 has an echo of the 1970s ringing through. Many of the members discussing price-fixing are perhaps not so familiar with the difficulties of price-fixing, which the Parliamentary Secretary has referred to. We went through decades of economic reform trying to unwind that approach, which contributed to prosperity and productivity in this country. That is why price-fixing is the last path we would want to go down and concern about the potential for price-fixing is legitimate. I put on record one example of a concern I had during the pandemic about price gouging, which related to the smaller degree of competition in regional areas, particularly with fuel prices. That was not singled out so I am not sure how they would be treated under the amendment. During the pandemic we were all confined to our postcodes, so if there was a lack of competition in fuel prices in regional areas it was increased and cemented by people not being able to travel outside of their postcode.

In our region petrol prices were about 25c higher than fuel over the border in Queensland, which we could not access at all. Our fuel comes from Queensland, which is the relevance of that comparison. In some instances the fuel prices were 30c or 40c higher than in Sydney. I accept that we were not doing a lot of driving during the pandemic, which dampened the emotion around the issue, but it is inexplicable as to why our prices were so high. The Government's fuel application shows incredibly clearly that the problem was that people were trapped in their postcodes so competition on fuel prices was dampened. I tried to make a complaint to Fair Trading because it was affecting postcodes all over regional New South Wales but I was unable to register my complaint. I do not know how that part of the complaints process works.

The Hon. Mark Buttigieg: I wonder why we are doing this!

The Hon. CATHERINE CUSACK: I beg your pardon?

The DEPUTY PRESIDENT (The Hon. Trevor Khan): Order! The member will not respond to interjections. She is making a valuable contribution.

The Hon. CATHERINE CUSACK: I am trying to be constructive here and recognise anxiety around prices during the pandemic. The mechanism that is proposed in the amendment and the concept of price-fixing is such that, if we take fuel prices as an example, how do we set a maximum fuel price for the petrol station in Corner Country at Tibooburra versus at Lennox Head—where deliveries come from Queensland—versus Sydney? It is a very complex process and it crosses State borders. Transport is a big factor for many of those goods. While there is flexibility, the whole concept of a commission to go through the chain of supply to calculate reasonable costs and then set schedules for prices does not work. We know from all of our experience that it is not an effective mechanism.

I also comment on how impressed I was at how little price gouging there was. The Hon. Daniel Mookhey referred to excessive market concentration. If there was one example of that it would be our supermarkets, where there was no price gouging. We could still get our cheap milk and the supermarkets offered those products in all of their stores around Australia at the same prices. Yes, it was very profitable for them because their turnover increased massively but that is an example of where there is excessive concentration and price gouging did not occur.

In fact, there was responsible conduct from the supermarkets and also from the airlines. That is the other example where there was major potential for price gouging and how complicated it is to try to have this legislation. Firstly, people complained about the cost of airfares to get back to Australia or to get back home. The airlines are understandably favouring higher class passengers and that is repugnant to how we approach things as Australians. I understand that. But at the same time they are trying to make their flights viable to get the number of passengers coming back within the cap. If a complaint was going to be made about price gouging, I guarantee that the first one that would come through would be about the airlines. I have no idea how we would process that with all of the complex factors in play for them trying to get any plane in the air during the pandemic.

The issue of sovereignty is, ironically, another example of how we cannot make this work across State borders. If someone puts in a complaint about an airline or a service price gouging that is not in New South Wales, we cannot make that work. In fact, all we are doing is making New South Wales unattractive to business in so many ways. It is the single biggest turn-off to economic investment that we could have. The fact that we would even think about going backwards in time to price-fixing is an absolute no-no in 2020. It is great that we are

having the conversation in the upper House because it has been a worthy subject to discuss. But I also hope it reminds us of all the reasons we do not have price-fixing anymore and the dysfunctions it creates in the economy, and the absolute pain and agony of trying to unwind it. I oppose the amendment but thank the House for an interesting debate.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (11:17:43): I make a small contribution to the debate. The amendment is driven by what is perceived to have been an increase in prices because of the supply of personal protective equipment and the like during the pandemic. I draw the attention of the Hon. Adam Searle, who moved the amendment, to the fact that on 30 March 2020 the Federal Minister for Health made a determination under the Biosecurity Act 2015 prohibiting price gouging on essential goods during the COVID-19 pandemic. Price gouging is defined in the determination as:

- (a) the person supplies, or offers to supply, the goods during the COVID-19 human biosecurity emergency period; and
- (b) the person purchased the goods in a retail transaction on or after 30 January 2020; and
- (c) the value of the consideration for which the person supplies, or offers to supply, the goods is more than 120% of the value of the consideration for which the person purchased the goods.

The essential goods covered include disposable face masks, disposable gloves, disposable gowns, goggles, glasses or eye visors as well as alcohol wipes and hand sanitiser. I make the point that the appropriate way to deal with those types of issues as they arise during the pandemic is not by way of a sledgehammer approach to reintroducing price-fixing, but to have regulations or amendments to health provisions to protect the supply and distribution of health equipment. That is the appropriate way for the issue to be dealt with.

The CHAIR (The Hon. Trevor Khan): The Hon. Adam Searle has moved Opposition amendment No. 1 on sheet c2020-122K. The question is that the amendment be agreed to.

The Committee divided.

Ayes18
Noes20
Majority.....2

AYES

Boyd
Buttigieg (teller)
D'Adam (teller)
Donnelly
Faehrmann
Field

Graham
Houssos
Hurst
Jackson
Mookhey
Pearson

Primrose
Searle
Secord
Sharpe
Shoebridge
Veitch

NOES

Ajaka
Amato
Banasiak
Borsak
Cusack
Fang
Farlow

Farraway (teller)
Franklin
Harwin
Latham
Maclaren-Jones (teller)
Mallard
Martin

Mason-Cox
Nile
Roberts
Taylor
Tudehope
Ward

PAIRS

Moriarty

Mitchell

Amendment negatived.

The CHAIR (The Hon. Trevor Khan): We will now move on to Government amendment No. 1 on sheet c2020-132A.

The Hon. SCOTT FARLOW (11:29:29): I move Government amendment No. 1 on sheet c2020-132A:

No. 1 **Termination by impacted tenants**

Page 18, Schedule 7. Insert after line 7—

7.3A Residential Tenancies Act 2010 No 42

Section 228A Definitions

Omit "15 October 2020" from the definition of *moratorium period*.

Insert instead "26 March 2021".

I bring forward a small but important amendment to the bill that will ensure that a key COVID-19 tenancy measure is able to continue. The New South Wales Government has been closely monitoring the status of the COVID-19 pandemic and recognises the ongoing impact it is having on tenants and landlords. In April and May this year the New South Wales Government took the step of introducing measures that have assisted tenants and landlords to work together during the coronavirus pandemic.

Those temporary measures sought to balance the needs of tenants who are financially disadvantaged by COVID-19 and landlords who require rental income to meet their financial obligations. In particular, those measures restricted the evictions of tenants who are in rental arrears due to COVID-19, extended the notice period that landlords must give for certain lease termination reasons to 90 days and allowed tenants who are financially disadvantaged by COVID-19 to apply to terminate a tenancy agreement where a landlord will not negotiate or where it is necessary to avoid financial hardship. The measures have delivered significant assistance and support across the tenancy sector.

Since the measures were introduced in April, over 500,000 people have accessed Fair Trading's website information on the tenancy moratorium, while Fair Trading has received over 5,000 direct inquiries from landlords, tenants and agents about the arrangements. When the Government introduced the above COVID-19 measures, the length and impact of the pandemic was uncertain and the scheduled end date was marked for 15 October 2020. However, we are all aware that the pandemic is ongoing and its impacts continue to be felt across our community. It is for those reasons that the New South Wales Government today announced that it will be extending the existing moratorium provisions until March 2021. The decision will help ensure that the key supports remain in place as tenants and landlords continue to navigate the impacts and complexities of the pandemic in the coming months.

As I mentioned previously, one of the key tenancy measures introduced by the New South Wales Government and passed by this House was to allow for COVID-19 impacted tenants to apply to terminate a fixed tenancy agreement early in situations where a landlord will not negotiate or where it is necessary to avoid financial hardship. The measure is contained in section 228C of the Residential Tenancies Act 2010 and is one element of the temporary COVID-19 part of the Act at part 13. The part itself can be extended by regulation; however, during the process of considering a broader moratorium extension, it was confirmed by Parliamentary Counsel that the operation of section 228C is limited to during the moratorium period only, with that period defined in the Act as the period up until 15 October 2020.

In the early stages of the pandemic this period was considered appropriate. However, members know that we are not yet through the pandemic and therefore we need to make sure that the relevant supports remain in place to continue to provide security to COVID-impacted tenants and landlords. On that basis, we today propose an amendment that will ensure that this important measure is able to be extended. We propose to do that by amending the definition of "moratorium period" from the period ending at the end of 15 October 2020 to the period ending at the end of 26 March 2021. This will ensure all measures are equally extended until the legislature repeal date of part 13, which is 26 March 2021 at the latest.

Today's amendment will ensure that a balanced approach to assisting tenants impacted by COVID-19 can continue by ensuring that tenants in financial hardship due to COVID-19 can seek to end fixed-term agreements that may otherwise be too costly for them to continue, that landlords have access to appropriate compensation for the early ending of the tenancy and that there is greater certainty for all parties about the costs involved in any fixed-term tenancy in the COVID-19 context. Without this amendment COVID-19 impacted tenants who sought to negotiate over their rent after 15 October 2020 would not have the option of seeking to end their tenancy early. This extension, alongside the moratorium measures, demonstrates the New South Wales Government's commitment to supporting tenants and landlords through these unprecedented times. The Government commends the amendment to the House.

The Hon. ADAM SEARLE (11:33:31): The Opposition does not oppose the amendment. We support the amendment largely for the reasons outlined by the Government.

Ms ABIGAIL BOYD (11:33:44): On behalf of The Greens I also support this amendment. The Greens have been pushing very hard for this. Thousands of people have signed our actions calling for an extension and for increased protections for renters in this State. We acknowledge the powerful advocacy and detailed analysis of the NSW Tenants' Union and give a shout-out to housing activists, including some who held a social-distanced and COVID-safe action outside this place during our last sittings. Many of us have been pushing hard to have those protections extended because it is clear that this pandemic is not over. So the measures put in place to ensure

people can remain in their homes during this intense time is crucial. Clearly more actions are needed to assist those who are doing it tough and cannot afford to pay their rent or those who find themselves now with massive rent debts due to loss of work. The Greens are committed to continuing to push for those reforms. That said, this extension is significant to ensure that renters' protections continue and it shows that if the Government wants to act to protect renters' rights it can.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): The Hon. Scott Farlow has moved Government amendment No. 1 on sheet c2020-132A. The question is that the amendment be agreed to.

Amendment agreed to.

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

Motion agreed to.

The Hon. SCOTT FARLOW: I move:

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

Motion agreed to.

Adoption of Report

The Hon. SCOTT FARLOW: On behalf of the Hon. Damien Tudehope: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. SCOTT FARLOW: On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a third time.

Motion agreed to.

Visitors

VISITORS

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I welcome into the President's gallery Mr Samuel Fleming, who has been doing an internship with Mr Borsak. We wish him the best of luck.

Bills

SPORTING VENUES AUTHORITIES AMENDMENT (VENUES NSW) BILL 2020

First Reading

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

The Hon. DON HARWIN: I move:

That standing orders be suspended to allow the passing of the bill through all its remaining stages during the present or any one sitting of the House.

Motion agreed to.

The Hon. DON HARWIN: I move:

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

Motion agreed to.

Business of the House

SUSPENSION OF STANDING AND SESSIONAL ORDERS: CENSURE OF LEADER OF THE GOVERNMENT

The Hon. JOHN GRAHAM (11:38:16): Following the failure of the Leader of the Government as the representative of the Government in this House to table documents according to an order of the House on 16 September 2020 related to Stronger Communities tied grants, I move:

That standing and sessional orders be suspended to allow a motion to be moved forthwith for censure of the Leader of the Government for failure to produce documents in accordance with orders of the House.

We raise this issue and bring it before this House in relation to the Stronger Communities funds, in particular the fund with the amended guidelines between 27 June 2018 and 1 March 2019. We have real concerns about this fund. One concern is that 95 per cent of the fund went to Coalition electorates. Another concern is that it was a tale of two cities. Some councils knew about the fund and were shepherded through the process, while other councils were not told about the fund at all. Labor seeks to deal with the issue now to censure the Leader of the Government because of the importance of the fund. The fund is 2½ times bigger than the Federal fund that was administered by Bridget McKenzie, so the Opposition has real concerns. There were no conflict of interest declarations for the fund and there is a denial that there is even an application process for the fund. Labor believes there has been an attempted cover-up to protect the Premier. At the heart of Labor's concerns, and the matter that should be considered by the House, is the call for the signed written approval briefs for the grants.

Someone approves the grants and someone decides how much money there is. On Monday at the New South Wales grants inquiry, committee members learned that that person is the Premier. It is also the Deputy Premier and the Minister for Local Government in other cases, but in the majority of cases and for the majority of funds that are allocated it is the Premier. Every grant program has to have a decision-maker and every grant program should have a decision. There should be a signed written brief with the Premier's signature on it that spells out the decision on which councils the money will flow to and how much they will receive. Instead, advice was received from the Department of Premier and Cabinet [DPC] stating that it does not believe it can provide the brief. The DPC pointed committee members to the funding agreements and financial approvals from the Office of Local Government. Those are not the documents the House seeks, because those are not the documents where the decision-maker made the decision. The decision-maker is the Premier.

Labor says the document must exist and there must be a brief that was signed by the Premier, or by other Ministers when they are the decision-maker. If the Government wishes to allocate the funds wherever it chooses, and it chose to allocate 95 per cent of the funds to Coalition electorates, then members must turn up and present those signed pieces of paper. Instead, the DPC has tried to avoid that disclosure. I look forward to the statement from the Government that will be made shortly. The Opposition argues that a message needs to be sent to the DPC, through the Leader of the Government and through the motion, that those Ministers have obligations to provide that information to the House. The answer that was returned to the House in correspondence last night was quite shocking. It indicated that the DPC did not write to all the Ministers who were named in the order asking for those certifications and any documents held. The Opposition seeks to debate that assertion.

The House has asked for those documents. The DPC has written back and simply said that it did not ask the Ministers involved. The House has asked if those Ministers held the documents and the DPC has said that in the end it did not write to them. That is not good enough; that is an offence to the House. Labor seeks to debate that, which is why I have moved the censure motion. I call on the Government to come clean. I call on the Government to make it clear. The Opposition does not understand why \$250 million of public money can be allocated in this way. There are serious questions and, up until this point, the answer from the Government has been that there is no paperwork, there is no brief and there is no approval. That has been a naked attempt to protect the Premier and to shield her from responsibility for the fund. She allocated the majority of the funds. There must be paperwork. I look forward to the explanation from the Government.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (11:43:33): In response to the motion to suspend standing and sessional orders, rather than the substantive censure motion, the Government argues there is no need to suspend standing and sessional orders to deal with the issue. The documents will be supplied by the Government, so there is no need for the debate. In answer to some of the issues that have been raised by the Hon. John Graham, the Government respects the authority of the House to call for and to compel Government Ministers and agencies to produce documents. The Government acknowledges that it has an obligation to comply with those orders, despite the significant resource and cost burden that is often imposed as a result. I have been at pains to explain to members of the House the amount of time that is spent by the public servants who serve the people of this State complying with the voluminous calls for papers under Standing Order 52, rather than for other purposes.

In relation to the censure motion, I will make a few observations around the nature of the documents that have been sought. The New South Wales Court of Appeal has determined that the power of the House to compel the production of documents does not extend to Cabinet information. Accordingly, even if otherwise covered by the terms of an order, Cabinet documents are neither identified nor produced in response to an order. The Government, like successive governments before it, recognises and respects the importance of Cabinet confidentiality to the system of responsible government. The member alluded to the further order for papers on 16 September 2020, which stated:

- (a) the signed written brief approving successful applications which received funding in the tied grant round of the Stronger Communities Fund;
- (b) the signed written brief approving the guidelines for the tied grant round of the Stronger Communities Fund; and
- (c) any other legal advice regarding the scope or validity of this order of the House created as a result of this order of the House.

Paragraph (c) is a common provision that is included in those motions. On 18 September 2020 the Department of Premier and Cabinet provided a certification letter from the Secretary of the Department of Planning, Industry and Environment, which was relied upon by the Leader of the Government in relation to the order for the production of documents. It stated:

I confirm that all documents legally required to be provided to, and falling within the scope of the order, were provided to the House in response to the original order for Papers.

On 23 September 2020 the Clerk of the Parliaments asked the Department of Premier and Cabinet to provide further explanation. The department provided a further explanation from the Department of Planning, Industry and Environment, stating that all documents recording the Minister's approval of the grants had been provided. The explanation was as follows:

All documents held by the Office of Local Government and the Department of Planning, Industry and Environment, including the written and signed briefs approving the expenditure of funds, have been provided to the House. Each briefing note in relation to expenditure attaches an email confirming the ministerial approval relevant to the payment of that grant.

The signed written brief approving the guidelines for the tied grant round of the Stronger Communities Fund reference previous decisions of Cabinet, and also contain recommendations for the Minister to bring certain matters to the Cabinet Committee for endorsement. Accordingly, they are Cabinet documents and the House does not have the power to compel them. However, it is well established that the Premier, as the Chair of Cabinet, may voluntarily decide to release Cabinet information that is in the public interest. The Government will uphold the longstanding convention that Cabinet information will not be produced or referred to in responding to a motion brought under Standing Order 52. However, the Government assesses the need for voluntary disclosure of Cabinet information on a case-by-case basis. I advise the House that in this case the Government will voluntarily provide the documents that are sought to the Clerk of the Legislative Council by 5.00 p.m. on Friday 25 September 2020.

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

The House divided.

[In division]

The PRESIDENT: There are too many members in the Opposition public gallery. It is my understanding that there should be a maximum of five people whereas there are seven. There are two people too many.

Ayes21
Noes18
Majority.....3

AYES

Banasiak	Field	Pearson
Borsak	Graham	Primrose
Boyd	Houssos	Searle
Buttigieg (teller)	Hurst	Secord
D'Adam (teller)	Jackson	Sharpe
Donnelly	Mookhey	Shoebridge
Faehrmann	Moriarty	Veitch

NOES

Amato	Harwin	Mitchell
Cusack	Khan	Nile
Fang	Maclaren-Jones (teller)	Roberts
Farlow	Mallard	Taylor
Farraway (teller)	Martin	Tudehope
Franklin	Mason-Cox	Ward

Motion agreed to.

*Visitors***VISITORS**

The PRESIDENT: I take this opportunity to welcome to the President's gallery five representatives of School Strike 4 Climate, who are students and the guests of Mr David Shoebridge. On behalf of all members, I welcome them to the Chamber.

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

*Questions Without Notice***COVID-19 AND WOMEN'S MENTAL HEALTH**

The Hon. ADAM SEARLE (12:00:20): My question without notice is directed to the Minister for Mental Health, Regional Youth and Women. Given secondary research conducted by CARE Australia found women are almost three times more likely than men to report rising stress, anxiety and other mental health issues as a result of COVID-19, what is the Government doing to respond to this?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:00:51): I thank the honourable member for his question. He refers to the recent global survey of more than 10,000 people in 38 countries, which did suggest that the COVID-19 pandemic had disrupted the lives of women significantly more than men's lives. CARE Australia surveyed 6,200 women and 4,000 men in developing countries, so not in Australia—

The Hon. Walt Secord: Secondary research from Australia.

The PRESIDENT: That is one interjection; it is not a call to order, but I am counting them. The Minister has the call.

The Hon. BRONNIE TAYLOR: The survey focused on women outside Australia in developing countries. We know women have been disproportionately affected by COVID-19 and it has exacerbated existing gender disparities. Understanding how men and women are impacted differently is key to our social and economic recovery. As I said, the survey focused on women outside Australia.

The Hon. Walt Secord: Point of order: Just to assist the Minister, we are all familiar with this survey, which involves secondary research involving Australia and the United States.

The PRESIDENT: I will read the question and then I will hear the Leader of the House.

The Hon. Damien Tudehope: To the point of order: That is not a point of order. In getting to his feet to assist the Minister with the answer, the member is disrupting the Minister's flow regarding her answer. It is also disorderly. If a member wishes to take a point of order in relation to a response, they should do so in a proper way.

The PRESIDENT: The question says "Given secondary research conducted by CARE Australia found women are almost three times more likely than men to report rising stress, anxiety and other mental health issues as a result of COVID-19, what is the Government doing to respond to this?" Clearly the Minister was being directly relevant to the question and is in order. If the Hon. Walt Secord wants to take a point of order he should indicate the basis for the point of order and not make a debating speech. The Minister has the call.

The Hon. BRONNIE TAYLOR: The main focus of the research is women in developing countries outside Australia.

The Hon. Penny Sharpe: Are you saying that women in Australia do not have a problem?

The Hon. BRONNIE TAYLOR: Point of order: I am attempting to answer a question. The Opposition is constantly interjecting. If the Opposition asks a question, I would think it would be keen for the answer and I would be allowed to respond.

The PRESIDENT: I uphold the point of order. I remind the Hon. Penny Sharpe it is far more difficult for a Minister to answer a question when interjections are coming directly from the table. It is as if the member is entering into a direct conversation with the Minister while she is giving her answer. The Minister has the call.

The Hon. BRONNIE TAYLOR: I have acknowledged that women in Australia have been disproportionately impacted by COVID-19. The question refers to a global survey of more than 10,000 people in 38 countries where the focus was on women in developing countries outside Australia. I have told this House many times what the Government is doing for women impacted by the COVID-19 pandemic. Both Federal and

State governments are investing money to safeguard jobs because we know if we can keep women in employment—if we can keep everyone in employment—our recovery will be faster.

The National Cabinet has successfully allowed everyone to work together looking at the evolving crisis in terms of job losses across Australia. New South Wales has been at the table throughout. The Premier has been working very hard. Last week data suggested we are doing a good job with employment and that is a good thing. The Government is looking to create jobs. It has increased funding around domestic violence where the Government has highlighted issues—*[Time expired.]*

COVID-19 AND PUBLIC LIBRARIES

The Hon. LOU AMATO (12:06:31): My question without notice is addressed to the Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. Will the Minister update the House on how the New South Wales Government is supporting the work of public libraries during COVID-19?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:06:51): I can tell the House that 2020-2021 is the second year of the record \$60 million increase provided to our State's public libraries over a four-year period. This is in recognition of the vital role public libraries play in our communities across the State. Total funding increases to \$37.5 million this financial year and the State Library of New South Wales has already invited councils to apply for their annual subsidies. Every council will receive its highest ever library subsidy payment this year, with two more years of increases locked in.

On 1 September I had the pleasure of opening the new Granville Centre, which has been jointly funded by Cumberland City Council and the New South Wales Government, including a \$250,000 Public Library Infrastructure Grant. I was joined by my colleague the Hon. Natalie Ward; the member for Granville also attended. Cumberland City Council is also receiving \$675,000 in public library subsidies this year—a funding increase of more than 21 per cent over the past two years. I acknowledge the constructive and innovative ways in which the State Library of New South Wales and local public libraries have responded to COVID-19 to help keep New South Wales residents stimulated and connected during the isolation period.

The State Library of New South Wales launched the Your Library at Home and Learning at Home online webpages to keep New South Wales residents entertained and engaged. Following the 23 March 2020 shutdown, public libraries quickly transitioned to an online environment by adapting traditional face-to-face programs, like story time and book clubs, and by increasing their online and ebook offerings. The State Library of New South Wales surveyed public libraries throughout the pandemic to monitor trends and offer assistance. The survey showed that prior to the pandemic only 12 per cent of New South Wales public libraries had ever conducted an online public program. By 1 July 2020, 85 per cent of libraries had done so, showing the great capacity of our libraries to adapt. Libraries have also worked with the State Library of NSW and NSW Health to develop a practical COVID-19 safety plan, which has enabled library buildings to reopen safely and continue to provide their vital services to local communities.

REGIONAL DIGITAL CONNECTIVITY PACKAGE

The Hon. PENNY SHARPE (12:09:54): My question without notice is directed to the Deputy Leader of the Government and Minister for Education and Early Childhood Learning, representing the acting Deputy Premier. How does the Federal Government's announcement yesterday about changes to the National Broadband Network impact on the Government's promised \$400 million regional digital connectivity package?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:10:18): I thank the Deputy Leader of the Opposition for her question to me, representing the acting Deputy Premier, as it relates to regional telecommunications. I do not have the specific details of what she has asked with me in the House, but I am very happy to take the question on notice and come back with an answer.

DEPARTMENT OF EDUCATION

The Hon. MARK LATHAM (12:10:40): My question is directed to the Minister for Education and Early Childhood Learning. In the recent restructure of the Department of Education where senior staff had to reapply for their own jobs, why were two staff members—one in the Centre for Education Statistics and Evaluation and the other a literacy director—sacked after they consistently opposed the failed L3 literacy program, which was finally axed by the Government last week after a five-year delay? Why have those two departmental officers who were right about L3 been removed while those who supported the failed program have kept their jobs?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:11:16): I thank the member for his question. Obviously it is a question containing a fair bit of detail and some allegations

or comments around what has happened in the department and the reasons why. As the member would know, they are responsibilities that are not in my purview as the Minister. That is for the department secretary. I will take the question on notice, get some detail around the staff members he referred to and come back with an answer.

The Hon. MARK LATHAM (12:11:52): I ask a supplementary question. I ask the Minister to elaborate on her statement that she is not responsible for staffing in the department. What briefings has the Minister had from the department head about the restructure of the senior staff, which goes to the heart of education performance in New South Wales?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:12:10): I thank the member for his question. As he would expect, I meet and speak with the secretary on a regular basis. I have certainly been given advice around the work that the department is doing in terms of the restructure that the secretary is undertaking. The specifics of the two staff members that the member raised in his question are not something that I have discussed with the secretary. That is why I have taken the question on notice and I will come back with a response.

PUBLIC EDUCATION FOUNDATION NSW MINISTER'S AND SECRETARY'S AWARDS FOR EXCELLENCE

The Hon. TAYLOR MARTIN (12:12:45): My question is addressed to the Minister for Education and Early Childhood Learning. Will the Minister update the House on the Public Education Foundation Minister's and Secretary's Awards for Excellence?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:12:58): I thank the Hon. Taylor Martin for his question. Like me and all members in the House, he is a great supporter of public education in New South Wales. It gives me great pleasure to update the House on the fantastic work being undertaken by the Public Education Foundation and its annual NSW Minister's and Secretary's Awards for Excellence. The awards highlight the amazing contribution that students, teachers, support staff, principals and the school community make to public education in New South Wales as we strive for learning and teaching excellence. One of the Public Education Foundation's primary roles is to celebrate the best of public schooling. The Minister's and Secretary's Awards are a fantastic opportunity to highlight the outstanding work that is happening across our education system.

Especially given the challenges of this year, it is more important than ever to acknowledge the hard work and dedication of teachers and schools across this great State. Awards will be given to more than 130 individuals and schools that have made major contributions to their education communities and serve as role models to their peers. I praise and acknowledge the schools that have embraced innovative programs to improve student wellbeing and academic results. They continue to change the way education is delivered with the government system as we strive to be the best education system in Australia. Unfortunately this year will be the first time that the award ceremony run by the Public Education Foundation will not be held. That is disappointing because I know many members in this House and in the other place enjoy attending those awards, as I have in the past. However, the Public Education Foundation is working closely with the Department of Education to ensure that we are recognising our winners locally in their school environments.

I have recorded a special message that will be played at each recipient's local award ceremony alongside a message from the secretary of the Department of Education. We are making sure our school communities know that we recognise their amazing contributions. I would particularly like to call out some of the award winners from regional areas in the Secretary's Award for an Outstanding School Initiative category. The category acknowledges schools that have embraced innovative programs to improve student wellbeing and academic results. In the Hunter region a group of six primary schools have come together to work on an early years intervention project called Strong Start, Successful Learners. The transition program assists early childhood centres to better understand the transition to school process.

Working in partnership with the transition support teacher in one of the six schools, strong connections are made between the partner primary school and the local service providers. That successfully results in bridging the gap from pre-kindergarten to kindergarten, allowing all children to get the best start to their education. Cowra High School implemented a new learning hub initiative, which is a digital space where students feel a sense of belonging to the school community. Trundle Central School developed a community drought relief program that enabled students to create an emotional oasis for themselves and let their parents know that they are all in this together. Those are just a couple of examples; there are many more. I once again congratulate all of the award recipients. I am sure I send the best wishes of all members of the House. [*Time expired.*]

COVID-19 AND HOSPITALS

Reverend the Hon. FRED NILE (12:16:06): My question without notice is directed to the Minister for Mental Health, Regional Youth and Women, representing the Minister for Health and Medical Research. I refer to Minister Hazzard's correspondence to me, dated 16 September 2020. I seek leave to incorporate in *Hansard* the Minister's signed response.

The Hon. Walt Secord: We should know the subject matter first. What's the subject matter?

The PRESIDENT: Yes, that is fair. It is customary for a member to circulate a document that they wish to have incorporated so that members have a fair opportunity to grant leave or not. I take it that the Hon. Walt Secord is not granting leave. I ask the member to read his question. He can provide the documents to the Minister to assist her, if he so desires.

Reverend the Hon. FRED NILE: I will distribute it to the members. Concluding my question, I refer to Minister Hazzard's correspondence to me, dated 16 September 2020, enclosing his response to my question relating to hospital procedures during the ongoing pandemic. An individual who had dangerous appendicitis was forced to wait while another patient with a runny nose was allowed to skip the emergency queue. Given that a formal complaint has now been lodged with the hospital, will the Minister follow up and monitor the outcome of the complaint to ensure—[*Time expired.*]

The PRESIDENT: The Minister can take any part of that question or take it on notice. It is a matter for her.

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:18:04): I thank the member for his question that referred to the Minister for Health and Medical Research, the Hon. Brad Hazzard, who resides in the other place and who I represent in this place. As the question contained quite a bit of detail and referred to a letter that I have not seen, I am unable to talk to the specifics of it. I would like to say that during this time our hospital system has done an incredible job. With big institutions and facilities it is sometimes very difficult to pivot, but they have pivoted so well. They have done an amazing job.

They have looked at complete wards that they have had to facilitate to deal with any potential COVID cases. They have had to prioritise positive pressure rooms and look at facilities within hospitals to make sure that they are able to respond very quickly and adequately. I saw that firsthand in my hometown of Cooma in southern New South Wales. At the height of the pandemic my father-in-law, who is in his eighties, became extremely unwell and required emergency surgery. That was done precisely and went very well. He has had the most incredible outcome. He had to move between health facilities during the height of COVID. However, he received fantastic care.

As a result of all the measures of which I am aware, all necessary emergency surgeries have taken place. Our health system has performed to the highest standard. Obviously the triage of patients in emergency departments is managed by experts who assess patients and their needs and prioritise them accordingly. We should be proud of the manner in which our hospitals have responded. Incredibly, the New South Wales health system now has close to 1,000 ventilators. Trained people operate those ventilators to ensure the best possible health outcomes for the people of New South Wales. I thank the honourable member for providing me with a copy of the question. As the question refers to a specific incident at a specific hospital, I will take it on notice and provide the member with a response at the earliest convenience.

NSW SMALL BUSINESS COMMISSION

The Hon. DANIEL MOOKHEY (12:21:06): My question is directed to the Minister for Finance and Small Business. Yesterday the Minister said that he increased by \$10 million funding to the office of the NSW Small Business Commission for mediation of commercial tenancy disputes. Is that new and additional funding or is the Minister recycling and rebadging the announcement he made on 13 April 2020?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:21:38): An important component of the Government's response to the pandemic has been regulation of retail and commercial leases. As a component of that regulation the office of the NSW Small Business Commission has increased its mediation services. We are encouraging tenants or landlords who are having difficulty resolving issues to take the opportunity of having those issues negotiated by the mediators at the NSW Small Business Commission. I advise the House that the announcement of \$10 million of funding through the Working for NSW fund has delivered 26 additional advisors to the NSW Small Business Commission.

From 13 April 2020 to 12 September 2020 some 1,400 mediation applications were received. Of those applications 25 per cent settled prior to any formal mediation, 41 per cent settled on the day of mediation, 18 per cent went back to private negotiations following mediation and 11 per cent did not settle before the day of

mediation. Only 4 per cent of cases required a certificate stating that mediation had failed to settle the dispute. The Government makes no apology for funding those mediation services. Mediation is an important component of the Government's adherence to the national leasing code. Yesterday's important announcement was the extension of the national code until 31 December. Members should acknowledge that the government is responding to— [*Time expired.*]

The Hon. DANIEL MOOKHEY (12:24:43): I ask a supplementary question. Will the Minister elucidate that part of his answer referring to the statistics of the achievements that resulted from the \$10 million? Why did the Minister try to pass that money off as new funding yesterday?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:25:02): I thank the Hon. Daniel Mookhey for his question. The premise of his question is flawed, which is typical of the way the member uses information that he receives. The way that we get material is that we—

The Hon. Daniel Mookhey: Point of order: I appreciate being gaslit by the Minister in question time. However, I would prefer that he answered my question.

The PRESIDENT: What is the member's point of order?

The Hon. Daniel Mookhey: The Minister is not being directly relevant to my question: Why did the Minister try to pass off the \$10 million as new funding yesterday?

The PRESIDENT: The Minister was debating the question rather than being directly relevant to it. I ask the Minister to be directly relevant.

The Hon. DAMIEN TUDEHOPE: I acknowledge the point of order. Yesterday's announcement was about the extension of the period for the Government's adherence to the national code. It was due to expire on 25 October. Yesterday the Government affirmed its commitment to the continued existence of, and funding for, mediators as an important component of the code. If the member does not understand that that is a component of the national code, then he is trying to construe that yesterday's announcement was not about the extension of the code. The member should welcome the announcement and acknowledge that the Government is looking after retail and commercial tenants. He should acknowledge the Government's important contribution and not downplay its commitment. Mediation is an important component. The Government has funded it and will continue to fund it because that funding is an important part of the success of the program.

The Hon. WALT SECORD (12:27:00): I ask a supplementary question. Will the Minister elucidate his answer about extending the code? Will the Minister confirm that New South Wales was the last State to do so and that it was only done after stakeholders pointed that out?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:27:14): I am happy to do that. I thought a Government member would ask that question.

The Hon. Adam Searle: It's hard to get good help these days.

The Hon. DAMIEN TUDEHOPE: It is hard to get good help, but in many respects—

The PRESIDENT: Order! Government members cannot ask second supplementary questions.

The Hon. DAMIEN TUDEHOPE: I thank the Hon. Walt Secord for the question. By asking that question the shadow Treasurer highlights how well this State has done in its recovery response. The State's economic recovery is well advanced because of the way the Government has handled the health crisis. I ask members: How many cases of community transmission of COVID-19 were reported today?

[*A Government member interjected.*]

The Hon. DAMIEN TUDEHOPE: Zero!

The Hon. Penny Sharpe: There was one.

The Hon. DAMIEN TUDEHOPE: One in quarantine.

The Hon. Daniel Mookhey: Point of order: I was listening closely to the Minister's answer. He was directly relevant to the question for about five seconds of his answer. I ask that the Minister be directed to be directly relevant to the question, which was about why New South Wales was the last State to extend the code.

The PRESIDENT: Unfortunately I cannot give the Minister a direction because all I heard was the first five seconds of his answer, after which I could no longer hear the Minister due to the large number of loud interjections. I accept the Hon. Daniel Mookhey's comment, as I am required to do. However, when Opposition members interject continually, that is the result.

The Hon. DAMIEN TUDEHOPE: Why would we be the last State to do it? Compare us with Victoria, which cannot do it quick enough because it has destroyed its economy and had an inadequate response to the health crisis. In New South Wales we have done what other States wish they had done.

The PRESIDENT: I call the Hon. Walt Secord to order for the first time.

The Hon. DAMIEN TUDEHOPE: The Prime Minister correctly identifies the New South Wales response as the gold standard. It is not only the gold standard in Australia, but probably in the whole world in the way we have responded. Putting the code in place now and extending it until 31 December is an important acknowledgement that we are still within the grip of the pandemic, that we are handling it better than anyone else, and that we are emerging economically in a way that should be the envy of Australia.

WOMEN IN LOCAL GOVERNMENT

The Hon. SAM FARRAWAY (12:30:33): My question is addressed to—

The PRESIDENT: The Clerk will stop the clock. The member will resume his seat. It would be nice if I could hear the question without discussions and interjections taking place. The member was not even in the first eight seconds of his question and it took him four seconds to walk to the dispatch box. The member has the call.

The Hon. SAM FARRAWAY: My question is addressed to the Minister for Mental Health, Regional Youth and Women. Will the Minister update the House on what the New South Wales Government is doing to encourage more women to run for council at next year's local government elections?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:31:33): I thank the honourable member for his question. The Government is committed to increasing female participation in our local government sector. Women represent less than one-third of the State's 1,300 councillors serving on our 128 local councils. Strong effective councils reflect the diverse communities they serve and represent, which is why we must do all we can to increase female representation. As a former councillor and former deputy mayor, this issue is important to me. But it is not all bad news. The 2016-2017 council elections saw the highest percentage of female mayors on record, with 28 per cent female compared to the previous high of 23 per cent in 2008. In 2012 just 19 per cent of mayors were female. Likewise, after the 2016-2017 elections, 31 per cent of councillors were female, up from 28 per cent in 2012 and 27 per cent in 2008.

Last week the Minister for Local Government, Shelley Hancock—a terrific woman and former local councillor—and I announced a promotional campaign to inspire and encourage more women to stand for their community and run for their local council in the September 2021 elections. The campaign features a series of inspiring videos with 10 former and current female councillors, including Lucy Turnbull, Clover Moore, Linda Scott and Marianne Saliba speaking about their positive experiences in local government and their proudest achievements for their local community. Women from metropolitan, regional and rural councils spoke about how they overcame real-life challenges such as balancing family and work commitments. I am also pleased to say that Minister Hancock and I have secured \$100,000 for a series of online webinars and face-to-face workshops for potential female candidates across the State.

The Government is partnering with Women for Election Australia to run those workshops and the training will help address the barriers women face when they run for office. The Government is committed to publicly recognising the achievements of dedicated women already working and serving in our local government sector. I was honoured to celebrate the accomplishments of some of these inspirational women as part of the thirteenth annual Ministers' Awards for Women in Local Government. I am thrilled to say that this year we received the highest number of nominations in the history of the awards. That is a great thing. For the first time this year the awards included a special Minister for Local Government Award for Women, which was awarded to Cobar Mayor Lillian Brady. Lillian is the longest-serving female mayor in New South Wales and an amazing community advocate. I look forward to seeing more women leading the way to a rewarding career in local government in the future. I encourage all members in this Chamber to find some great women to nominate. Let's get this done.

AVIAN INFLUENZA

The Hon. MARK PEARSON (12:34:37): My question is directed to the Minister for Mental Health, Regional Youth and Women, representing the Minister for Agriculture and Western New South Wales. A strain of H7N7 avian influenza was detected among poultry at a Victorian egg farm. The H7N7 strain is capable of spreading from birds to humans and between humans, mostly between close contacts of workers who have been infected by sick birds. Is the Minister concerned that we may see an outbreak in New South Wales, and what preventative action has his department taken to stop the spread of this zoonotic disease?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:35:29): I thank the member for his question, which was directed to Minister Marshall, whom I represent in this place. The question contained quite a bit of detail on the H—

The Hon. Mick Veitch: H7N7.

The Hon. BRONNIE TAYLOR: I thank the Hon. Mick Veitch. As it contains quite a bit of detail I will take it on notice and provide a response to the member as soon as possible.

WILLOW GROVE HERITAGE BUILDING

The Hon. ROSE JACKSON (12:36:13): My question without notice is directed to the Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. What is the current status of the airspace rights over the heritage-listed Willow Grove at Parramatta?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:36:34): I thank the honourable member for her question. I am aware there are airspace rights attached to Sydney CBD properties, but I am not sure that Parramatta has the same scheme. In any case, the City of Sydney's scheme is limited to the reimbursement of heritage conservation works, as I understand it, just on State heritage-listed properties, not other properties. As the honourable member is probably aware, Willow Grove is not a State heritage-listed property. I will check whether the City of Parramatta Council has the same scheme. I am pretty sure that it does not but I will probably be able to provide an answer to her by the end of question time.

As the honourable member has been sitting on the committee that is looking at the Government's proposals in relation to the State Records Act, the future of Sydney Living Museums and the State Archives and Records Authority, she would know that heritage floor space enabled the Historic Houses Trust to do the entire Hyde Park Barracks restoration and reinterpretation, which is highly successful. It is a good program and I am in discussions with the City of Sydney about that program and how we can extend it. I would like to see schemes such as that in place elsewhere. I understand a program is being coordinated by my colleague Minister Pavey in parts of the Department of Primary Industry looking at a strategy of statewide applicability. Therefore, any particular move to other areas awaits that strategy. I hope that assists the member in understanding the situation better. I will confirm whether or not there is a scheme in Parramatta, but I am pretty certain that there is not.

COVID-19 AND TOURISM

The Hon. MATTHEW MASON-COX (12:39:35): My question is addressed to the Minister for Finance and Small Business. How is the New South Wales Government helping tourism businesses contribute to the COVID-19 economic recovery?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:39:57): Our tourism industry in New South Wales has done it tough this year. Drought, bushfires and now a global health pandemic have forced customers to stay away. The Government has offered support for businesses impacted by COVID-19, but one of the great ways we can all support them is through the tourism industry. With the school holidays beginning, now is the time to plan a getaway somewhere in this great State. The best way to do so is to get online and use the new Love NSW map to plan a Sydney staycation or a regional road trip. People can also watch an inspiring video series that features tourism industry champions sharing their stories and ideas for the perfect holiday in New South Wales. I will give some examples. Destination NSW has worked with 49 local tourism champions to spread the word. Sydney-based stories include James Christopher from Brix Distillers, a craft rum distiller, who will introduce you to the love of rum, which was once the unofficial currency of New South Wales when it was a colony, and Auntie Margaret from The Rocks Aboriginal Dreaming Tour, who will immerse you in the dreamtime culture of saltwater and sunshine alongside Sydney Harbour.

Importantly, there are local stories promoting regional experiences, including The Illawarra Fly Treetop Adventures. I am sure some members would like to join me on that. It features an epic zip-line and I am told it is not for the faint-hearted. Another is the Wajaana Yaam Adventure Tours on the Coffs Coast where, as members can imagine, I would be an eager participant in Clark Webb's stand-up paddleboard trek, tasting seasonal bush foods, snorkelling and hearing dreamtime stories. After all the physical exertion, I would be torn between a refreshing brew at Uralla's New England Brewing Company, a tasting at Borambola Wines near Gundagai or even a feed at the Pig & Tinder Box in Tamworth. Behind every tourist attraction in Sydney and New South Wales is a small business, whether it be a tour operator, brewer, distiller, accommodation provider, chef or winemaker with passion and ingenuity. An important part of our economic recovery will be to visit Bowral and not Bali as we move forward and recover from this crisis.

ROADSIDE DRUG TESTING

The Hon. ROD ROBERTS (12:43:00): My question without notice is directed to the Minister for Finance and Small Business, representing the Minister for Police and Emergency Services. During the last financial year, approximately 4.6 million roadside alcohol tests were conducted, compared with only 170,000 roadside drug tests. Drug testing equates to only 3.7 per cent of all the overall testing. However, 7.2 per cent—or one in 14—of all roadside drug tests resulted in a positive return. In 2019, 25 per cent of all fatalities on New South Wales roads involved drug driving. Will the Minister commit to increasing roadside drug testing? Will he commit to expanding testing to include opioid-based drugs such as heroin and other prohibited drugs that are not currently tested for? Will the Minister expand the testing regime to include prescription drugs from the benzodiazepine family, which impede a driver's ability to control a motor vehicle?

The PRESIDENT: Order! I remind the Hon. Rose Jackson that I did not allow anyone to interject when she asked her question earlier.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:44:21): This is a serious question. Drug testing is an evolving testing procedure. The manner in which it is administered and reliable results are collected is still evolving. However, the Hon. Rod Roberts does raise an important question. I make this observation: Every member in this place will be aware of the motor vehicle incident that involved the tragic deaths of three children at Oatlands in which the three Abdallah children lost their lives as did the child of another family. There are certainly circumstances that have arisen from that case. As I understand it, the driver of the motor vehicle was affected not only by alcohol but also by drugs, and he was also speeding. If nothing else, that tragedy should alert every member of this place and the other place to the importance of making sure that we have an adequate response to the way that people use motor vehicles and whether they are absolutely in control of that motor vehicle when they are using it. If it gives rise to a circumstance like that, we have to have an adequate response that deals with it.

To the extent that we need proper and better drug testing arising from that event and possible additional penalties, those are matters not so much for the Minister for Police and Emergency Services but for the Minister for Transport and Roads. In many respects that is where a coordinated response between police and transport—and for that matter the Attorney General—is needed, developing a proper response to those sorts of incidents, but also the rising prevalence of potentially drug-affected drivers on our roads. I know there are those in this Chamber who do not like drug testing. It seems to be that, for some people, being affected by drugs is not an issue. This side of the House and, I am sure, most of my colleagues on the other side would have no tolerance for people driving a motor vehicle while affected by drugs.

Mr David Shoebridge: That is the point: "affected". The tests are for presence, not "affected".

The Hon. Rose Jackson: "Affected"!

The PRESIDENT: I call the Hon. Rose Jackson to order for the first time. That was her third interjection. I give Mr David Shoebridge a final warning.

YOUNG COUNTRY UNIVERSITIES CENTRE

The Hon. MICK VEITCH (12:47:45): My question without notice is directed to the Deputy Leader of the Government, and the Minister for Education and Early Childhood Learning. Regarding the Country Universities Centre [CUC] in Young High School, the Minister said in *Hansard* on 17 September:

Hilltops Council ... consulted with the CUC for a potential space at the facility.

If the council were advocating on behalf of the community, how is it then possible that the Minister's department was unaware of the council proposal to place a CUC in Young High School when it was working in collaboration with the council?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:48:19): My recollection is that, given the answer was related to CUCs, it falls under the purview of the Minister for Skills and Tertiary Education, Geoff Lee. I think I provided those answers after getting advice from him and the department. I do not have responsibility for the CUC area. I will take the question on notice and come back with an answer, because I need to seek some guidance from Minister Lee.

VOLUNTEER-RUN MUSEUMS

The Hon. TAYLOR MARTIN (12:48:53): My question is addressed to the Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. Will the Minister update the House on how the New South Wales Government is supporting volunteer-run museums across the State?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:49:04): I thank the member for his question. We are extremely proud of the support that we are giving to the marvellous work of the State's volunteer-run museums in preserving our rich and diverse history. That is incredibly important for future generations and of great concern to many of those who give a considerable amount of time to their preservation. In 2019-20 six museums were awarded over \$418,000 in competitive funding rounds from the Arts and Cultural Funding Program to support their activities in 2020, plus Armidale and Region Aboriginal Cultural Centre and Keeping Place was awarded \$60,000 to support its delivery of exhibitions and local Aboriginal gatherings and workshops.

Volunteer-run museums are a critical and absolutely important component of the whole sector. Primarily supported by local councils to conserve and display local collections and family history records, the New South Wales Government provides ongoing funding to Museums & Galleries of NSW to provide expert advice and professional development for volunteers. This is particularly important right now with bushfires, COVID-19 and all of the other challenges that they have had in learning how to protect collections. The Government is proud that Museums & Galleries of NSW is funded to the tune of \$1.195 million per annum to do this job. Of that funding, \$300,000 is used for small grants to volunteer-run museums in a devolved funding program.

An additional 15 wonderful museums were supported in that small grants program and will share in a funding tranche of \$20,000. Some of the funding has been used for the purchase of a film and photo scanner and a storage hub for the Frank Partridge VC Military Museum in Nambucca shire and for the purchase of a theatre package for the Sulphide Street Railway and Historical Museum in Barwon, to enhance visitor information and promotion for the Silver City Comet housed in the museum complex. Of the 15 funded organisations, three are from western Sydney and 12 are from regional New South Wales. The volunteer sector in regional New South Wales is extremely important. Fifty-four collections-related projects and 42 regional museums and galleries have been funded through the Regional Cultural Fund, and half of those are volunteer run.

SHORE SCHOOL

Mr DAVID SHOEBRIDGE (12:52:09): My question without notice is directed to the Minister for Education and Early Childhood Learning. This week we have seen students from Shore School, which charges fees of at least \$30,000 a year, brag on TikTok about lavish facilities—such as a \$50 million gym, recovery pools and a harbour-view library—and plan criminal acts, including spitting on homeless people, assaulting people and mocking people who live in the western suburbs. Given this, how does the State Government justify giving Shore School almost \$10 million of State public funds in just the last five years?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:52:40): I thank the member for his question in relation to a particular school in Sydney and funding. The member has asked me about funding before. We have established funding agreements with both our Government and non-government schools. Those agreements have been in place for a period of time and will continue through as part of the Gonski arrangements. I know the member knows that they exist, so I will not go into the details.

The Hon. Rose Jackson asked me a question about some of the planned muck-up day activities yesterday and I reiterate what I said before. I think that what was proposed in those activities is disgusting; it is entirely inappropriate and that sort of behaviour should never take place. I know that the school headmaster has made comments on this as well, saying that they were not actions that the school condoned, that they should not happen and that students should not be doing that sort of thing. I am pleased that those students have been reprimanded—in fact, I would say reprimanded by the whole community. I think everyone shares the disgust. I will leave my comments there.

Mr DAVID SHOEBRIDGE (12:53:49): I ask a supplementary question. Noting the Minister's comments that it is disgusting behaviour and that the students have been reprimanded, is the Minister aware that the students who planned the criminal acts on the muck-up day have not been identified nor has the school said it is undertaking steps to identify them? What will the Minister do to stop this kind of behaviour?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:54:19): Again I thank the member for his question.

Mr David Shoebridge: Ten million bucks with no strings attached.

The Hon. SARAH MITCHELL: As the member knows full well, it is an independent school. It is a school that is run independently of Government. My expectation would certainly be that that the school community would condemn those proposed actions and, indeed, that is the public commentary that I have seen from their principal in the media over the last couple of days and I think that is the right approach.

The PRESIDENT: I call Mr David Shoebridge to order for the first time.

COVID-19 AND ARTS AND CULTURE

The Hon. WALT SECORD (12:55:07): My question is directed to the arts Minister. Given the 18 September evidence to the inquiry into the Government's handling of COVID-19, what is the Minister's response to community and arts sector concerns about a survey conducted by Theatre Network Australia, which shows that 95 per cent of its members were dissatisfied with the Minister's advocacy for the sector and what steps is the Minister taking to restore their confidence in him as their Minister?

The Hon. Anthony D'Adam: What was the number?

The Hon. WALT SECORD: Ninety-five per cent.

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:55:50): Theatre Network Australia is based in Melbourne and run by people from Melbourne. I have seen the evidence, but I also take very seriously what members of Theatre Network NSW have to say. I talk to them all the time and, in particular, the chair of Theatre Network NSW, Nick Atkins, who is a member of the Artform Advisory Boards and a person for whom I have quite a good deal of respect. I also talk to a large number of people who are from the funded and unfunded theatre community. My feedback from them does not equate to those sorts of claims. I have seen those sorts of claims made before by some service organisations and I just do not think that service organisations like the one the honourable member has mentioned are as in touch with the theatre sector in New South Wales as they claim.

Nevertheless, I am more than happy to meet with them to discuss their concerns. Members of Theatre Network Australia have never approached my office and requested a meeting to discuss their concerns. Theatre Network NSW members have approached my office and we have had meetings in which they have discussed their concerns and I have always acted on them. In relation to the substantive issue, the Rescue and Restart fund is meeting the COVID-19 related aspirations of the arts community and is doing a good job. The rescue phase is more than half allocated already. But, without a doubt, the most important thing that will assist the arts community is getting back to normal as quickly as possible. Many representatives from theatre companies in New South Wales have given me feedback that they are delighted that they are based in New South Wales and not in Victoria. The fair chances of getting back in the theatre with a reduced and less onerous level of restrictions is absolutely critical to their health being returned and I am confident we will be able to deliver that to them. [*Time expired.*]

The Hon. WALT SECORD (12:58:47): I ask a supplementary question. Will the Minister elucidate his answer in relation to Theatre Network NSW? He referred to feedback that he had received from its members. What was the feedback?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:59:12): Theatre Network NSW wants performances back to normal as quickly as possible. As I outlined at the end of my answer, I am very confident that, given the stage of the COVID-19 pandemic we are getting to, we will move to a situation where we do not have socially distanced performances with limited attendances. At the moment theatre capacity is effectively at about 25 per cent, but hopefully we can move from that soon. As the Deputy Leader of the Opposition said earlier in question time, we do not want to be hubristic. However, we have had a very encouraging week. Without a doubt, the increase in paid seats and increased theatre capacity will help the performing arts best. That will help theatres more than anything else. That is what I am personally trying to bring about as soon as possible, so that all of the theatre companies that are based in New South Wales are able to restart and recover.

The time for questions has expired. If members have further questions I suggest they place them on notice.

WILLOW GROVE HERITAGE BUILDING

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (13:01:30): I have further information for the Hon. Rose Jackson. I will adjust one aspect of my answer. The City of Sydney heritage floor space is available for local heritage-listed items, not just State heritage-listed items. I confirm the advice I gave earlier in question time—that there was no heritage floor space scheme in the City of Parramatta. Unfortunately there can be no applicability to any local or State heritage-listed building in that area.

Supplementary Questions for Written Answers

NSW SMALL BUSINESS COMMISSION

The Hon. DANIEL MOOKHEY (13:02:18): My supplementary question for written answer is directed to the Minister for Finance and Small Business. Will the Minister elucidate his answer in respect of commercial

mediation tenancy services that are provided by the NSW Small Business Commission? Is the Small Business Commission collecting fees for commercial mediation services and, if so, how much money has been collected during the COVID pandemic period?

DEPARTMENT OF EDUCATION

The Hon. MARK LATHAM (13:02:42): My supplementary question for written answer is directed to the Minister for Education and Early Childhood Learning. In the briefings the Minister received from the Secretary of the Department of Education about the senior staff restructure, did the Minister ask which senior staff have been sacked or promoted, or did Mr Mark Scott provide the information up-front? Did the Minister ask why the senior staff have been sacked and what reasons did the departmental secretary give?

Documents

TABLING OF PAPERS

The Hon. DAMIEN TUDEHOPE: I table the following papers:

- (1) Document from the Office of Local Government entitled *Approval of Stronger Communities Fund—tied grant round*.
- (2) Document from the Office of Local Government entitled *Stronger Communities and New Council Implementation Fund Guidelines*.

Questions Without Notice: Take Note

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. DANIEL MOOKHEY: I move:

That the House take note of answers to questions.

NSW SMALL BUSINESS COMMISSION

The Hon. DANIEL MOOKHEY (13:04:14): I have been provoked to take note of debate by the flailing, flustering and failing answer from the Hon. Damien Tudehope to my question about commercial tenancy services. Ultimately that led to the Minister in question time incriminating himself and the Government on the issue of recycling announcements, which was quite astounding. I quite clearly accused the Minister of recycling an announcement from 13 April this year and he proceeded to explain how that money had been spent since 13 April this year. The Minister was hoist with his own petard in the answer that he gave. Of course, members should not be surprised by the Minister; he has tendency evidence when it comes to that particular offence. There is no shortage of programs or support that the Minister will announce for small businesses, nor money that the Minister will fail to deliver to small businesses, but then he will re-announce, rebadge and recycle those very same commitments.

How many times have the shadow Treasurer and I pointed out the constant recycling of the \$10,000 grants under the \$750 million fund that was promised to small businesses? I think we are up to the fourth version of that program. How many times have we spoken about the \$440 million land tax relief package that was promised by the Hon. Damien Tudehope, for which the Government has only managed to deliver at best—however one counts it—about \$26.5 million? Yet again, yesterday the Minister was out touting the program. While it is the case that the Minister scurries away every time he is called to account for that failed program of recycling announcements, it is even more remarkable that in his answer today the Minister tried to defend his actions in regard to the actual leasing code. He said that New South Wales should be applauded for how well it has handled the code.

I will point out some facts. The Government was the last government to introduce the code in the first place. It only introduced the code after the shadow Treasurer, the Leader of the Opposition and I pointed out that New South Wales commercial tenants and landlords were waiting for the code to be introduced. The Government eventually got around to introducing the code, well and truly after the National Cabinet said it should, but when it came time to renew the code, the Government was the last to renew. While that might sound somewhat esoteric to the Government, if it were listening to small businesses, tenants and property landlords, it would have understood that they need certainty. The Government has failed to provide them with certainty. But what the Government cannot provide in certainty, it can provide in distortion. The truth is that the Government will distort its record about what it has done and it will dawdle when it comes to doing what tenants and landlords actually need. [*Time expired.*]

DEPARTMENT OF EDUCATION

The Hon. MARK LATHAM (13:07:08): I take note of the answer given by the Minister for Education and Early Childhood Learning. In that regard, I note the disrespect shown to the Chamber by Ministers who leave during the take-note debate, which is an opportunity to respond to answers given and to be held accountable.

The PRESIDENT: Order! I have indicated previously that members who contribute to the take-note debate should not reflect on whether or not a Minister is in the Chamber, nor should reflections be made on a Minister. There is no requirement for all Ministers to be in the Chamber; there is a requirement that either a Minister or a Parliamentary Secretary be in the Chamber, which is the case.

The Hon. MARK LATHAM: I raised the matters yesterday about the two departmental staff who highlighted the failing of the language, learning and literacy program and lost their jobs, while those who have defended the failed, hopeless program have kept their jobs. I raised the issue yesterday and I was surprised that the education Minister did not remain in the Chamber either yesterday or today, nor did she fully answer the question on that particular matter. If Ministers are not informed and do not answer questions, they are not accountable to the Parliament. Importantly, if Ministers do not inform themselves of information about a very important issue within their department, such as the restructuring of senior staff, how can we improve education standards in New South Wales? Last December the Minister wrote in *The Sydney Morning Herald*:

It is clear our system in its current form is not preparing our students as best as it could for the future. As the minister, I have a responsibility to rectify this.

Clearly, if the department is failing in a number of areas, and if senior staff are being restructured, the Minister has a responsibility to ensure that the very best people who are offering the very best advice are in a position to help lift the school standards and outcomes in New South Wales. We do not have the luxury of wandering around, having a scratch and thinking about what we should do—this is a crisis in New South Wales schools.

We have the fastest falling school academic results in not just Australia but also the world. The number one thing to do is to ensure that all the advice is 100 per cent accurate. Mr Adrian Piccoli was told by experts five years ago that L3 was a dud program and he did nothing. Minister Stokes was told this program was a dud and he did nothing. The Department of Education Secretary, Mark Scott, was told by experts inside and outside of the department that this program was a dud and he did nothing. Finally, it has been axed after a four- or five-year delay, but the people who had been giving the advice many years ago that it should be axed have themselves been axed. If we cannot rely on expertise in the education department and the Minister who has the responsibility to rectify the problem, what hope is there in the school system? This is a clear ministerial responsibility that is not being discharged. I hope to get further answers about this to get to the bottom of it. I strongly urge the Minister to engage herself in the quality of the people she has around her. [*Time expired.*]

COVID-19 AND PUBLIC LIBRARIES

The Hon. LOU AMATO (13:10:19): I take note of the Hon. Don Harwin's response regarding supporting public libraries throughout COVID-19. I note that the State Library of New South Wales and 363 local council public libraries have adapted their services to continue to serve the public during the COVID-19 pandemic. I was very pleased to hear that while the capacity of buildings have been curtailed in line with the public health order, online services have grown to meet the public's needs. I commend the State Library of New South Wales for assisting local libraries with advice, practical solutions such as the new indyreads ebook platform, and allowing State funding to be redirected to remote services where appropriate. The New South Wales Government is providing an additional \$60 million to support public libraries over four years from 2019. The funds are in addition to the recurrent \$23.5 million per annum already provided. The funds are managed by the State Library of New South Wales. I found it significant that this is the largest injection of State Government funding since the introduction of the Library Act in 1939. I was very pleased to hear that this important funding has been made, particularly in the present time.

WOMEN IN LOCAL GOVERNMENT

COVID-19 AND PUBLIC LIBRARIES

The Hon. WALT SECORD (13:11:55): I take note of answers in relation to mental health, unemployment and women, the National Broadband Network [NBN] and the small business programs. The Australian economy is staggering due to the COVID pandemic. In New South Wales there are 280,000 people who are unemployed and 129,000 of them are women. The Federal and State governments expect that the unemployment rate will rise to 400,000 Australians by Christmas. I congratulate the Hon. Rose Jackson, the Hon. Penny Sharpe and the member for the Blue Mountains on their relentless efforts to draw attention to how COVID has disproportionately impacted women in terms of unemployment and mental health.

It is disappointing to see the Minister for Mental Health, Regional Youth and Women unable to provide any details of programs in the Chamber. The Minister has also been guilty of the hubris shown by the Minister for Finance and Small Business last Thursday. In fact, on Friday the Treasurer warned of hubris saying that it is too early to claim that New South Wales has green shoots. Members would be aware that the COVID recession is disproportionately affecting women between the ages of 15 and 29. They are the hardest hit in the community

because they are disproportionally employed in the retail, hospitality and other part-time and casual employment sectors.

I will touch briefly on the NBN. We heard with great fanfare yesterday that the Federal Government is making big promises on the NBN, especially in relation to rural and regional areas. Just like in education, we have slipped significantly. When the Federal Liberal-Nationals Government was elected, Australia ranked No. 30 in the world for broadband. We now rank No. 62 in the world. As for library funding increases, all credit for that increase should go to the Hon. Peter Primrose, who has relentlessly highlighted the need to increase funding for libraries. Universal health care, education and libraries are why I stand here today. In relation to small business support programs, the Government has a track record of relentlessly recycling and rebadging programs. Finally, on the representation of women in local government, it is a fantastic initiative. I still remember when I contacted the former mayor of Cobar, Lilliane Brady, in the 1990s. I was the director of communications to Bob Carr and she said, "Nope. Tell the Premier he cannot come out today. I will be shearing."

The Hon. Mick Veitch: I bet she did not say it like that.

The Hon. WALT SECORD: She did not say it like that.

ROADSIDE DRUG TESTING

The Hon. ROD ROBERTS (13:14:38): I take note of the answer to my question relating to roadside drug testing provided to the House by the Minister for Finance and Small Business representing the Minister for Police and Emergency Services. I was disappointed that the Minister did not expand in his answer upon whether there was any commitment from the Government to increase drug testing or to expand the regime into other drugs. It is important for members of the Chamber to know a couple of true statistics. Over 4.6 million roadside alcohol tests were conducted last year and only 14,900 of those tested returned a positive reading for alcohol, which is only 0.3 per cent or one in 310. Notwithstanding, there were 172,000 drug tests of which there were 12,485 positive tests, or one in 14. Some people would have us believe that the victims of these crimes are just some kids who had smoked a little bit of pot, but the primary concern is that 60.8 of the positive tests were methamphetamine, more commonly known as ice. When I asked my question there were some people in the Chamber who I will not credit by naming who were saying things along the lines of, "It is not a fair test. It is only about impairment."

I challenge those members to meet with Danny Abdallah and his wife, or the Sakr family who lost their daughter in the same incident, that we should not test because it only tests for impairment. While those members are at it, they should sit down with the family of the young year 7 schoolboy who was killed outside of school in Hurstville in September last year. He was mowed down by a driver who was heavily affected by intoxicating drugs, including methyl amphetamine [MDA] and cocaine. They should sit down with what is left of the Falkholt family, bearing in mind that their daughter, Jessica, her sister and both parents were wiped out on the South Coast approximately two years ago. It was Christmas time and the driver was affected by methadone, as we all remember. I call on those who sit in the Chamber and preach that we should not test because it is only for impairment to have the guts to sit down and face the parents of those poor victims and say to them, "We should not test. It is only for impairment."

PUBLIC EDUCATION FOUNDATION NSW MINISTER'S AND SECRETARY'S AWARDS FOR EXCELLENCE

The Hon. TAYLOR MARTIN (13:17:15): I take note of the answer given by the Minister for Education and Early Childhood Learning to my question on the Public Education Foundation's Minister's and Secretary's Awards for Excellence during question time. It is great to hear that so many outstanding students, public education staff and parents have been recognised as part of the awards this year. I highlight a couple of the winners of the awards as the Minister did earlier. West Wallsend High School was awarded the Secretary's Award for Outstanding School Initiative for its successful reading improvement agenda over the past three years. The school introduced a new model to improve reading performance. This has been a major success evidenced by exceeding targets in NAPLAN, lifting reading performance by more than 17 per cent above expected growth and increasing achievement in the top two bands by more than 11 per cent for year 9 alone.

Kurri Kurri High School was recognised with two Secretary's School Achievement Awards for its peer critique program and its staged learning program. Peer critique provides students with a structured and supported process to analyse and discuss their classroom tasks and assignment submissions. As part of the program, students provide feedback to each other before discussion with their teacher, identifying strategies to improve the quality of final submissions. The recipient citation states:

There has been a significant shift in the way students think about their work with a question- 'is this your best work?' applied to all tasks. The results show this has had a dramatic impact on marks and submission rates across the school. Kurri Kurri High School's staged learning program was also recognised with its innovative approach to classes receiving an award. In stage four teachers utilise a brand-new way of teaching working collaboratively to co-plan, co-teach and co-assess students in groups of three to six students

called huddles, pods with 25 students and hubs of 50 students. The citation for this award states that the staff have worked through shaking off the old and dated industrial model of teaching and have embraced the new. The power of learning sits with all learners not knowing the answer and working together to find it.

As mentioned earlier by the Minister, a group of schools—Tarro Public School, Woodberry Public School, Beresfield Public School, Thornton Public School, Black Hill Public School and Millers Forest Public School—was recognised with a Secretary's Award for an Outstanding School Initiative for their Strong Start, Successful Learners program. Finally, Charlestown South Public School was recognised with a Secretary's School Achievement Award recognising its growth in enrolment and significant improvement in NAPLAN results. I congratulate all of those schools and thank the Minister for her answer earlier today.

COVID-19 AND WOMEN'S MENTAL HEALTH

The Hon. COURTNEY HOUSSOS (13:20:12): Today in question time the Labor Opposition asked the Minister for Mental Health, Regional Youth and Women a question about the impact of the recession on women. There is plenty of research and almost weekly news coverage about the disproportionate impact of the recession on women. Proportionally, they have lost more jobs and more hours than men. The industries affected by shutdowns and restrictions disproportionately employ women. At home, women are largely taking on the brunt of increased care responsibilities. There is even research—no surprise—that shows that during lockdown, women were drinking more at home as a result of it all.

The Hon. Ben Franklin: Like all of us!

The Hon. COURTNEY HOUSSOS: I acknowledge that interjection. Instead of a clear and concise plan the Minister gave a wandering response that talked about the methodology of the report, referenced the Government's participation in the National Cabinet and gave us more platitudes about keeping women in work. In a week when JobKeeper and JobSeeker payments are being cut, very real questions are being asked about the impact of that on women and especially on single mums. Has this Minister picked up the phone to her Federal counterparts or even her brother-in-law to raise those concerns? Instead, the Government is funding large infrastructure projects that create an average of one full-time equivalent job for every \$1 million spent. This Government should instead be giving the legislated 2.5 per cent pay rise to public sector workers—60 per cent of which are women—who would spend this money in their local cafes, restaurants and on local tourism. It shows the real priorities of this Government and how out of touch it actually is.

COVID-19 AND TOURISM

WOMEN IN LOCAL GOVERNMENT

The Hon. SAM FARRAWAY (13:22:04): I take note of answers given by the Minister for Finance and Small Business today on tourism local heroes. As we know, many New South Wales businesses rely on visitors to keep their doors open. Especially in regional economies and regional towns, tourism can support the entire community. For some regional towns their single biggest segment or industry is tourism. As our regions seek to recover from what is a triple whammy of drought, bushfires and now COVID-19, we need to get behind everyday champions in regional tourism. In his answer, the Minister mentioned zip-lining in the Illawarra and paddleboarding near Coffs Harbour. I would encourage him to try the Go Sea Kayak in Byron Bay. When we talk about some of the fine eateries near Byron Bay, the Stone & Wood Brewery is definitely my favourite drop. The mountain bike trails in Jindabyne—there is plenty to mention.

Perhaps the Minister should take his grandkids to Jamberoo Action Park on Saturday. He might even get a nomination for a Grandparent of the Year Award—I remind members that nominations are due on Sunday 27 September. I know that the Minister is already acquainted with Hillbilly Cider and Bilpin Cider in the Hawkesbury, but if he wants a good view and a good drop from the Hunter Valley wineries then I suggest Balloon Aloft. Every corner of this great State has something worth seeing and experiencing. The local champions, the heroes of regional small business tourism, have hung in there through the challenges of 2019 and 2020. We all need to get behind them.

I also take note of the answer given regarding the encouragement of women in local government elections next year. It was an absolute pleasure to represent Minister Hancock in the other place and Minister Taylor in this House to present Lilliane Brady, OAM, and the mayor of Forbes Shire, Councillor Phyllis Miller, OAM, with their awards. Both are very fierce female advocates for regional New South Wales and are absolute fighters. I hope that the acknowledgement of their service to local government goes some way to encourage more female participation at next year's election. Both women are fine examples of advocates for the bush and for the regions. It was an absolute pleasure in the last few weeks to present both women with their awards for 2020.

COVID-19 AND WOMEN'S MENTAL HEALTH ROADSIDE DRUG TESTING

The Hon. ROSE JACKSON (13:25:22): I participate in the take-note debate in relation to two responses given today. The first was Minister Taylor on support for women during the global pandemic. It is interesting to draw a contrast between the response given to that question, which was to talk generically about the programs that the Government is rolling out in response to the recession and in particular to boost employment, and the response given to the question on supporting women in local government. When you have a particular problem such as the disproportionate impact of the recession on women or women's underrepresentation in local government, you respond with a particular solution. In relation to women in local government, we saw a dedicated program to encourage women to participate. Congratulations to the Minister and her colleagues for that good program. The problem is that when it comes to the particular problem of the disproportionate impact on women of the New South Wales recession, there was no particular response. In fact, a very general response that talked only about jobs generally—

The Hon. Bronnie Taylor: Only about jobs?

The Hon. ROSE JACKSON: Only about jobs generally. There was absolutely no reference to particular programs for women.

The PRESIDENT: The Minister will remain silent.

The Hon. ROSE JACKSON: It was an answer that could have been given by Minister Tudehope in very general terms. When there is a particular problem, you respond with a particular solution. There is no particular solution addressing the impact of the recession on women. It is not just an employment problem. A number of women do not have employment and I do not understand why this Government is discriminating against stay-at-home mothers.

The PRESIDENT: Members will cease interjecting or they will be called to order.

The Hon. ROSE JACKSON: Stay-at-home mothers who are not in employment have had a range of impacts such as mental health and increased care impacts. There is no reference to that in an employment response. A range of impacts have been experienced by women that are in no way covered by the very general response that the Minister provided. What about the impact on superannuation? What about the impact on pay inequality? What about the impact on mental health from increased care responsibility? None of those things is captured in a very general response about jobs statewide. If you have a particular problem, you introduce a particular solution.

Finally, I want to touch on the response from Minister Damien Tudehope on drug-driving. This goes to the heart of what my colleague the Hon. Rod Roberts was saying. When drivers are impaired by illegal drugs, driving should be illegal. That is obvious and everyone agrees with that. The issue is that drug testing does not differentiate between impairment and non-impairment. People who are not impaired by taking drugs are having their licences cancelled, losing their jobs and having their lives destroyed. I thank the Hon. Rod Roberts for bearing out the point that impairment is at the heart of what is wrong with the current drug testing regime. [*Time expired.*]

The PRESIDENT: There are far too many interjections from members on all sides. Members will cease interjecting.

COVID-19 AND ARTS AND CULTURE

The Hon. MATTHEW MASON-COX (13:28:23): I feel like I have just come back from the protest. I will forge on. I take note of a couple of responses, firstly from the Leader of the Government in relation to the very important issue of lifting restrictions. The Minister looked at areas within his purview including theatres and live music venues et cetera. It is certainly an area that needs to be addressed as quickly as possible by the Government. I note some of the submissions received by the Public Accountability Committee around the COVID-19 inquiry that looks at the impact on the night-time economy of the restrictions. The Minister referred to one causing a lot of trouble and that is the four square metre rule.

While we all understand the rationale behind it, we are now moving into a new phase. We need to rely upon risk management, the wonderful responses we have had from businesses and the safety regime we have put in place. It has been working well. We all experience it when we enter the Parliament. We are tested and screened and made very aware of our distancing. These procedures are working well in some venues, but the four square metre rule makes others unviable. It is time to look at halving that rule and moving to the two square metre rule. This would allow venues, with appropriate risk management—

The Hon. Walt Secord: What about masks?

The Hon. MATTHEW MASON-COX: Indeed. They may introduce other restrictions in relation to masks or other appropriate measures. We need to risk manage this particularly in regional New South Wales where a large number of businesses are in areas where there have been zero cases of COVID-19 for months. There is always scope for people to move from one region to another—from a Sydney hotspot out to the regions—pubs, clubs and businesses in many of these places are restricted in the same way as businesses in the city. It is time to review that, especially local pubs and nightclubs. Seeing my children in Queanbeyan crossing the border—

The PRESIDENT: Order! Pursuant to standing order, debate is interrupted to allow the Parliamentary Secretary to respond.

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. BEN FRANKLIN (13:31:17): I note the extraordinary contribution of the Hon. Rose Jackson. She says nothing has been done in terms of economic performance and addressing the particular economic issues that women face. Well, when a tide rises all boats rise. Surely the first point here is to ensure that we have a strong economy and good jobs growth. We must do what we can in the middle of a pandemic to ensure that the entire economy is strong and is growing. Without being hubristic, that is exactly what this Government is doing. In addressing the specific programs mentioned by the honourable member, I am not sure that she has been in the same question time as me for the past three months because the Hon. Bronnie Taylor has repeatedly spoken about specific initiatives directly impacting women. The Minister has spoken about the Women's Financial Toolkit and a range of other measures, including the incredible encouragement for women in local government, which is, for example—

The Hon. Rose Jackson: I acknowledged that.

The Hon. BEN FRANKLIN: Good. I am glad this is being strongly supported by the Opposition. I acknowledge a number of the extraordinary women in local government in my part of the world on the North Coast. Danielle Mulholland has just been re-elected as the Mayor of Kyogle Council and she is also the president of the Northern Rivers Joint Organisation. Chris Cherry has just been elected Mayor of Tweed Shire Council. Sarah Ndiaye has just stepped down as the Deputy Mayor of Byron Shire Council and today—literally hot off the press—Sharon Cadwallader has been elected as the Deputy Mayor of Ballina Shire Council. Sharon is an extraordinary community champion and representative who will do an utterly outstanding job.

Secondly, I refer to the tourism answer given by the Hon. Damien Tudehope because this is critical for regional New South Wales. Last year New South Wales residents took almost two million international leisure trips, worth \$16.7 billion. They are not doing that this year. Where will that money be spent? We want it to be spent in regional New South Wales and that is why this Government has developed two initiatives. The first is the Love NSW map that allows travellers to identify tourism experiences based on their personal interests. It also helps them find activities within three hours of a selected location. Second are the personalised promotional videos, for example, Stone & Wood Brewery. I would be happy to see Minister Tudehope's Uralla New England Brewery and raise him with a Stone & Wood. Another promotional video features Go Sea Kayak while others highlight areas not seen as tourism Meccas, like the Tenterfield Tours.

The PRESIDENT: The time for debate has expired. The question is that the motion be agreed to.

Motion agreed to.

Written Answers to Supplementary Questions

TEACHER PROFESSIONAL DEVELOPMENT

In reply to **the Hon. WALT SECORD** (23 September 2020).

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

We have invested \$20 million in the Best in Class program over two years, and there are no course fees for the schools and teachers who participate in the professional learning support.

As at September 2020 more than 900 teachers across more than 300 schools have already benefitted from the Best in Class program, and we anticipate that more than 3,000 teachers in over 400 schools will be supported in 2021.

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

*Bills***BETTER REGULATION LEGISLATION AMENDMENT BILL 2020****Messages**

The PRESIDENT: I report receipt of a message from the Legislative Assembly agreeing to the Legislative Council's amendments to the bill.

*Committees***STANDING COMMITTEE ON LAW AND JUSTICE****Government Response**

The Hon. DAMIEN TUDEHOPE: I table the Government response to report No. 73 of the Standing Committee on Law and Justice, entitled *2019 Review of the Dust Diseases Scheme*, tabled 24 March 2020. I move:

That the report be printed.

Motion agreed to.

JOINT STANDING COMMITTEE ON THE OFFICE OF THE VALUER GENERAL**Reports**

The Hon. SCOTT FARLOW: I table report No. 1/57 of the Joint Standing Committee on the Office of the Valuer General, entitled *Thirteenth General Meeting with the Valuer General*, dated September 2020. I move:

That the report be printed.

Motion agreed to.

*Business of the House***SUSPENSION OF STANDING AND SESSIONAL ORDERS: CENSURE OF THE LEADER OF THE GOVERNMENT**

The Hon. JOHN GRAHAM (15:02:53): I move:

That standing and sessional orders be suspended to allow a motion for censure of the Leader of the Government for failure to produce documents in accordance with orders of the House to be called on forthwith.

Following the failure of the Leader of the Government, as the representative of the Government in this House, to table documents according to an order of the House on 16 September 2020 related to the Stronger Communities Fund tied grants, I am moving the motion again. I was required to do so to resume the debate. I thank the Government for the documents it has produced. Immediately before question time today, the Government fronted up and the Leader of the House indicated that he would table two documents, which satisfied the order of this place and for which I am grateful. The Opposition regards that as a partial satisfaction of the order. The documents relate to paragraph (2) (b) of the original motion—that is, the matter that relates to the guidelines.

There has been zero activity or communication about documents referred to in paragraph (2) (a), which is the most significant bit of the return that the House has requested. It relates to the written approval for the grants—the single brief that signed off and said, "This is to whom the grants go. I decide that they go to this council. I decide they get, in the case of Hornsby Shire Council, \$90 million of public funds." That is what the House seeks. There has been no return and no communication on that question. Accordingly I am moving the resolution that I moved earlier in the day to once again ask for a suspension of standing and sessional orders so that we can move to that debate. Earlier the House agreed to do so. I am hopeful that on this occasion the Government will not resist moving into that debate, but the Opposition will press the matter regardless.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): The question is that the motion be agreed to.

Motion agreed to.

*Motions***THE HON. DON HARWIN, LEADER OF THE GOVERNMENT IN THE LEGISLATIVE COUNCIL****Censure**

The Hon. JOHN GRAHAM (15:04:11): I move:

(1) That this House notes that:

(a) on 3 June 2020, the House ordered the production of documents concerning the Stronger Communities Fund;

- (b) the return received on 17 June 2020, did not include:
 - (i) the signed, written brief approving the amended guidelines adopted for the Stronger Communities tied grants funding round; and
 - (ii) the signed, written brief approving the projects awarded funds as a part of the Stronger Communities tied grants funding round.
 - (c) on 16 September 2020 the House ordered the production of the following documents in the possession, custody or control of the Premier, Deputy Premier and Minister for Regional New South Wales, Industry and Trade, Minister for Local Government, Department of Premier and Cabinet, or Department of Planning, Industry and Environment (Office of Local Government):
 - (i) the signed written brief approving successful applications which received funding in the tied grant round of the Stronger Communities Fund; and
 - (ii) the signed written brief approving the guidelines for the tied grant round of the Stronger Community Fund.
 - (d) on 18 September 2020 correspondence was received by the Clerk from the Secretary of the Department of Premier and Cabinet enclosing a certification from the Secretary of the Department of Planning, Industry and Environment.
- (2) That this House notes:
- (a) that no letters from the Premier, Deputy Premier and Minister for Regional New South Wales, Industry and Trade, Minister for Local Government, Department of Premier and Cabinet, were received certifying whether any documents were held that fell within the scope of the order;
 - (b) that while the Secretary of the Department of Primary Industries and Environment asserts that the signed written brief approving successful applications which received funding in the tied grant round of the Stronger Communities Fund were provided in the original order, the Office of Local Government gave evidence to the Public Accountability Committee at a hearing held on Monday 20 September 2020 that the Office of Local Government is not the decision maker for the grants fund and that the agreements received according to the order for papers of 3 June 2020 are not the written, signed brief deciding to whom grants are given, or deciding the amounts of the grants; and
 - (c) that while the Secretary of the Department of Primary Industries and Environment certifies that the signed written brief approving the guidelines for the tied grant round of the Stronger Community Fund is a cabinet document, an email of 25 June 2020 from the Premier's office, which was returned to the order of the House of 3 June 2020, indicates that the guidelines had been approved by the Premier, and were then to be signed by the Deputy Premier and the Minister for Local Government.
- (3) That this House:
- (a) accordingly censures the Leader of the Government as the representative of the Government in this House for the Government's failure to comply with the resolution of the House of Wednesday 16 September 2020;
 - (b) notes that this day the Leader of the House tabled two signed documents in relation to the Stronger Communities and New Council Implementation Fund guidelines; and
 - (c) calls upon the Leader of the Government to deliver to the Clerk by 10.00 a.m. on the Tuesday 13 October 2020, the documents requested in paragraph 2(a) of the order of the House of 16 September 2020.
- (4) That this House notes that, should the Leader of the Government fail to comply with this further order, it is open to the House to immediately adjudge the Leader of the Government guilty of contempt and to suspend the Leader of the Government from the service of this House.

The hearings of the Public Accountability Committee's inquiry into the integrity, efficacy and value for money of New South Wales Government grant programs commenced last Monday. The committee's questions were confined largely to the tied grants round under the Stronger Communities Fund. The fund has had a range of iterations but concerns about the \$250 million fund are concentrated mostly in the period commencing 27 June 2018, the date of the third amendment to its guidelines, and 1 March 2018, the commencement date of the caretaker period. Labor has a number of concerns about the fund: first, 95 per cent of the quarter of a billion dollar fund went to electorates represented by Coalition members.

As I mentioned earlier, this is a tale of two cities. Some of the biggest merged councils in the State, representing more than half a million residents, had not heard about it. They were never told. During the hearing the committee heard from the mayor of the biggest merged council in the State. He did not hear about the fund at the time of the money rollout in 2018-19. He heard about this fund rolling out hundreds of millions of dollars at the end of May this year while watching the television news. He rang his counterpart at the neighbouring Inner West Council and said, "I have seen this on the news. Do you know anything about this fund?" The mayor of the Inner West Council said, "No, that just couldn't be right." It took some time to persuade him that it was true and that hundreds of millions of dollars of the fund had been rolled out without anyone from two of the State's largest merged councils having been told about it. At the other end of town, in this tale of two cities, the guidelines were amended—

The DEPUTY PRESIDENT (The Hon. Trevor Khan): Order! I do not have a copy of the motion in front of me, but in the light of Monday's hearing the member would understand that I now have some idea of what

he is talking about. In a sense, the member is rehearsing the evidence that the committee received on Monday. I take it that the member's motion is a censure motion rather than a motion dealing with the adequacy or inadequacy, depending on how one looks at it, of the grants scheme. I am inviting the member to address the substance of his motion as opposed to what will be the subject of a future debate about the findings of the Parliamentary Accountability Committee.

The Hon. JOHN GRAHAM: Before you rule formally—

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I am not ruling formally. I am simply letting you know my thoughts.

The Hon. JOHN GRAHAM: I appreciate that. I intend to touch on the context briefly before moving to precisely that point. The Opposition is concerned that the Stronger Communities Fund is 2½ times larger than the Federal sports rort fund administered by Bridget McKenzie that came to public attention. We are concerned that zero conflict of interest declarations are held by the Office of Local Government. We have concerns about the application process. The office says that there is no application process, despite the fact that an application form is attached to the funding agreement after the grant is effectively awarded. The Opposition is concerned that the information has been so hard to extract because it is an attempt to cover the Premier's involvement in administering the fund, in approving the funds and in giving out the grants. That is our concern. The motion before the House censures the Leader of the Government for not producing certain documents. After the Government's activity this morning, the question that remains is: Where is the document that approves these funds?

The Hon. Damien Tudehope: You have them.

The Hon. JOHN GRAHAM: The Leader of the House says the Opposition has the documents. I ask him: Where is the signed document that states that Hornsby council gets \$90 million? It does not exist. The Premier approved the grant but the document has not been produced to the House. The House asked for it but it has not been produced. The Leader of the House should produce it. Where is the signed brief authorising the payment of \$90 million of taxpayers' funds to Hornsby council on the same day the guidelines were approved? The House has not been provided with any signed document approving that grant. What is the principle here? Why should that document exist? Every grant program must have a decision-maker. In fact, any Government decision should have a brief attached to it. However, it is particularly important for grant programs.

The Government is telling communities in this State that it will decide who receives the grants so it should take responsibility for that position. It is a fundamental principle that grants programs must have a decision-maker and there must be a point of decision for any grant allocation. The whole system is built around that common sense principle and that is what is set out in the Department of Premier and Cabinet's [DPC] guidance entitled *The Good Practice Guide to Grants Administration*. That is the process and the current Government policy. What does the Government say? The agencies advising the Government are at odds over whether or not the briefs exist or have been provided. DPC said the briefs have been presented to the House; that they comprise the funding agreement, the financial approval and the grant application form. DPC argues that they have been presented to the House.

The issue for the House is that the Office of Local Government has given evidence in the Public Accountability Committee hearing that it is not the decision-maker; rather, decisions are made by the Premier, the Deputy Premier and the Minister for Local Government. Accordingly, it cannot sign off on the brief because it cannot decide which councils receive allocations. The Office of Local Government says that it is exercising the financial approval under delegation of the Public Finance and Audit Act. In the majority of cases the funds are being disbursed in accordance with a prior decision of the Premier.

The Opposition's view is that the Office of Local Government is right; that those documents relate to the financial delegation. If the DPC's position is correct, the Government should reflect on that because it may have a far bigger problem. Currently it is suggesting that the process is being directed by way of a flood of emails from the office of the Deputy Premier or the Premier down to the Office of Local Government, saying that the Premier or Deputy Premier wants a certain thing to happen. But if those funding approvals signed by the Office of Local Government form part of the key decision-making paperwork, the question must be asked about political influence on those decisions. That is the Government's problem with the case it seeks to make.

ICAC has made it clear that a potential probity problem with these grants, as it stated, "If the Minister is not the appointed decision-maker, directing or urging a public servant to make a decision preferred by the Minister", is capable of amounting to a breach of that trust and is conduct that may be a major problem. That is the caution ICAC has given and I echo that caution to the Government if it continues to argue the case it has made. The Office of Local Government says it is not the decision-maker. If it were, it is not for the Government to direct it as to where the funds should go, which is what is happening. Clearly the Premier and the Deputy Premier are

making the decisions. But they have to sign the approvals. The alternative is almost unimaginable—the approvals are being made verbally or on a whiteboard in the Premier's office. Is that occurring? That is the question raised by the Government's approach so far.

The House also called for the guidelines and those have been provided. That is welcome and appropriate, and I thank the Leader of the House for providing them in an expedited manner when the House met earlier. That has assisted the debate but it still leaves us with the problem that there is no signed written brief for the funds. If there is a decision-maker and a decision, then there has to be a recommendation, a brief, a signature and a date. That is common sense. If that has not occurred, there are major questions over a fund, 95 per cent of which went to Coalition electorates. We are concerned about the outcome but we are horrified by the process. That is the issue we have raised and the House has a right to do that. We see it as an attempt to shield the Premier. The Premier played favourites with the fund, giving Minister Kean's electorate \$90 million and Mr Coure's electorate \$9.5 million. She also approved, in the words of her office in an email, "reluctantly" a grant of \$1 million for Minister Roberts' electorate. The Premier allocated those funds and more than half the funds in the scheme.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): Order! The censure motion is against the Leader of the Government. I heard the evidence on Monday in all its glory. The member has chosen to proceed by way of a censure motion today and so I invite him to redirect his attention to the motion as opposed to a more broad-ranging analysis.

The Hon. JOHN GRAHAM: I call on the Leader of the Government to produce the document—the written brief, the decision. The Office of Local Government says it did not make any recommendation and that it has seen no recommendation. Surely one exists and the Government should produce it. The Office of Local Government says it wrote no brief and saw no brief approving those grants. Surely it exists and the Government should produce it for Parliament and the public to see. If the Government is going to wander around the State, saying that it will decide who gets the grants and the circumstances under which they get them, it must own the decision by producing the signed documents as the grants are allocated. We see this as a cover-up of the Premier's involvement. We encourage the Government to come clean as a result of the motion. The House has been crystal clear in its request and we ask that the House's decision is upheld.

Mr DAVID SHOEBRIDGE (15:22:38): On behalf of The Greens I speak in support of the censure motion. The investigation of the scheme started in a budget estimates hearing some months ago when we received few, if any, satisfactory answers from the then acting head of the Office of Local Government. Repeated questions were asked about who made the decisions to deliver the funds under what we now know is the "tied grants" round of funding: How much was spent? Who made the decisions? We were told in no uncertain terms at that original budget estimates hearing that the decisions were not made by the Office of local Government, but the chief executive could not tell us who made those decisions. That has led to further analysis of the documents that were originally produced—all of the original funding agreements—which numbered more than 20. The Greens analysis of how that funding played out in reality—I think there are competing figures—found some 80 per cent of the funds went to councils wholly in Coalition electorates and only 2.5 per cent to councils wholly in non-Government electorates. The balance were in councils that straddled those electorates.

The observation that many people would make of that skewing of funds is that it was a pork-barrel scheme. The House would benefit, as would the public, from seeing what, if any, assessment was made of each individual project that received funding under the scheme. I moved—and the House agreed to—a Standing Order 52 motion calling for all of the documents relating to what we now know is a quarter of a billion dollar pork-barrel scheme called the Stronger Communities Fund tied grants program. When we received all the documents and went through them, a number of critical documents were missing. The first was any type of brief that explained how the council guidelines were amended between the initial set of guidelines in 2017 and the amended set that were pulled together nine months before the State election at the end of June 2018, which broadened the category of councils that could receive this munificence.

The category was broadened from councils that had been merged to any council that had been the subject of a merger proposal. The absence of any explanation for how the guidelines changed has, in part, been remedied by the documents that were produced by the Government earlier today. I join the Hon. John Graham in thanking the Government for eventually producing those documents. They should have been produced earlier but we now have them. Yet to be produced or explained in any way is the possible basis on which the Premier made a decision—for example, to approve \$90 million for Hornsby council at the end of June 2018—nine months out from the State election and a matter of hours after the guidelines had been amended to rope in Hornsby council.

There was a rush to amend the guidelines and it appears as though the last signature obtained was on 27 June, although we do not know when the Deputy Premier appended his signature because that is undated. The last dated signature on the amended guidelines is 27 June for the Premier's signature. On that same day at 5.00 p.m. Hornsby council received a welcome email from the Office of Local Government, stating that under a scheme

that it had never heard of and that no other council had ever heard of, \$90 million is coming its way—"Would you like \$90 million? If so, we will give you the paperwork tomorrow. Sign it off tomorrow and we will drop \$90 million into your account within three days." Not surprisingly, Hornsby council leapt at that opportunity and signed the documents. I do not critique Hornsby council for that. The question of the censure motion is: On what possible basis did the Premier approve \$90 million for Hornsby council?

The funding application—although that term is contested, notwithstanding that is what it is called—that was produced and signed by Hornsby Council contained just two lines. The first stated "Westleigh project, \$40 million", and the second stating, "Hornsby Quarry, \$50 million". That is the only documentation in the public domain or produced for this House under a Standing Order 52 motion that identifies the projects for which the Premier approved \$90 million of public money. Surely the Premier would have had at least a two-page brief identifying what the \$90 million went to. Surely no Government could possibly hand over \$90 million, approved by the Premier, to one council without at least a two-page memo stating what it would go to and a recommendation from a bureaucrat. Yet, during debate on the censure motion, the Government says that none of those documents exists and that there is no document available to be produced to the House in the way of a briefing note to the Premier of the \$90 million decision.

It is not just that one \$90 million decision. More than \$10 million is approved by the Premier to go to the Northern Beaches Council; \$25 million is approved by the Deputy Premier to go to the new Dubbo Regional Council—Dubbington, I think it is called, which is a combination of Dubbo and Wellington councils; millions of dollars are going into councils in the Deputy Premier's electorate. Not a single brief, not a single analysis, not a single document that considers the merits of those projects explains how they found their way into the program, nor is there a single document that is drafted by any bureaucrat anywhere proposing that those projects should be funded, let alone anything like a business case or an assessment of them.

If Government members can say that there are just two documents about the initial set of guidelines and then the bodgied-up set of guidelines in June 2018, then there has been an extraordinary case of maladministration. If a quarter of a billion dollars can be doled out by the Premier and the Deputy Premier without a single memorandum recommending it or an assessment of its merits, and if the Government's defence is that there is not one document, that on a whim the Premier and the Deputy Premier can hand over \$90 million—\$25 million here, \$12 million there and \$4 million here—there is a deeper, darker problem inside this Government than just the subject of this censure motion. It means the Government is acting unlawfully. This Government is treating public money like a political plaything. It is not a small amount of public money; it is twice the size of the Federal sports grants rorts. If that is the Government's defence, it is the defence of rogues and scoundrels, and that is why The Greens support this motion.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I will again make the observation that this is a censure motion relating to the non-production of documents. I heard the evidence on Monday. I understand the dynamics of this motion, but we are not dealing with what occurred on Monday and we are not having a debate about the report from Mr David Shoebridge's committee, whose observations may well have been completely on point. We are dealing with a censure motion. I know there will be a number of contributions to this debate, but I invite members to look at what is before the House as opposed to what may be before the House at some future time.

The Hon. COURTNEY HOUSSOS (15:32:49): I feel compelled to make a contribution to this debate as a member of the Public Accountability Committee and after sitting through our first day's testimony on Monday. I do not take this step lightly because a censure is a significant motion, but I think it is worthwhile explaining why we are taking this significant step. We are taking this step because the various mechanisms of this House have been used to seek this information about a grants program. As Mr David Shoebridge noted, the process began in budget estimates and further questions have been asked. A number of Standing Order 52 motions have passed through this House which have not been complied with. Therefore, we come to a juncture where we are now moving a censure motion for the non-production of those documents.

Before I go into the details of the documents that we seek, which have not been produced and which have created the need for this censure, it is worthwhile reflecting briefly on the topic of grants programs generally. Governments of all persuasions run grants programs, but grants programs are fundamentally different to funding decisions made by Government. Funding decisions are allocated purely within the discretion of the Government. When a grants program is established there is a certain expectation from the public, but also from the process perspective that it is fair, that it will be merit-based and that there will be an application process and a judging of how this money should be spent. Do not just take it from me; the Department of Premier and Cabinet and the National Audit Office have guidelines on this.

ICAC has made a submission to our inquiry outlining how grants programs should operate. To summarise, ICAC says that grants programs should be well publicised, with all those who are eligible for it being notified

about it. ICAC suggests putting the program on a website or perhaps having a rolling calendar of grants that are available. ICAC says grants should have a criteria against which they are assessed in a merit-based process. It says that grants should have guidelines about how the fund should operate and that there should be strict rules around the acquittal of the funds. It is worth reflecting, with those key principles in mind, what the Liberals and Nationals did in establishing the fund that we are seeking information about today. They established a secret—

The Hon. Don Harwin: Point of order: Given what the member has just said, clearly she is not within the terms of the motion and her remarks are going to be out of order.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): The point of order is taken on the basis that the comments are not directed towards the actual motion that is before the House, which is the matter that I have been alluding to up until this point.

The Hon. Don Harwin: Whenever any member does that I will take a point of order.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): With respect, I invite the member to return to the terms of the motion. It seems to me that what the member is seeking to do is to say that documents have not been produced.

The Hon. Don Harwin: They all have been, but drawing any conclusions is out of order.

The Hon. Penny Sharpe: Point of order—

The Hon. COURTNEY HOUSSOS: Point of order—

The DEPUTY PRESIDENT (The Hon. Trevor Khan): Everyone should calm down. I will call the Hon. Courtney Houssos and the Hon. Walt Secord to order if they do not let me finish. I have tried to explain that the Hon. John Graham essentially ran two competing arguments: one related to the censure motion that documents have not been produced and then he gave a speech about no documents being in existence and how that indicates a poorly run scheme, if I can put it in its most neutral terms. Two arguments are running, but the matter before the House is the argument that documents have not been produced and that is what should be addressed. As I said to Mr David Shoebridge, the basic position is that there may be a lengthy debate when the Public Accountability Committee report comes before this House with regards to the administration of this scheme, but we cannot do both at the same time. This is a censure motion and I invite the Hon. Courtney Houssos to address the censure motion.

The Hon. COURTNEY HOUSSOS: The reason we are seeking this censure today relates to the failure to produce the documents relating to the Stronger Communities Fund and the New Council Implementation Fund. We are seeking this information because there has been a slow drip of information from this Government that has had to be prised from it through a series of mechanisms of this House. It started in budget estimates and it continued with questions. Now as a result of not complying with a Standing Order 52 application, we are being forced to censure the Minister to produce those documents.

I note that the Government has provided some documents as this debate has progressed, but those documents are the documents relating to the guidelines. The documents we are seeking relate to the question of who signed off on this money. Many members of the House and I have perused the Standing Order 52 documents, in which there are many emails from various staff members to the Office of Local Government authorising the funds. If it is truly the contention of the Government that it is appropriate to disburse \$250 million via emails taken from verbal approvals, then Labor has real questions about the way the Government is being administered under Premier Gladys Berejiklian. The Opposition seeks that information today because the taxpayers of New South Wales deserve to know that when the Government announces a grants program it is actually a fair and merit-based process, with proper processes around the approval and acquittal of those funds. That has not been provided by the Government so far.

The documents that have been prised from the Government so far include the guidelines of the fund. The Department of Premier and Cabinet, the National Audit Office and ICAC would say that all of those guidelines should be publicly available. Under any other grants program, the guidelines about how the fund will operate should be publicly available. If the Government actually believed that it was approving funds and operating a grants program in the proper way, then it would have no problem issuing those approvals. The Government has something to hide and it has had something to hide from the very beginning. Labor has had to use every single mechanism available to seek the information on behalf of the public, which deserves to know how \$250 million of its money has been spent.

The Hon. Shayne Mallard: Point of order: I sense déjà vu in the member's speech. I draw attention to Standing Order 94: Continued irrelevance or tedious repetition.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I do not uphold the point of order.

The Hon. Shayne Mallard: No new material has been presented, that is all.

The Hon. COURTNEY HOUSSOS: We await the member's contribution. The House seeks to censure the Minister because the Government is not producing the final signed approval from whoever signed off on the money. Who signed the cheque? Who agreed that \$90 million in taxpayer funds should be given to one council, when the biggest council that was affected by the merger, the largest council in the State, was not only not told about the \$250 million of funds that were available, but also was actually lied to. On 8 June Canterbury-Bankstown council wrote to the Minister for Local Government—

The Hon. Don Harwin: Point of order: The contribution has strayed completely from the issue of whether I should be censured because all of the documents have not been produced. The member is canvassing material that is not relevant.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I uphold the point of order.

The Hon. COURTNEY HOUSSOS: If the Government was proud of the way the grants program was operated, it should have no issue releasing the documents that Labor has had to prise out of it. The Government should have released the guidelines and the approvals. The Government should be proud to show that it was the Premier, as Labor suspects, who signed off on the \$90 million in grant funding. If the Government is not proud of that, then maybe it goes to something deeper at the heart of the Government. That should not take a lengthy parliamentary debate nor should it require every mechanism under the standing orders of the House to get basic information for the public about who signed off on \$90 million of public money. The Government should release the documents and it should do so now.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (15:43:57): I have listened to all the contributions from members. A lot of them go to the outrage that there are no documents that Opposition members argue ought to be in existence and ought be produced. The Government says, and I categorically say it now, all the documents that the Government has to produce—that is what I am instructed—pursuant to the standing order have been produced. That is the substance of the censure motion. If there are no more documents to produce, and if the Government has complied, then the censure motion should fall away. I spoke to my friend the Hon. John Graham before the take-note debate. I produced a document that he sought, which amounted to the guidelines. All other documents relating to the awarding of the grants have been produced.

I will go through the index. Documents (1), (4), (7), (13), (15), (17), (23), (27), (31), (35), (38), (41), (46), (49), (52), (55), (58), (61), (65), (68), (72), (75), (81), (86), (89), (92), (96), (100), (103), (106), (109), (112) and (115) are all of the documents that comprise the Government's production, which was sought pursuant to paragraph (2) (a) of the original order. Censuring the Leader of the Government for not producing documents that the Opposition says do exist, but which the Government says do not exist, may have a political implication, but it is not a point of censure. To all the members who are not in the Chamber, but who should be here before a decision is made, I say that this is a serious issue. I hope members are cognisant of the fact that whether the Leader of the Government should be censured for not producing a document that Opposition members think should be produced is a serious issue. That is a political outcome; it is not a censure motion. The Opposition should not censure the Leader of the Government for a document it believes should exist. If that is the certification that has been produced, along with the two documents that were tabled before lunch, then all documents have now been produced in accordance with Standing Order 52, and the implications or ramifications for the Government are what they are. But, for the purposes of the censure motion, the censure motion falls away.

Mr David Shoebridge: That is not credible, though.

The Hon. DAMIEN TUDEHOPE: Mr David Shoebridge makes a point. He said that is incredible.

Mr David Shoebridge: Not credible.

The Hon. DAMIEN TUDEHOPE: That is a conclusion that he and his committee may want to make, but today the Government has said that that is the totality of the documentation that exists in relation to Standing Order 52. Not only has the representation been made by representatives of the Premier's office, but also I have come to the Chamber to make the representation on behalf of the Government. For the Opposition to say it wants to continue to pursue this motion is to say, "We want to continue with the censure motion because we want to punish him." But is it about punishment? Is the Opposition using a censure motion as some sort of punitive measure? There is no substance to the motion, though there is substance in saying that there is no place in this Chamber for punitive measures.

The purpose of a censure motion is a defensive measure to ensure that the will of the House is complied with. It is not a punitive measure. The Opposition should not censure the Leader of the Government because it

believes he should have done something that it wanted him to do but that he did not do it because he does not have the documents that Labor thinks he should have. That is what this amounts to. So Labor wants to punish him. The courts have upheld this, because the nature of a censure must be protective, self-defensive and not punitive. I go to the case of *Barton v Taylor* in the Privy Council where the judge said:

[I]t may very well be, that the same doctrine of reasonable necessity would authorise a suspension until submission or apology by the offending member; which, if he were refractory, might cause it to be prolonged (not by the arbitrary discretion of the Assembly, but by his own wilful default) for some further time. The facts pleaded in this case do not raise the question whether that would be ultra vires or not. If these are the limits of the inherent or implied power, reasonably deducible from the principle of general necessity, they have the advantage of drawing a simple practical line between defensive and punitive action on the part of the Assembly. A power of unconditional suspension, for an indefinite time, or for a definite time depending only on the irresponsible discretion of the Assembly. A power of unconditional suspension, for an indefinite time, or for a definite time depending only on the irresponsible discretion of the Assembly itself, is more than the necessity of self-defence seems to require, and is dangerously liable, in possible cases, to excess or abuse.

That is what this is becoming: It is becoming an abuse. It is on the record that this is the Government's compliance with Standing Order 52. My respectful submission to all of them is that to continue this censure continues a process that on any view of it is an abuse. It is using the power of censure as a punitive measure. In 1886 the previous decision was affirmed in *Egan v Willis*. It made the observation that once the alleged obstruction has been removed—and I do not concede there has been obstruction—there is no lawful purpose to support any action in the House in censuring the Minister of the Crown. The documents are clearly Cabinet in confidence, but I will leave that to one side

The reality, for those who are not here, is that the censure motion continues to be in force because there is a belief in the minds of those opposite that there should be documents. They believe that documents should be in existence that the Government has said to them are not in existence. They are continuing the censure motion in circumstances where they say, "But we want them to be in existence." Unfortunately, they cannot be brought into existence if they are not there. That is what they are faced with. They want the stricture of continuing to abuse the process of this House by pursuing the censure motion on the premise that they want to censure the Leader of the Government because they can. They believe that documents should exist. It is not because the documents exist and they are not being produced. It is because they believe the documents should exist. They are trying to use a censure motion as some sort of punitive measure. They think the Government should be censured because of documents that they think should be in existence, but are not.

If those opposite pursue the censure motion on that basis, I warn those who vote on it that such a decision of the House is open to abuse because of the next thing to do. If the documents do not exist now they will not exist in three weeks' time, so then they will have the Leader of the Government suspended. Again, it is a punitive measure to suspend him because he has not produced documents that others believe should exist, but the Government is saying do not exist. Where are we going with this? It is now time to withdraw this censure motion and accept what the Government is saying. I acknowledge that that has ramifications. The committee will make its own findings in relation to that. There may be all sorts of things, but for the purpose of today I urge those opposite to say that this is no longer a censure motion. It should be withdrawn because the House ought not continue with the censure motion.

The Hon. PENNY SHARPE (15:54:08): It is gobsmacking to take in what the Minister has just said in the House. I speak in support of the censure motion today because it is a very serious matter. I listened very carefully to the contribution of the Hon. Damien Tudehope. He described there being a level of outrage on this side of the House and that we were pursuing the matter in an aggressive way. He said it is completely improper and an abuse of the censure motion. The Opposition simply thinks that there are guidelines in administering a \$250 million grant program that are set down by the Department of Premier and Cabinet.

There are long-established processes with any grants program. It has usually gone through an application process and some sort of assessment or other process. This side of the House accepts that Ministers' officers interact with public servants around that, and that Ministers interact with it and go through that process. But it is unheard of and unbelievable that at the end of the day there is not a list of grants that go to the Minister that the Minister signs off on. That is what the Government is trying to tell us is the case. It is unbelievable to us because it is such a degradation of public trust and any sort of public accountability.

The Hon. Don Harwin: Point of order: The Hon. Penny Sharpe is going well beyond the scope of a censure motion about the non-production of documents. The honourable member is now going into other areas that are beyond the scope of this debate and is therefore out of order.

The Hon. Adam Searle: To the point of order: The Hon. Penny Sharpe is engaging directly with the submission put to the House, cogently and with great passion, by the Leader of the House. The Hon. Penny Sharpe is taking direct issue with what the Leader of the House said and is seeking to address that in the debate. It cannot be that the Hon. Penny Sharpe is straying beyond the terms of the censure motion debate by doing such.

The Hon. Damien Tudehope: To the point of order: It then becomes a reflection on me because, effectively, the Hon. Penny Sharpe is saying that I am not telling the truth.

Mr David Shoebridge: To the point of order: My understanding of the argument being put goes to the credibility of the explanation, not the veracity. I want it to be clear for the record that I in no way challenge the veracity of what the Minister has put forward as being what the Minister's instructions are and clearly portraying that to the House. I am in no way questioning the veracity of the truthfulness of what the Minister is putting to us on instructions. It is not a reflection on the character of the Minister. It is about the credibility of the argument. It goes to whether or not that should be accepted by the House if it is such an extraordinary deviation from accepted administrative practice. That is surely relevant to whether or not we accept the explanation.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): The problem I have with the proposition put by Mr David Shoebridge is that not only did he hear the evidence on Monday—and I have allowed some things to be said today with regard to the evidence received on Monday—but also it is entirely consistent with what the Minister has said. Mr David Shoebridge is putting a proposition that is contrary to what was said earlier.

Mr David Shoebridge: I could engage with this debate. I do not know if now is the time to engage in the debate.

The Hon. Don Harwin: Further to the point of order: To question the credibility is to canvass the veracity because by saying the argument is not credible is directly reflecting on the issue of veracity and is therefore a reflection on the Leader of the House.

The Hon. PENNY SHARPE: To the point of order: I choose my words very carefully when I speak here. I listened very closely to the Hon. Damien Tudehope's contribution. I was not making any reflection or accusing him of being a liar. He directly sought to give an explanation and argument to the points that have been raised from the Opposition side of the House. I was responding to that. I was making no reflection on him, nor would I do that. The Leader of the Government took the point of order that somehow I am not allowed to raise those matters because it is some sort of reflection. When we debate matters in the Chamber, we are always responding to the members who have made arguments. I was not at the meeting on Monday—thankfully by the sound of it. I am responding to the debate in this Chamber; I am entitled to do so as a member. I was not reflecting on individual members. I was trying to engage with what is a very serious debate. I believe I am in order.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I have been directed to a former ruling by President Burgmann, who said that a member may speak about statements made by another member, but not about the member. I do not uphold the point of order that the Hon. Penny Sharpe was reflecting on the Minister. Indeed, I note her observations that she was not. I accept that. She may proceed, but I remind her that she should speak on the matter that is before the House, not the more general matter.

The Hon. PENNY SHARPE: The reason that the censure motion is being moved is straightforward: There are documents that exist that have not been produced. The Opposition side of the House believes that. We believe it because we understand all the guidelines and the accepted and good practice that goes into grants administration in the State. We also note there has been some lack of clarity in the answers and explanations given publicly by Ministers and other public officials over the final sign-off on those matters. If members opposite are running an accountable State and Government, it is not possible for there to not be documents. If they support transparency and the public interest in grants administration in the State, it is not possible for documents not to exist. It is not possible to trust the Government if it suggests that \$250 million was doled out and not appropriately signed off. There are documents.

The Hon. Damien Tudehope: Point of order: That is cavilling with a conclusion that may be drawn from the absence of documents. It does not go to whether the Government has, in fact, produced the documents. The member ought to address whether the Government has produced the documents. Based on what the proper process ought to be, she has a belief that there ought to be more documents. I have addressed the House about the documents, but to continue to say, "Because I believe more documents exist"—

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I do not uphold the Minister's point of order. It is a debating point borne out of frustration.

The Hon. PENNY SHARPE: The mayor of Ryde, who was given \$2.5 million under the program, said, "Always happy to accept funding"—

The DEPUTY PRESIDENT (The Hon. Trevor Khan): That is outside the matter before the House.

The Hon. PENNY SHARPE: Yes, I understand that it is. The House should censure the Leader of the Government because he has failed to produce documents that must exist.

The Hon. ADAM SEARLE (16:04:15): I will not canvass too much the points that have been made, but I will address briefly two points that the Leader of the House raised. One is the notion that the censure motion is being used somehow as a weapon of punishment rather than to secure compliance with the House's order. There is no sense in which the Opposition brings the motion that way. I take the point of the Leader of the House that the Government says that, on instruction, if the documents do not exist today, they are not going to exist in three weeks. I know that it goes to the issue of conclusion, but part of the motion is designed to not just censure for the non-production but also give the further opportunity to comply.

The documents that have been produced today set out the architecture, guidelines, the amount of money and what the funds are for but, unless I have completely misunderstood the public finance and audit legislation, at some point in every process of dispersing money, there must be an individual lawful approval. If the Government's defence to the censure motion is that there are no documents, then I caution the Government that it is actually saying that it has broken the law. It has been disbursing tens of millions of dollars without individual lawful approval. Part of the purpose of the motion is to remind the Government of the enormity of taking that step and crystallise it by asking: Is it what it is really saying? Does it really have no documents?

We ask that because it is commonplace that, when the House calls for papers, there are returns and certifications from department heads and ministerial chiefs of staff that they have searched high and low and that they have produced every document. Then—blow me down—a week later there is a second return. They never identified that the documents would come in two tranches. Sometimes there have been three tranches. At no point do we come here with a motion seeking to haul the public servants or political staffers over the coals or censure the Government for lying to the House because there was a second or third production of documents. We accept that there is a subsequent discovery. It has been the case in calls for papers that from time to time the Government has said, "Look, this does not exist", and then later finds that it does. We say two things in the censure motion. One is that we are censuring the Government for non-production because the non-existence of the documents frankly lacks credibility. But the Government should also have another look and make sure of what it is saying, because that has enormous legal—not political—consequences.

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (16:07:52): Less is more, so I will keep it brief. Some quite extraordinary things have happened to me in 2020. Many of them curious; some of them shocking. In the scheme of everything that has happened, being censured for non-production of documents that ought to exist but which the Leader of the House and I are assured do not exist will probably not be in the top 10. I do not wish to make light of the matter, particularly in respect to the comments that have just been made by the Leader of the Opposition, which I believe he intends in all sincerity. But the Leader of the House has been instructed by the Secretary of the Department of Premier and Cabinet and his delegates that that is the position. As the Leader of the Government, I am happy to serve. I am a volunteer. I did not have to come back from Pearl Beach; I could have just stayed there. If I am censured, so be it. But that is our position. It is put to the House with all sincerity and with the complete intention of complying with Standing Order 52 and the order for the production of documents that it is being made under. The House will form its judgement and I will let the matter rest there.

The Hon. Walt Secord: The member is a patriot just serving his State.

The Hon. DON HARWIN: I am indeed.

The Hon. JOHN GRAHAM (16:09:46): In reply: I thank the House for the time it has taken on this debate. The Opposition genuinely believes this is an important matter. We do have concerns that we bring before the House because we feel obligated to do that. I am grateful to the Leader of the Opposition for making the point strongly that the House has previously been told that all documents have been returned. I personally have had that experience in relation to documents I have requested. All we seek here is what I hope is a single A4 piece of paper. We are not looking for a truckload, but we think the House should find it hard to accept the Government's explanation.

The Leader of the House is asking the House to accept that if emails rain down from the Premier's office to the Office of Local Government NSW to then send out the funding agreements, it leaves us in the position of picturing the Premier leaning over the senior adviser emailing the Office of Local Government NSW directing this or that grant—either verbally or from some whiteboard. How is this happening? It is almost unimaginable how this would happen. If the case the Leader of the House outlines were true, the House would have to imagine some way that a recommendation about which grants to sign off would be approved by the Premier. How would the Premier know to sign off on a \$50,000 off-leash dog park in suburban Sydney?

It is unimaginable that the Premier would pick this out of the air. But the agency administering this says it did not provide a recommendation so where is it? The Leader of the House is asking the House to imagine there was no recommendation and there was no paper. The Premier herself knew about this off-leash dog park and took

time out from important matters of State to direct her senior policy adviser verbally to ask the Office of Local Government NSW to issue a funding agreement. It beggars belief. That is the problem I am having with the case put by the Government. Was this done on a whiteboard or a Post-it note? The Government should take the following point seriously. Is there any electronic record sitting in the Deputy Premier's office or the Premier's office outlining which way they wanted these 249 grants to go? Having seen some of the other grant programs, I encourage the Government to consider that question carefully before it returns to the House.

The Leader of the House was clear that he is relaying the advice he was given and I accept that wholeheartedly. There is no doubt that he has dealt with the Opposition in good faith throughout. The Leader of the House said all the documents requested have been produced, but he has not said how the approval came about. The Government has not said how the recommendations came about and it has not been clear about who the decision-maker is, and that has real legal implications. Its agencies are at odds on that question and we have not had a clear explanation from the Government. As the Leader of the Opposition said, the Government should reconsider this because the response to the House has been done in haste. It was just last night—at 5.23 p.m.—that the Department of Premier and Cabinet [DPC] emailed the Clerk in response to our requests. DPC said this:

DPC did not write to all of the Ministers named in the order asking for their certifications and any documents held.

That was at 5.23 p.m. yesterday. Labor says DPC has not done the job the House expects it to do. It has done it in haste and should check whether any of the questions being asked today can be answered. If some documents have been inadvertently missed it would not be the first time. If that is not true, then the way this grant program is being administered is almost unimaginable. I commend the motion.

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

The House divided.

Ayes23
Noes17
Majority.....6

AYES

Banasiak	Graham	Primrose
Borsak	Houssos	Roberts
Boyd	Hurst	Searle
Buttigieg (teller)	Jackson	Secord
D'Adam (teller)	Latham	Sharpe
Donnelly	Mookhey	Shoebridge
Faehrmann	Moriarty	Veitch
Field	Pearson	

NOES

Amato	Harwin	Mitchell
Cusack	Khan	Nile
Fang	Maclaren-Jones (teller)	Taylor
Farlow	Mallard	Tudehope
Farraway (teller)	Martin	Ward
Franklin	Mason-Cox	

Motion agreed to.

Documents

THE HON. DON HARWIN

Dispute of Claim of Privilege

The PRESIDENT (16:24:26): On Tuesday 22 September I informed the House that the Clerk had received from the Hon. Mark Latham written correspondence disputing the validity of the claim of privilege on certain documents lodged with the Clerk on 19 August 2020 relating to the alleged breach of Public Health Order by the Hon. Don Harwin, MLC, and that the Hon. Keith Mason, AC, QC, had been appointed as an Independent Legal Arbiter to evaluate and report as to the validity of the claim of privilege. This morning the Hon. Keith Mason advised that it would be inappropriate for him to examine any documents in relation to this disputed claim and that it would also be inappropriate for the Hon. Joseph Campbell, QC, to do so. Consequently Mr Bret Walker,

SC, has now been appointed as an Independent Legal Arbiter to evaluate and report as to the validity of the claim of privilege. The Clerk has released the disputed documents to Mr Walker.

Bills

STRONGER COMMUNITIES LEGISLATION AMENDMENT (CRIMES) BILL 2020

Second Reading Speech

The Hon. NATALIE WARD (16:26:22): 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 Government is pleased to introduce the **Stronger Communities Legislation Amendment (Crimes) Bill 2020**.

The bill introduces 22 miscellaneous amendments to 16 Acts address developments in case law, support procedural improvements and close gaps in the law that have become apparent relating to crimes.

In particular, these amendments will strengthen our community through:

- a. improving criminal investigation; and
- b. supporting the management of young adults in custody.

Miscellaneous amendment bills are typically introduced into Parliament each session as part of the Government's regular legislative review and monitoring program.

However this year, owing to the disruption caused by the COVID-19 pandemic, a miscellaneous amendment bill was not able to be introduced in the Budget session of Parliament.

Instead, four separate miscellaneous bills are being introduced in this session. The division of the proposals into four bills is necessary due to the large number of reform proposals to assist Parliamentary consideration.

I now turn to the detail of the bill.

Amendments to improve criminal investigation

Schedule 1.15 [1] and [2] to the bill amend section 4 of the Surveillance Devices Act 2007 to insert additional proceedings into the definition of "relevant proceedings", thereby enabling protected information to be used, published or communicated in these proceedings, if necessary to do so.

This amendment would enable the use of lawfully obtained surveillance device material in the following proceedings:

- a. proceedings before the State Parole Authority under Parts 6 and 7 of the Crimes (Administration of Sentences) Act 1999;
- b. applications to an appropriate court under the Crimes (Serious Crime Prevention Orders) Act 2016;
- c. applications under the Crimes (Forensic Procedures) Act 2000; and
- d. proceedings before the NSW Civil and Administrative Tribunal under sub-sections 75 (1) (a) and (f) of the Firearms Act 1996, being appeals against a decision to issue a licence or other permit and to make a firearms prohibition order.

These proceedings have been identified by the NSW Police Force as proceedings where surveillance device material would be probative and assist in decision-making.

This amendment would ensure that lawfully obtained surveillance device material could be used to inform a decision to:

- a. make or revoke a parole order;
- b. make or revoke an intensive correction order or re-integration home detention order;
- c. make a serious crime prevention order; or
- d. order a forensic procedure; and
- e. inform an appeal against a decision to issue a license or other permit or to make a firearms prohibition order under the Firearms Act 1996.

Schedule 1.15 [7] amends the Surveillance Devices Act 2007 to provide a limited exception to the requirement for law enforcement officers to apply for approval after using a surveillance device without warrant in an emergency.

The exception will apply if:

- a. a law enforcement officer is using an optical surveillance device to observe activity only (not to record activity) and;
- b. the circumstances under section 31 of the Surveillance Devices Act 2007 are met.

Under section 31 of the Surveillance Devices Act 2007, a law enforcement officer may use a surveillance device without a surveillance device warrant if the law enforcement officer on reasonable grounds suspects or believes that:

- a. an imminent threat of serious violence to a person or substantial damage to property or that a serious narcotics offence will be committed exists; and

- b. the use of a surveillance device is immediately necessary for the purpose of dealing with that threat; and
- c. the circumstances are so serious and the matter is of such urgency that the use of a surveillance device is warranted; and
- d. it is not practicable in the circumstances to apply for a surveillance device warrant.

Examples of devices that are intended to be covered by the new exception under section 33 include:

- a. telescopic sights on firearms;
- b. binoculars; and
- c. infra-red equipment.

These devices are regularly used by law enforcement officers to assist in operations, particularly in emergencies such as hostage situations, sieges and other tactical operations.

This amendment will ensure that law enforcement officers are not deterred from using this kind of equipment to observe activity in an emergency situation.

Schedule 1.16 to the bill amends the Terrorism (Police Powers) Act 2002 to provide:

- a. that a declaration made by the Commissioner of Police under section 24A applies to each location at which police officers are responding to the incident; and
- b. that the Minister may, for the purposes of the statutory review of the Act, require the Commissioner of Police to provide information about declarations made by the Commissioner under Part 2AAA.

Section 24A of the Terrorism (Police Powers) Act 2002 enables the Commissioner of Police to declare that Part 2AAA applies to a terrorist act to which police are responding. Part 2AAA provides that a police officer does not incur any criminal liability for the use of force (including lethal force) that is authorised under Part 2AAA, in good faith and reasonably necessary to defend any person threatened by a terrorist act or to prevent their unlawful deprivation of liberty.

Section 24A (2) currently provides that such a declaration "may be made in respect of the specified location at which police officers are responding and in respect of any other related specified location".

The requirement to declare a specified location may not be fit for purpose for evolving police responses to terrorist actions.

Specificity of location description is particularly unhelpful in a situation with a mobile terrorist offender. The current wording of sub-section 24A (2) may mean that either broad location descriptions or unnecessarily strictly defined locations are favoured, which may cause operational confusion.

This goes against Parliament's intent in introducing Part 2AAA, which was to provide certainty to police officers acting in an authorised manner to respond to a terrorist incident.

This amendment clarifies the intent of section 24A, which is that the declaration and the attached immunity from criminal liability applies to police officers who are responding—in a manner authorised under section 24B—to a terrorist incident. The amendment is consistent with the wording of equivalent provisions in South Australia and Western Australia.

This amendment does not in any way broaden the immunity afforded to police officers under Part 2AAA. It merely addresses an operational issue that could hinder the making of a declaration.

The police action that is authorised by Part 2AAA is the action taken in good faith in response to a declared terrorist incident that is for the purposes of a police action plan and that is reasonably necessary, in the circumstances as the police officer perceives them, to defend any persons threatened by the terrorist act or to prevent or terminate their unlawful deprivation of liberty.

The second part of this amendment introduces an additional safeguard to Part 2AAA, to allow the Minister to require the Commissioner of Police to provide information about declarations made under Part 2AAA for the purposes of the regular statutory reviews of the Act.

Schedule 1.3 to the bill amends the Court Suppression and Non-publication Orders Act 2010 to extend the time limit for commencing a prosecution in the Local Court for an offence of contravening a suppression order or non-publication order from six months to two years.

The current time limit to commence prosecutions under this Act does not reflect the myriad ways information can now be communicated and published and the resulting complexities of discovering or obtaining evidence of the offence. It is particularly difficult and time consuming for the police to obtain the required evidence when individuals breach these orders via social media platforms, which may have headquarters overseas.

This amendment will enable more effective and appropriate prosecutions.

This amendment would also align the time limit for commencing a prosecution under the Court Suppression and Non-publication Orders Act 2010 with the time limit applying to similar offences under the Children (Criminal Proceedings) Act 1987 and the Crimes Act 1900.

Amendments to support the management of young adults in custody

I now turn to the amendments in the bill to support the management of young people in custody.

Schedule 1.2 [3] amends the Children (Detention Centres) Act 1987 to enable Corrective Services NSW staff to transport juvenile detainees designated as National Security Interest (NSI).

A detainee with terrorism related charges, convictions, associations or who has expressed support for terrorism or violent extremism may be designated as NSI when there is a risk that the detainee may engage in, or incite other persons to engage in, activities that constitute a serious threat to the peace, order or good government of the State or any other place.

As at 27 August 2020, there were three juvenile detainees designated as NSI, who are all over 18 years old.

This amendment would authorise Corrective Services staff to transport NSI designated juvenile detainees between detention centres, courts, hospitals and other places, when requested by Youth Justice NSW.

Corrective Services staff will be able to exercise all the powers they exercise when transporting adult offenders, including:

- a. the use of force that is reasonably necessary to exercise their functions;
- b. the carrying of firearms;
- c. the use of armoured vehicles; and
- d. the ability to conduct searches in the same manner in which inmates are searched.

The same safeguards for conduct of searches by Corrective Services officer will apply.

This amendment addresses a need identified by Youth Justice for increased security while transporting NSI detainees. Youth Justice staff currently provide all transports and escorts for juvenile detainees. Youth Justice staff are not armed, nor do they have access to armoured vehicles.

Youth Justice and Corrective Services are establishing a Joint Protocol to support the implementation of this amendment and to ensure that young adult inmates are transported safely.

This amendment is necessary to address any risk posed to Youth Justice staff and to the community.

Schedule 1.2 [2] amends the Children (Detention Centres) Act to provide that a person who is of or above the age of 18 but under the age of 21 is not to be detained in a Youth Justice detention centre if:

- a. the person is, or has previously been, detained as an inmate in an adult correctional centre for a period of, or periods totalling, more than four weeks; or
- b. the person has previously been transferred from Youth Justice custody to Corrective Services custody under section 28 of the Children (Detention Centres) Act.

This amendment will ensure that these offenders remain in adult custody unless an order is made by the Minister under section 10 (1) of the Children (Detention Centres) Act directing the transfer of the offender from a correctional centre to a detention centre.

Young adult inmates who have previously been transferred out of Youth Justice custody under section 28 have been assessed as unsuitable for Youth Justice custody. It is therefore appropriate that these young people remain in adult custody for the duration of their sentence.

This amendment is necessary to overcome operational and service challenges faced by Youth Justice when dealing with young people for offences committed as a child. These operational challenges may arise when a young adult inmate is required to serve the unexpired portion of a juvenile sentence upon the expiration of a concurrent adult sentence, for example.

Young adult inmates who have spent four or more weeks in adult custody are also, in most cases, more appropriately managed in adult custody.

This amendment will support the professional decision-making of Youth Justice staff and will promote the effective management of both adult offenders and younger detainees, as well as the effective operation of youth detention centres.

I now turn to the amendments in the bill that align certain provisions of the Children (Detention Centres) Act 1987 with the Crimes (Administration of Sentences) Act 1999.

Schedule 1.2 [7] to [8] amends section 91 of the Children (Detention Centres) Act to ensure that the provision operates as intended.

This provision was intended to ensure that the Children's Court:

- a. may withhold any document in parole proceedings from any person where satisfied it is in the public interest to do so; and
- b. is not required to provide information about any part of the content of a report or other document withheld from a person if it is satisfied it is in the public interest and that the public interest outweighs any right to procedural fairness that may be denied by not providing the information.

Currently, the information protection provisions under section 91 only apply if a provision of Part 4C of the Children (Detention Centres) Act or the regulations (an "information requirement") requires a person to be provided with a copy of a report or document (or any part of the report or document) or information contained in a report or document.

There is no such information requirement in the Children (Detention Centres) Act or the regulations. Consequently, section 91 has no work to do.

Section 91 was inserted into the Children (Detention Centres) Act as part of the 2017 reforms to parole in New South Wales, which created a separate statutory framework for youth parole.

It was intended to have the same effect as section 194 of the Crimes (Administration of Sentences) Act 1999, which allows the State Parole Authority to withhold documents and information contained in documents in adult parole proceedings where it is in the public interest to do so.

This amendment gives the Children's Court the same discretion to withhold documents and information contained in documents in youth parole proceedings where it is in the public interest to do so.

Schedule 1.10 to the bill amends uncommenced provisions of the Children (Detention Centres) Act made under the Justice Legislation Amendment Act (No. 3) 2018.

Items [1] and [2] will provide legislative guidance to Youth Justice NSW about what information, related to the administration of the Children (Detention Centres) Act, may and may not be disclosed, in order to ensure that particular information related to detainees is protected from unlawful disclosure.

Item [3] amends the uncommenced section 102B of the Children (Detention Centres) Act to allow the Secretary of the Department of Communities and Justice to enter into an information sharing arrangement with an Australian intelligence agency. This will expand information sharing provisions beyond the current scope of the uncommenced provision, in which the Secretary is permitted to share prescribed information with a law enforcement agency or a government agency of a State or Territory that corresponds with Youth Justice NSW.

These amendments are required to maintain consistency with the equivalent provisions under the Crimes (Administration of Sentences) Act 1999 in respect of information held by Corrective Services NSW, which have been amended since the drafting of the Justice Legislation Amendment Act (No. 3) 2018.

Other amendments

I now turn to the remaining amendments in the bill that are more technical in nature.

Schedule 1.4 to the bill amends the Crimes Act 1900 to protect persons from prosecution for an offence of concealing a serious indictable offence, where the offence arises from the person respecting the wishes of an adult victim of sexual or domestic violence not to have information reported to authorities.

Currently, section 316 of the Crimes Act 1900 requires a person who knows or believes that a serious indictable offence has been committed, and who knows or believes that they have information that might materially assist in the investigation and prosecution of the offender, to bring that information to the attention of NSW Police or another appropriate authority. Where the person fails to do so without reasonable excuse, they will have committed an offence carrying a maximum penalty of between two and five years imprisonment, depending on the seriousness of the offence the information relates to.

Section 316 does not currently specify what might constitute a reasonable excuse for failing to bring relevant information to the attention of authorities.

The bill amends section 316 to state that a person will have a reasonable excuse where: the information relates to a sexual offence or domestic violence offence; the alleged victim is an adult at the time that the person obtains the information; and the person believes on reasonable grounds that the alleged victim does not wish to have the information reported to authorities.

The amendment is not intended to limit what might constitute a reasonable excuse for the purposes of section 316. It will continue to be possible for a reasonable excuse to be made out in circumstances other than those involving the wishes of a victim of domestic or sexual violence. The amendment however will ensure that persons such as professionals who provide support services to an adult victim of sexual offences or domestic violence are not required to report information to authorities in contravention of the victim's wishes.

I thank and acknowledge important victims support groups for bringing the need for this amendment to the attention of the Government, including Rape & Domestic Violence Services Australia and the NSW Domestic and Family Violence and Sexual Assault Council. I especially thank Karen Willis, OAM, for advocating for these reforms.

For those who have experienced sexual or domestic violence, there should be no barriers to reporting the offence to whom they choose. One of the central tenets of a trauma-informed approach is the need to support victims, recognising their choice and autonomy in deciding what action should be taken to respond to the offending against them.

This reform strengthens the response of the criminal justice system in New South Wales to serious sexual and domestic violence offences, and provides clarity and certainty for support providers.

Schedules 1.5 and 1.7 amend the Crimes (Administration of Sentences) Act 1999 and the Crimes (Sentencing Procedure) Act 1999 to clarify that a reference to a condition or obligation that a person not commit any offence is a reference to any offence, whether committed in New South Wales or in any other State or Territory.

The obligation to not commit any offence applies as a standard condition for all parole orders, re-integration home detention orders, intensive correction orders, community correction orders and conditional release orders.

These amendments clarify the policy intent of imposing this condition by explicitly providing that an offender subject to any of these orders is not to commit any offence in any Australian jurisdiction.

Schedule 1.6 [1]-[3] amends the Crimes (Appeal and Review) Act 2001 to provide that the functions of the Minister under sections 5 and 77 are functions of the Attorney General as first law officer.

Section 5 of the Crimes (Appeal and Review) Act allows applications for annulment of a conviction or sentence made or imposed by the Local Court to be made to the Minister by any person. The Minister, if satisfied that a question or doubt exists as to the defendant's guilt or as to the defendant's liability for a penalty, may refer the application to the Local Court.

Section 77 of the Crimes (Appeal and Review) Act enables the Minister to deal with petitions for a review of a conviction or sentence.

The Attorney General currently exercise these functions as the Minister administering the Crimes (Appeal and Review) Act.

However, because the provisions do not currently specifically confer these functions on the Attorney General, this prevents these functions from being delegated to the Solicitor General.

This amendment would enable this delegation, and bring New South Wales into line with all other jurisdictions in Australia which specifically confer these functions, or similar functions, on the Attorney General or first law officer.

Schedule 1.6 [4] amends section 69 of the Crimes (Appeal and Review) Act 2001 in order to include references to community correction orders and conditional release orders, which were introduced under sentencing reforms which commenced in 2018.

This will ensure that where an appeal court confirms a sentence on appeal, any good behaviour bond, community correction order, or conditional release order arising from the original sentence will continue to have effect according to its existing terms, except as otherwise directed by the appeal court.

Schedule 1.8 [2] amends the Criminal Records Act 1991 to provide that it is not an offence for a member of staff of Corrective Services NSW to inadvertently disclose information concerning a spent conviction if:

- a. making the information available is not an offence under the Crimes (Administration of Sentences) Act 1999; and
- b. the person employed by Corrective Services NSW does not know the conviction is a spent conviction.

Various organisations request and require an offender's criminal history from Corrective Services NSW, including service providers working with offenders in the community.

Information held by Corrective Services NSW only captures the information required to administer the sentence at the time it was imposed.

This means that Corrective Services NSW staff are not able to identify whether a person's conviction is spent. Further, the convictions in the criminal history reports disclosed by Corrective Services NSW may in the future become spent.

Organisations rely on the criminal history reports provided by Corrective Services NSW in order to:

- a. assess an offender's history, needs and risk of reoffending;
- b. ensure accurately targeted services are provided to an offender based on their risk of reoffending, which includes a consideration of their past convictions; and
- c. take necessary steps for the health and safety of their staff, volunteers and offenders.

This amendment would provide Corrective Services NSW staff with protection from the inadvertent release of spent convictions information. It will still be an offence for a Corrective Services NSW staff member to release information that the staff member knows is spent convictions unless another exemption under the Criminal Records Act applies.

Schedule 1.8 [1] amends the Criminal Records Act 1991 to clarify that all non-conviction Conditional Release Orders are spent when the order is successfully completed.

Section 8 (4) of the Criminal Records Act 1991 currently provides that a non-conviction Conditional Release Order subject to one or more additional conditions is spent on satisfactory completion of the order. It does not explicitly provide for when such an order that is subject only to standard conditions (to not commit an offence and to attend court when called on to do so) will be spent.

This amendment will remove that ambiguity and clarify the policy intent that all non-conviction Conditional Release Orders are spent when the order is successfully completed.

Schedule 1.9 to the bill amends Schedule 1 to the Drug Misuse and Trafficking Act 1985 to correct the entry for Delta-9-tetrahydrocannabinol (which I will refer to as dronabinol).

Dronabinol is a cannabis-based medicinal product that is a prohibited drug under the Drug Misuse and Trafficking Act.

Schedule 1 lists prohibited plants and drugs. The current entry for dronabinol provides that it is a prohibited drug "where prepared and packed for therapeutic use".

This amendment removes those words and thereby gives effect to the policy intent that dronabinol is a prohibited drug irrespective of its presentation.

This amendment does not affect the lawful possession of dronabinol, such as by way of prescription in accordance with the Poisons and Therapeutic Goods Act 1966.

Schedule 1.11 amends the Law Enforcement (Powers and Responsibilities) Act 1999 to enable a police officer to enter premises where they believe on reasonable grounds that a person who has died, otherwise than as a result of an offence, is on the premises and there is no occupier on the premises to consent to the entry.

Before entering on these grounds, the police officer must obtain approval to do so, orally or in writing, from a police officer of or above the rank of Inspector.

This amendment would enable police officers to enter premises in these circumstances to perform necessary duties, for example, issuing a death certificate, notifying the family, ensuring a deceased person is taken to the morgue and securing the premises.

This amendment would not empower police officers to enter where another occupier is present and does not consent to police entering the premises.

Schedule 1.12 to the bill makes consequential amendments to a number of Acts to provide necessary updates reflecting the reforms introduced by the uncommenced Mental Health and Cognitive Impairment Forensic Provisions Act 2020 (MHCIFP Act), in particular, the bill amends Schedule 3 of the MHCIFP Act to:

- a. rename the defence of mental illness to the defence of mental health impairment and cognitive impairment; and
- b. rename the special verdict of 'not guilty by reason of mental illness' to the special verdict of 'act proven but not criminally responsible because of mental health impairment and cognitive impairment' in certain provisions of the Civil Liabilities Act 2002; the Crimes (Appeal and Review Act) 2001; and the Forfeiture Act 1995.

Schedule 1.13 omits the uncommenced Schedule 3 to the Mental Health (Forensic Provisions) Amendment (Victims) Act 2018, as identical provisions are now in force under sections 30M and 30L of the Crimes (Sentencing Procedure) Act 2018.

Schedule 1.14 amends the Scrap Metal Industry Act 2016 to enable corporations to provide a single notice of authority consenting to the sale of scrap metal to a scrap metal dealer which can cover subsequent transactions.

And finally, I turn to the amendments to the Surveillance Devices Act 2007 (**Surveillance Devices Act**) in Schedule 1.15 to the bill. Schedule 1.15 [3] and [5] amends sections 18 and 26 of the Surveillance Devices Act to:

- a. remove the outdated requirement for an affidavit supporting a remote application for a surveillance device warrant to be transmitted by facsimile; and
- b. enable such an affidavit to be transmitted by any other means of communication, including email.

These amendments also add an additional ground on which a remote application may be made, including where an eligible Judge or eligible Magistrate who is to determine the application requests that it is made that way.

Schedule 1.16 [8] amends section 33 of the Surveillance Devices Act to also allow remote applications to be made for approval of the emergency use of a surveillance device, where the eligible Judge who is to determine the application so requests.

Conclusion

This bill is an important part of the Government's regular legislative review and monitoring program.

Many of the amendments in the bill are technical in nature and they are important steps towards further strengthening our justice system. They address emerging issues, support procedural improvements, clarify uncertainty and correct errors in legislation.

I commend the bill to the House.

Second Reading Debate

The Hon. ADAM SEARLE (16:26:44): I lead for the Opposition on the Stronger Communities Legislation Amendment (Crimes) Bill 2020. As is often the way with this kind of legislation, the Opposition will not be opposing the bill. The object of the bill is to amend various Acts relating to crimes and to other matters in the portfolio area of the communities and justice cluster—an Orwellian name. It is a set of miscellaneous proposed amendments arising from the Government's regular legislative reviews and monitoring program. The bill is the second of four bills to be presented by the Government this calendar year in this space. The most interesting item in the bill before the House is the proposed change to section 316 of the Crimes Act.

For those not in the know, section 316 makes it an offence for a person to conceal information without a reasonable excuse about a serious indictable offence. Some time ago Rape & Domestic Violence Services Australia [R&DVSA] expressed concern that the concealment offence was having an unintended effect on people impacted by sexual violence. In effect the provision appears to obligate any person receiving a disclosure of sexual violence to report it to the police, even when that goes against the wishes of the person who experienced the sexual violence. R&DVSA has written to the Opposition and stated:

This is contrary to principles of trauma-informed practice, which provides that complainants should be empowered throughout the recovery process to regain a sense of control, choice and agency.

It also said:

R&DVSA is concerned that as a result of the concealment offence, numerous organisations have adopted a policy that every disclosure of sexual assault must be reported to police, even where this goes against the wishes of the complainant. The obligation to report runs the risk of discouraging persons who have experienced sexual assault from accessing the support services or non-criminal disciplinary processes that they need access to. It runs the risk, where non-consensual reports to police are made, that complainants will experience amplified harm due to further violation of their privacy and autonomy. Part of what sparked these concerns flowed from the campaign against sexual assault on campuses: the End Rape on Campus campaign. Properly, that campaign resulted in campuses reviewing and rewriting their policies in that area.

Inevitably that was done by lawyers who, equally inevitably and properly, pointed to section 316 of the Crimes Act 1900 and required mandatory reporting to police to relieve the institution and its employees of potential criminal liability, regardless of the consent of the person who had experienced sexual violence. Universities Australia adopted that policy, as did a number of universities. We are not being critical of those institutions, as that was an inevitable consequence of their lawyers advising them about the state of the law at that time. As an alternative, R&DVSA pointed to the provisions of section 316 A in which reasonable excuse was itemised in a non-exhaustive way. The Labor Opposition raised that issue in budget estimates hearings in September last year some time after an approach had been made to the Government.

It was raised again in budget estimates earlier this year and questions were taken on notice. In the Opposition's view, that resulted in the bill now before the House. The bill amends section 316 by providing that a person will have a reasonable excuse where the information relates to a sexual offence or a domestic violence offence, the alleged victim was an adult at the time the information was obtained and the person believes, on reasonable grounds, that the alleged victim does not want to have that information reported to the authorities. The Opposition is not sure that that is what R&DVSA was seeking. We believe that it wanted a clearer structure for the non-application of the concealment provision to these types of assaults. However, the mechanism of reasonable excuse, already known in the law, is probably sufficient to deal with the institutional problem to which I referred earlier. Of course, the provision does not prohibit other issues being raised as a reasonable excuse.

There is a range of other amendments in the bill. The time limit in which to commence a prosecution for contravening a non-publication or suppression order is extended from six months to two years. The bill amends section 24 A of the Terrorism (Police Powers) Act 2002 so that the declaration applies to each location at which police officers are responding to an incident. Current drafting probably will not cover the situation where a terrorism offender is mobile. Power is now given to the Minister for the pieces of a statutory review of the Act to review information from the Commissioner of Police about declarations made under part 2AAA of the Act. Clarifications are provided about terms of parole orders and the like concerning the extraterritorial operation of some conditions. Also there are clarifications of technical aspects of appeal proceedings.

The Criminal Records Act 1991 is amended so that an offence resulting in a non-conviction conditional release order is spent upon satisfactory completion of that order. The Law Enforcement (Powers and Responsibilities) Act 2002 is amended to allow police officers to enter premises where they reasonably believe that a person has died, not as the result of an offence, and is on the premises but there is no occupier present to consent to entry. Prior approval from senior officers is required. The bill contains consequential amendments flowing from the Mental Health and Cognitive Impairment Forensic Provisions Act 2020 and a number of proposals around juvenile and detention centres. Corrective Services is enabled to transport juvenile detainees who are designated as being of national security interest. Persons aged 18 to 21 are not to be detained in a youth justice detention centre if they have been detained previously in an adult correctional centre for more than four weeks or have been previously transferred from youth justice custody to adult custody.

An amendment to an existing, but not yet commenced, provision will allow the Communities and Justice departmental secretary to share information with an Australian intelligence agency. The bill includes amendments to the Surveillance Devices Act 2007, one of which will expand the bodies that can now use lawfully obtained surveillance device material. That material will be able to be used in State parole authority proceedings under parts 6 and 7 of the Crimes (Administration of Sentences) Act 1999, in applications under the Crimes (Forensic Procedures) Act 2000 and in NSW Civil and Administrative Tribunal proceedings about appeals against a decision to issue a licence or other permit. It will also be able to be used in applications under the Crimes (Serious Crime Prevention Orders) Act 2016.

The bill includes an amendment to introduce a further exception to the delegations of law enforcement officers to apply for approval after using a surveillance device without warrant in an emergency. This applies to an optical surveillance device to observe activity only but to not record activity. The other requirements for emergency use of surveillance devices will remain. In his second reading speech the Attorney General explained that examples meant to be caught by this provision include telescopic sights on firearms, binoculars and infra-red equipment. The bill contains another amendment to allow for remote applications for the emergency use of a surveillance device where the relevant judge so requests. The Opposition does not oppose the bill.

The Hon. SHAYNE MALLARD (16:35:10): I support the Stronger Communities Legislation Amendment (Crimes) Bill 2020. I will focus on a specific area of the bill: the amendment to the Scrap Metal Industry Act 2016—something dear to my heart, as all members know. As we all know, that Act imposes duties and obligations on scrap metal dealers, including prohibitions on paying for scrap metal in cash, buying or disposing of unidentified motor vehicles and a duty to report stolen scrap metal. Section 16 of the Act sets out the record keeping requirements for transactions involving scrap metal.

They include the details of every transaction, including the details of the seller, the quantity and the weight of the scrap metal and any unique identifiers. Metal being stolen from building sites and of parts being removed is a serious issue, so this is very important legislation. The record keeping requirements are necessary to ensure that the sale of any stolen scrap metal can be traced. Section 16 (1) (c) of the Act requires scrap metal dealers to keep a record of a statement signed by an executive officer or an employee of an organisation, if the sale is conducted by a corporation, consenting to the sale. That must be provided in respect of each transaction entered into by the dealer for the purchase of scrap metal.

Mr David Shoebridge: Every transaction?

The Hon. SHAYNE MALLARD: That is right and that is where the reform comes in. It is onerous to require scrap metal businesses to request a new written authority for each individual transaction from a corporation that conducts regular business with the same scrap metal dealer. A motor vehicle repairer may dispose of its damaged metal car parts with the one registered scrap metal dealer. It is unnecessary, where parties have an ongoing business relationship, to require a signed statement to be provided on each occasion of a single new transaction. That requirement is an impediment to efficient business practices and does not add meaningfully to the integrity of the scrap metal industry.

The amendment in the bill will enable corporations to provide a single notice of authority that will cover subsequent ongoing transactions. The new section 16 (1A) of the Act will provide that a record of a sale consent

is not required in respect of a sale conducted by a corporation if the terms of the sale are within the terms of a statement signed by an executive officer of the corporation, or an employee authorised in writing by an executive officer of the corporation, authorising the corporation to sell scrap metal to the scrap metal dealer; and the statement was signed no more than 12 months before the date of the sale and has not been withdrawn; and, finally, the scrap metal dealer keeps a record of that statement.

The amendment contains appropriate safeguards to ensure the integrity of the scrap metal industry; that the authorisation must be signed no more than 12 months before the date of that sale and the sale itself must be within the terms of that authorisation. I am pleased to support the amendment to the Scrap Metal Industry Act 2016 contained in the bill. It removes an unnecessary duplicate requirement, removes red tape currently imposed on scrap metal dealers while introducing a more effective workable safeguard and ensures the ongoing integrity of the scrap metal industry without creating an impediment to business and business practices. I trust members were enlightened by that explanation of the amendment and I commend the bill to the House.

Mr DAVID SHOEBRIDGE (16:38:54): On behalf of The Greens, I indicate that we will not oppose the Stronger Communities Legislation Amendment (Crimes) Bill 2020, which is the second of four proposed miscellaneous provisions bills that have effectively come out of the Justice cluster, now the Stronger Communities cluster. The Greens do not oppose the bill but have a brief amendment to one provision, which I will address in the Committee stage relating to the transport of juveniles in detention. Save for that, I simply note that there are a number of minor amendments to elements of the law that The Greens have in principle issues with.

One amendment is to the declaration under Part 2AAA of the Terrorism (Police Powers) Act 2002. The Greens opposed those substantive provisions and we remain opposed to the reach of the anti-terrorism provisions. They effectively remove any potential criminal sanction from any member of the police if they kill anybody at an event that has been declared by a senior police officer to be a terrorism event. This amendment makes a marginal change to those provisions by allowing a declaration to be made in relation to more than one place. That does not change our in principle objection to the provisions. We are not formally opposing it because the amendment does not effectively broaden or expand the nature of the provisions, but by no means do we support it.

I raise the fact that the amendments in relation to the transport of juvenile detainees is a matter that we will discuss in the Committee stage. The change relating to detainees who are aged between 18 and 21 is designed to address the circumstances where an individual may be convicted both as a juvenile and as an adult and have concurrent sentences, bouncing between adult prison and juvenile detention. The adult sentence may be shorter than the juvenile sentence so without this amendment, having served a term as an adult in an adult jail, detainees may then be required to serve the balance of the term for the juvenile offence in a juvenile detention facility. Since the person may be 21 years of age and may have spent a significant amount of time—four weeks or more—in an adult prison, there are obvious concerns about the management of juvenile detention centres in those circumstances. It would mean sending an adult—albeit a young adult—who had spent a significant stretch of time in adult prison back into a juvenile detention facility.

It is because of our concerns about the management of juvenile detention facilities and not because we support the concept of sending young adults back into adult prisons that we do not oppose that amendment. It is about ensuring that juvenile detention facilities can be run as far as possible for the benefit of juvenile detainees. To be clear, when I say "the benefit" I mean the least damage to juvenile detainees. The only other amendment that I will briefly address is section 316 of the Crimes Act. I will not canvass the amendments that happened more than 12 months ago in relation to section 316A of the Crimes Act, which are now on the statute book and relate to the reporting of child sexual assault to the police. The amendments proposed to section 316 follow some of the pattern of the amendments that are now found in section 316A. They provide:

- (1A) For the purposes of subsection (1), a person has a reasonable excuse for failing to bring information to the attention of a member of the NSW Police Force or other appropriate authority if—
 - (a) the information relates to a sexual offence or a domestic violence offence against a person (the alleged victim), and
 - (b) the alleged victim was an adult at the time the information was obtained by the person, and
 - (c) the person believes on reasonable grounds that the alleged victim does not wish the information to be reported to police or another appropriate authority.
- (1B) Subsection (1A) does not limit the grounds on which it may be established that a person has a reasonable excuse for failing to bring information to the attention of a member of the NSW Police Force or other appropriate authority.

This amendment comes out of quite valid concerns from organisations like Women's Legal Service and Wirringa Baiya Aboriginal Women's Legal Centre that without it, section 316 may prevent some women from getting counselling for sexual assaults and domestic violence. Without this explicit defence, the counsellor may feel compelled to disclose to the police the evidence or disclosure that was given to them by the victim—even though that is not the victim's wish—because of a concern that the counsellor may have about being prosecuted under

section 316. Even without this amendment, it was always my understanding of section 316 that considerations such as are now found in this statutory test would in almost all circumstances have constituted a reasonable excuse under section 316.

But The Greens understand the circumstances in which this amendment is being moved. To make it explicit, the one concern that we have in relation to this is that certain organisations—often fringe religious organisations like the Plymouth Brethren and the like—have a kind of cult-like power over their followers. If there are sexual offences in those circumstances, even adults may feel compelled to say to whoever they disclose the assault to that they do not want it disclosed to the police. They may put forward an argument about why they do not, particularly if the offender happens to be a person in a position of authority in one of those cult-like organisations. In the circumstances that I set out there, the question of what is or is not reasonable is highly contested.

The Greens position is that this provision would absolutely establish reasonable grounds where the defence would be made out if the disclosure is made to an independent counsellor or a genuinely independent person—or even a close friend in most circumstances—and the alleged victim is an adult at the time of the disclosure who requests for their own reasons that it not be provided to police. But even in circumstances where the person is an adult and asserts that they do not want it disclosed, if they are under a situation of prejudice such as being a member of a cult-like organisation—and therefore feeling constrained in what they could or could not say, either explicitly or implicitly—the Greens believe that would not amount to a reasonable excuse. That will be a difficult matter that will be tested in the courts. We accept that a balance is required in this law and we accept the rationale from the Government that the balance is in favour of this explicit amendment, but we do have those minor concerns about it.

Reverend the Hon. FRED NILE (16:48:34): On behalf of the Christian Democratic Party, I am pleased to support the Stronger Communities Legislation Amendment (Crimes) Bill 2020 before the House. This bill will make amendments to various Acts within the Stronger Communities cluster to address emerging issues, support procedural improvements, clarify uncertainty and correct errors in legislation. Those errors relate to criminal offences, criminal investigations and the management of young adults in custody. If passed the bill will implement 22 amendments to 16 other Acts in the Stronger Communities cluster. Most of those are minor administrative amendments but they all have long-term positive effects on the application of laws in this State. One of the areas relates to terrorism and police powers. The bill will clarify that a declaration made under part 2AAA of the Terrorism (Police Powers) Act 2002 applies to each location at which police officers are responding to the incident, and introduce a new safeguard to part 2AAA.

The bill will enable Corrective Services NSW staff to transport juvenile detainees designated as national security interest. It also provides that persons aged 18 to 21 are not to be detained in a youth justice detention centre if they have previously been detained in an adult correctional centre for four or more weeks, or if they have previously been transferred from youth justice custody to adult custody. The bill amends an information sharing provision that has not yet commenced to enable the Secretary of the Department of Communities and Justice to share youth justice information with Australian intelligence agencies. Finally, the bill amends the offence of failing to report a serious indictable offence to providing that it is a reasonable excuse not to report a sexual or domestic violence offence if the alleged victim is an adult and does not want the information reported.

I am pleased that the Attorney General, Mr Speakman, was able to provide crossbench members a personal briefing on the bill. We appreciate the time he took to do that. He also indicated that the bill was subject to consultation with many stakeholders, including the Local Court, the District Court, the Supreme Court, the Children's Court, the Law Society of New South Wales, the New South Wales Bar Association and other groups such as the Aboriginal Legal Service and the Women's Legal Service NSW. In view of that consultation and the support from those organisations for the bill, I am pleased to support the bill on behalf of the Christian Democratic Party. I commend the bill to the House.

The Hon. LOU AMATO (16:53:00): I welcome the opportunity to speak in support of the Stronger Communities Legislation Amendment (Crimes) Bill 2020, particularly the way in which it amends the Law Enforcement (Powers and Responsibilities) Act 1999. That amendment will empower police officers to enter premises where they believe on reasonable grounds that the body of a person who has died, otherwise than as a result of an offence, is on the premises and there is no occupier on the premises to consent to the entry. Currently police officers may only enter premises without consent where a breach of the peace is being or is likely to be committed and it is necessary to enter to end or prevent that breach, or a person has suffered significant physical injury or there is an imminent danger that they will suffer significant physical injury and it is necessary to enter the premises immediately to prevent that or further significant physical injury.

Police may also enter premises if an occupier is willing to grant access or there are grounds for either a crime scene warrant under section 40 of the Law Enforcement (Powers and Responsibilities) Act 1999 or a

coronial investigation scene order under section 40 of the Coroners Act 2009. However, in circumstances where a police officer has reasonable grounds to believe that a person has died otherwise than as a result of an offence on the premises, they currently have no power to enter the premises unless another occupier is present and consents to the entry. That prevents police officers from entering premises to perform necessary tasks, including ensuring a deceased person is taken to the morgue and securing the premises. Those tasks ensure that a person is afforded dignity after death and, more broadly, reflect community expectations of the NSW Police Force as the appropriate agency to respond to a death, notify family and keep premises secure following a death. The amendment also recognises and respects the privacy that other occupiers of the premises may wish to have following the death of a person in non-suspicious circumstances by providing that police may only enter if they believe on reasonable grounds that there are no other occupiers present.

If another occupier is present and does not consent to police entry, police officers will not have the power to enter. That recognises that there could be circumstances where there are legitimate objections to police entry, for example, those of a grieving family. The amendment includes a further safeguard by requiring police to obtain authorisation to enter premises from a police officer of or above the rank of inspector. I am pleased to support the bill. It addresses a gap in the law whereby police officers have no grounds to enter in circumstances where a person has died, there is no reason to suspect an offence and no-one else is present on the premises to consent to police entry. The bill will enable police officers to do their job and undertake necessary tasks to afford a person dignity after death. I commend the bill to the House.

The Hon. SAM FARRAWAY (16:56:28): I welcome the opportunity to speak in support of the Stronger Communities Legislation Amendment (Crimes) Bill 2020, particularly the way in which it amends the Terrorism (Police Powers) Act 2002. The bill amends part 2AAA of the Terrorism (Police Powers) Act 2002. That part was introduced in response to key recommendations of the Coroner's report on the inquest into the deaths arising from Lindt cafe siege. Recommendation 24 of the inquest was that the police Minister consider whether the provisions of the Terrorism (Police Powers) Act 2002 should be amended to ensure that police officers have sufficient legal protection to respond to terrorist incidents in a manner most likely to minimise risk to members of the public. The intent of part 2AAA was therefore to provide certainty to NSW Police Force officers when required to use force, including lethal force, during terrorist incidents.

Part 2AAA achieves that by providing that a police officer does not incur any criminal liability for the use of force, including lethal force, that is taken in good faith and that is reasonably necessary in the circumstances, as the police officer perceives them, to defend any person threatened by a terrorist act or to prevent their unlawful deprivation of liberty. I turn now to the detail of that amendment in the bill. The bill amends section 24A of the Terrorism (Police Powers) Act 2002 to provide that a declaration that an incident is a terrorist incident applies to each location at which police officers are responding to the incident. The current wording of section 24A (2) provides that such a declaration:

... may be made in respect of the specified location at which police officers are responding and in respect of any other related specified location. The requirement to declare a specified location may not be fit for purpose for every terrorist incident, in particular for terrorist incidents involving a mobile offender or terrorist incidents that are unfolding across multiple locations. The amendment will provide clarity to the person making the declaration and, crucially, to the police officers on the ground who are responding to the terrorist incident, that necessary action may be taken to defend any person threatened by the terrorist act. It does not broaden the immunity from criminal liability afforded to police officers under part 2AAA. Action covered by the immunity must still be in response to the declared terrorist incident, reasonably necessary, taken in good faith and in accordance with a police action plan.

This amendment also introduces a further safeguard to part 2AAA. The amendment to section 36 provides that the Minister may, for the purpose of a statutory review of the Act, require the Commissioner of Police to provide information about declarations made by the commissioner under part 2AAA. This safeguard supplements the existing safeguards of mandated annual reporting on the exercise of part 2AAA declarations under section 25 and oversight by the Law Enforcement Conduct Commission if the use of force under part 2AAA reaches the threshold of a critical incident, being an incident that results in death or serious injury to a person. The wording of this amendment is also consistent with the wording of equivalent provisions in South Australia and Western Australia. In conclusion, I am pleased to support the amendment in this bill. It addresses an operational issue that could hinder the making of a declaration under part 2AAA. The amendment clarifies the intent of 24A, which is that the declaration and the attached immunity from criminal liability apply to police officer action authorised under section 24B in response to a terrorist incident. I commend the bill to the House.

The Hon. NATALIE WARD (17:01:07): On behalf of the Hon. Sarah Mitchell: In reply: I thank honourable members for their contributions to debate on the second of our four miscellaneous bills, the Stronger Communities Legislation Amendment (Crimes) Bill 2020. The Leader of the Opposition, the Hon Adam Searle, was, as always, articulate and eloquent in his summary but particularly in his focus on section 316 and the concealing of information offences. I think it is important that we address that provision. I note his comment about the time taken to bring the proposed amendment to section 316 before the House.

The Hon. Adam Searle: Better late than never.

The Hon. NATALIE WARD: Better late than never, indeed. In March last year, Karen Willis, the Executive Officer of Rape and Domestic Violence Services Australia, wrote to the Attorney General raising concerns about the unintended consequences of section 316 of the Crimes Act 1900. At that time the Government was in caretaker mode just before the last New South Wales election. Further communication with Ms Willis culminated in a proposed reform being drafted and provided to Rape and Domestic Violence Services Australia and to the New South Wales Domestic and Family Violence and Sexual Assault Council in February this year. The Government thanks the council for its careful advice and consideration of this important matter.

The amendment was meant to progress earlier this year, following consideration by the council but, as the Attorney General explained in the other place, the COVID-19 pandemic prevented the introduction of the budget session miscellaneous bill. We have acknowledged that the purpose of section 316 is to encourage the community to report serious offences but this offence has caused concern for some members of the community who may frequently become aware of information relating to serious indictable offences in the course of their professional duties, for example, medical professionals and support workers who provide services to victims of sexual or domestic violence often become aware of information that enlivens their duty to report under section 316.

While proceedings against such professionals can only be commenced after consideration by the Office of the Director of Public Prosecutions, clarity is required and people should always be encouraged to appropriately report information to authorities. However, there may be circumstances where the adult victim of the potential offence does not wish for a report to be made. In such situations the person who has obtained the information will find themselves in a position where they must choose between ignoring the wishes of the victim or facing potential prosecution under section 316. This amendment clarifies that it is a reasonable excuse not to bring information about a sexual offence or domestic violence offence to the police or other appropriate authority if the alleged victim was an adult at the time of the disclosure and the person believed that they did not wish this information to be reported. This will provide certainty for members of the community who find themselves in such situations, particularly important service providers, and will ensure that they can continue to deliver support to adult victim survivors.

I also acknowledge the contribution of my colleague the Hon. Shayne Mallard, in particular, his passion for the implications for scrap metal and business-to-business. He has often pulled me up, so I am pleased he could finally get that off his chest. His contribution was important and, in all seriousness, for those businesses it is an important change. Mr David Shoebridge is always detailed in his review of any proposed bill, in particular, his focus on police powers. I note his objection to the substantive provisions of part 2AAA but not to the minor amendments in this bill overall.

For the benefit of members, I place on the record that part 2AAA provides that a police officer does not incur a criminal liability for the use of force, including lethal force, that is authorised under part 2AAA in good faith and where reasonably necessary to defend any person threatened by a terrorist act or to prevent their unlawful deprivation of liberty. The part was introduced in response to the key recommendations of the State Coroner's report on the Lindt cafe siege, which the Hon. Sam Faraway referred to in his contribution. The intent of part 2AAA was to provide certainty to NSW Police Force officers when required to use force, including lethal force, during terrorist incidents.

Reverend the Hon. Fred Nile: Hear, hear!

The Hon. NATALIE WARD: I acknowledge the interjection of Reverend the Hon. Fred Nile, who also made a contribution. I thank him for his, as always, considered contribution and for his support of the bill. I thank the Hon. Lou Amato for his contribution regarding police officers and the entry to premises provisions and I thank the Hon. Sam Faraway for his contribution. I address one more concern raised by Mr David Shoebridge regarding the amendments to section 316 of the Crimes Act relating to institutions. Currently section 316 of the Crimes Act 1900 requires a person who knows or believes that a serious indictable offence has been committed or who knows or believes they have information that may materially assist in the investigation and prosecution of the offender to bring that information to the attention of the police or other appropriate authority. Where the person fails to do so without reasonable excuse, they will have committed an offence carrying a maximum penalty of between two and five years' imprisonment, depending on the seriousness of the offence the information relates to.

Section 316 does not currently specify what might constitute a reasonable excuse for failing to bring relevant information to the attention of authorities, and that is the issue. The amendment clarifies that it is a reasonable excuse not to bring information about a sexual offence or domestic violence offence to the police or other appropriate authority if the alleged victim was an adult at the time of the disclosure and the person believes that they do not wish this information to be reported. As we have acknowledge today, the Government's

amendment in the bill is intended to provide clarity and certainty for those medical professionals and support workers.

The Government acknowledges the concern expressed by Mr David Shoebridge about the reasonable excuse being relied on by institutions and that, on balance, he is satisfied that the amendment is appropriate, noting that a reasonable excuse exception already exists in section 316. A comparable reasonable excuse exception to the proposed amendment already exists in section 316A. Of course, whether a person has a reasonable excuse for failure to report will depend on the circumstances of a particular matter, taking into account any undue duress a victim may be under when reporting the offence to another person and whether that person reasonably concluded that the victim did not want it reported. It may also be relevant to consider whether the person was also protecting themselves or an institution out of self-interest, which Mr David Shoebridge referred to, as well as the strong policy interest in support of the amendment.

In conclusion, the bill is an important part of the Government's regular legislative review and monitoring program. As a newbie in this place, I get very excited about our miscellaneous bills. Many of the amendments in the bill are technical in nature but they are important steps towards further strengthening our justice system. They address emerging issues, support procedural improvements, clarify uncertainty and correct errors in legislation. Note there is a proposed amendment that will be dealt with at the Committee stage. I commend the bill to the House.

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

Motion agreed to.

In Committee

The CHAIR (The Hon. Trevor Khan): There being no objection, the Committee will deal with the bill as a whole. There is one amendment from The Greens on sheet c2020-140A.

Mr DAVID SHOEBRIDGE (17:10:18): I move The Greens amendment on sheet c2020-140A:

No. 1 National security interest detainees

Page 4, Schedule 1.2[3] (proposed section 26A(3)), line 9. Insert "who is of or above the age of 18 years and who is" after "means a detainee".

The amendment relates to proposed section 26A of the bill, which provides:

- (1) The Commissioner of Corrective Services may, at the request of the Secretary—
that is, the secretary exercising the role as the head of the agency responsible for juvenile justice—
authorise a correctional officer to convey a national security interest detainee to or from a detention centre.
- (2) A correctional officer who conveys a national security interest detainee in accordance with the Commissioner's authorisation has the following functions and immunities in relation to the detainee—
 - (a) the functions and immunities of a juvenile justice officer in relation to a detainee, and
 - (b) the functions and immunities of a correctional officer in relation to an inmate under the Crimes (Administration of Sentences) Act 1999.
- (3) In this section—
national security interest detainee means a detainee designated by the Secretary as a national security interest detainee under the regulations.

To the extent that a detainee is a national security interest detainee and is an adult, I do not believe those provisions change the law in any way, shape or form. Adult detainees can be transported by Corrective Services. The issue relates to juvenile detainees. People as young as 14 years of age—I believe that is the bottom age group—can be classified as a national security interest detainee and can effectively be held under suspicion of a terrorism offence. The Greens have always had concerns about the extension of the anti-terror regime to children and it maintains its in principle opposition to the extension of the anti-terror regime to children. Members of The Greens do not believe that is appropriate. We believe that the intrusive, excessive nature of the antiterrorism regime should never apply to children, whether they are 14, 15, 16 or 17 years old.

The Greens accept that if a criminal offence has been committed by a teenager, subject to the age of criminal responsibility, they are subject to criminal laws. Because of the way in which the anti-terrorism laws have developed in the past two decades with the loss of essential freedoms and ordinary expectations of knowing the full scale of the evidence against an offender as well as being arbitrarily detained and being held for days on end without being charged The Greens oppose the entire regime applying to children. The amendment opposes

allowing 14- to 17-year-olds being transferred from point to point in detention, from detention to court or from detention to a medical service by Corrective Services prison officers and treating them as though they are adult prisoners. The purpose of the amendment is to expressly say that the proposed new section applies only to a detainee who is of or above the age of 18 years, to ensure that we do not continue to see the creep of oppressive anti-terror provisions in relation to children. I commend the amendment to the Committee.

The Hon. ADAM SEARLE (17:15:03): I indicate that the Labor Opposition does not support The Greens amendment. As Labor understands, proposed section 26A provides for Corrective Services staff to be able to transfer national security interest detainees from detention to court or the like. It addresses who can do the transferring. The effect of the amendment would be to limit the transfer by corrections staff to detainees aged 18 and over. But it would not prevent people under 18 from being designated as a national security interest detainee and it would not prevent those detainees being transferred. It would only mean that the transferring would have to be done by juvenile justice staff. Obviously being designated a national security interest detainee denotes a heightened level of risk in relation to a particular detainee, and the policy underpinning the provision is that a greater degree of security is required when transferring detainees who have been so designated.

Equally, although juvenile justice staff ordinarily have charge of moving detainees aged under 18 from A to B, it may not be appropriate in those circumstances given that heightened level of risk. That is the basis upon which the Labor Opposition does not support The Greens amendment, because it would not want to expose juvenile justice staff to that heightened level of risk. I ask the Parliamentary Secretary to address the point when she contributes to debate on the amendment and to confirm whether I have understood the policy underpinning section 26A and the effect of the amendment correctly—at least in the opinion of the Government. With those observations, and on the assumption that my understanding is correct, Labor will not support the amendment.

The Hon. NATALIE WARD (17:17:28): The Government does not support The Greens amendment No. 1 on sheet c2020-140A. If passed, the amendment would not permit Corrective Services to transport national security interest [NSI] detainees who are under 18 years. The existing definition of an NSI detainee in the Children (Detention Centres) Regulation 2015 is not limited to detainees over the age of 18. It applies to any detainee who meets the strict criteria for an NSI designation—the classification is the classification. To the Hon. Adam Searle's point, to be designated an NSI detainee the secretary must be satisfied of certain security interest concerns about the detainee, including charges or convictions for terrorism offences, associations with terrorist organisations or making statements advocating support for a terrorist act or violent extremism.

Further, the secretary must be satisfied that there is a risk the detainee may engage in or incite others to engage in activities that constitute a serious threat to the peace, order or good government of the State or any other place. A detainee, regardless of their age, must therefore pose a heightened security risk, as flagged by the Hon. Adam Searle, to be designated an NSI detainee. That is the policy underpinning the amendment. Given their level of risk, NSI detainees require a greater level of security arrangements than can be accommodated under the Children (Detention Centres) Act 1987. Currently, Youth Justice staff provide transportation of all juvenile detainees, including NSI detainees.

Youth justice staff are not armed, nor do they have access to armoured vehicles. The proposal to authorise corrective services staff to undertake transportation of NSI detainees addresses a need identified by youth justice for increased security while transporting NSI detainees of any age. While there are currently no NSI detainees under the age of 18 years old, the proposal is intended to apply to NSI detainees of any age to address the risk they pose to youth justice staff and the community.

The transportation of NSI detainees will be infrequent and impact only a small number of detainees. There are currently only three NSI detainees in youth justice custody, all of whom are over the age of 18. Any relevant powers and functions of the Inspector of Custodial Services and the New South Wales Ombudsman will continue to apply with respect to any movements to provide an appropriate level of oversight. On that basis, the Government does not support the amendment.

Mr DAVID SHOEBRIDGE (17:20:19): I thank the Parliamentary Secretary and the Leader of the Opposition for their contributions. The Greens maintain their position that children should not be subject to the extraordinary reach of these anti-terrorism laws. The proposition that a juvenile teenager can be safely constrained in a juvenile detention facility by a juvenile detention officer but cannot be transported by those same juvenile detention officers because of the conclusion made that they may, according to the legislation:

... engage in, or incite other persons to engage in, activities that constitute a serious threat to the peace, order or good government of the State or any other place.

It does not seem to be a well-founded argument to address what is the perceived risk to juvenile detention officers, as identified by the Opposition as the reason it is supporting it. There is no natural correlation between the risk to the individual officers and the nature of that kind of offending. I am not inviting the Government to broaden these

regulations. There is no logic that a juvenile who is detained because of a potentially violent crime, such as murder or serious aggravated assault, can be safely moved from point A to point B by juvenile detention officers, which they can be and history has proven can happen, but a juvenile who is a national security risk cannot be. It seems part of the idea that by saying the word "terrorism", we throw out all of our accepted norms of civil liberties that children should be treated as children and not as adult prisoners. The Greens do not accept that simply using that word, making that claim and pressing the charge means that a child's civil liberties should be removed.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No. 1 on sheet c2020-140A. The question is that the amendment be agreed to.

Amendment negatived.

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

Motion agreed to.

The Hon. NATALIE WARD: I move:

That the Chair do now leave the chair and report the bill to the House without amendment.

Motion agreed to.

Adoption of Report

The Hon. NATALIE WARD (17:23:59): On behalf of the Hon. Sarah Mitchell: I move:

That the report be adopted.

I place on record my thanks to the staff of the Attorney General and the department for their work on this bill. In particular, I thank Mary Klein, who was, as always, diligent and thorough in her preparation and assistance.

The CHAIR (The Hon. Trevor Khan): The question is that the motion be agreed to.

Motion agreed to.

Third Reading

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

That this bill be now read a third time.

Motion agreed to.

Documents

ICARE AND STATE INSURANCE REGULATORY AUTHORITY

Tabling of Documents Reported to be Not Privileged

The CLERK: According to the resolution of the House of this day, I table the following documents considered not privileged in the interim report of the Independent Legal Arbiter, the Hon. Keith Mason, AC, QC, dated 22 September 2020, relating to the Insurance and Care NSW and the State Insurance Regulatory Authority:

- (a) the document known as Project Stanley and associated documents, which are identified as document numbers 41 to 45 in Annexure E to the Arbiter's report;
- (b) documents numbered 2, 8, 19, 20, 21, 22, 23, 24, 25, 27, 28, 29, 30, 31, 32, 34, 37 in Annexure E to the Arbiter's report.

ICARE AND STATE INSURANCE REGULATORY AUTHORITY

Report of Independent Legal Arbiter

The CLERK: According to standing order, I announce receipt of the second interim report of the Independent Legal Arbiter, the Hon. Keith Mason, AC, QC, dated 24 September 2020, on the disputed claim of privilege on papers relating to the Insurance and Care NSW and the State Insurance Regulatory Authority. I advise that the documents are available for inspection by members of the Legislative Council only.

Adjournment Debate

ADJOURNMENT

The Hon. BRONNIE TAYLOR: I move:

That this House do now adjourn.

LIVE MUSIC

The Hon. JOHN GRAHAM (17:25:41): Live music in New South Wales is facing a crisis with its venues under threat. Recent evidence given to a COVID oversight inquiry estimated that unless the Government intervenes to help immediately, 85 per cent of music venues in New South Wales will shut down within the next 12 months. After six years of lockdown laws, devastating bushfires and now the unprecedented impacts of the pandemic, the venues that have survived through hard work and ingenuity can no longer do it alone. Save Our Stages NSW is the industry campaign calling for immediate financial and regulatory assistance from the Government to ensure the survival of our New South Wales music venues.

The campaign is being organised by a collection of 60 independent music venues from across regional and metropolitan New South Wales. In just over 24 hours the petition to the Parliament reached its goal of 20,000 signatures from artists, fans and music workers. As I stand here now that figure is more than 23,000 signatures. There has been a remarkable community reaction that shows the depth of feeling on the issue. It is an issue about jobs. Live music contributes \$3.6 billion to the New South Wales economy annually and employs 23,000 people directly. It is also about Australian voices. Music creates a sense of pride, builds community and introduces us to new ideas. The petition states:

Live music is our lifeblood and our lifeline in times of crisis.

Music has long been the lifeblood of New South Wales, and New South Wales music has long been the lifeblood of the national scene—so much so that other States occasionally attempt to take credit for our music history. AC/DC Lane in Melbourne is a case in point that I have raised in the House previously. Melbourne is much better than us at celebrating its music history. The city is also home to Chrissy Amphlett Lane, which is named after the frontwoman of another great Sydney band, the Divinyls. There is Rowland S. Howard Lane, the Molly Meldrum statue, and venue and rock walking tours through the St Kilda entertainment precinct. Yet it is not just Melbourne that Sydney and New South Wales are lagging behind. Adelaide is renaming laneways after the likes of Paul Kelly, Sia, Cold Chisel and The Angels. Brisbane has its landmark plaques and Ed Kuepper Park. Fremantle, which has a Bon Scott statue, is planning a laneway to honour The Stems' Richard Lane who died in autumn.

New South Wales needs to step up to the mark on this. If the challenge is to celebrate our music history then we should not just be competing. Let us start winning. Some of Australia's greatest music exports, artists who helped forge the Australian sound, are from our State. I am thinking of The Easybeats, Mental as Anything, the Hoodoo Gurus, Richard Clapton, the Divinyls, Sherbet and The Whitlams. AC/DC Lane might already be located in the wrong city but there is nothing to stop us from dedicating Sydney laneways to the like of Michael Hutchence, Midnight Oil, or Little Pattie. Initially, the Opposition believes there are four priorities for recognising New South Wales' music history, each of which should be permanently marked and recognised: Firstly, the Indigenous music tradition and songlines that extend 60,000 years longer than any contemporary music history in our State; secondly, key early contemporary music and rock venues, including many of the suburban or regional pubs and clubs that form the backbone of the music touring circuit; thirdly, the wave of venues that were lost during the period of the lockdowns in Sydney—they should be permanently marked; and fourthly, the artists now fighting to save our grassroots music scene.

As I have said before, we should build them a statue. That is my view about those heroes trying to save our grassroots music scene. Live music is under threat in New South Wales. The Government must act immediately to save our stages and take our State's rich music, culture and history seriously. Other States have done that. In Victoria, there has been nearly \$30 million in specific funding to music venues and \$87.5 million to assist outdoor dining and performance. The night-time economy strategy in New South Wales is a welcome and positive strategy from the Government but it came with a cheque attached of zero dollars. We must do better and we also need to lift regulations urgently. I encourage the Government to act.

AUSTRALIA AND JAPAN SISTER CITY RELATIONSHIPS

The Hon. SHAYNE MALLARD (17:30:43): I speak about the relationship between Australia and Japan and, specifically, the sister city relationships. I am prompted to speak on the issue after contributing to debate last week on Victory in the Pacific Day. That commemorative motion, which was well supported by the Chamber, caused me to reflect upon our country's relationship with our once-adversary and how countries and cities across the globe reconnected after World War II, developing strong and prosperous economic and security relationships. The Japan of the 1940s that we spoke of in the Chamber is very different to the Japan of the last half century.

Sister cities have their origins in the post-World War II era, aimed at allowing citizens to understand different communities, cultures and people. Following the incredible destruction and loss of life caused by World War II, international diplomacy focused on avoiding such conflicts in the future. World leaders hoped to learn from their mistakes made before World War II that may have led to the re-occurrence of all-out war once again. But not everyone could engage in diplomacy on such a grand scale. Average citizens looked for ways to create a

sense of international community. Out of that impulse came the modern concept of town twinning, which was intended to foster friendship and understanding among different cultures and between former foes as an act of peace and reconciliation and to encourage trade and tourism.

The rise of sister cities began in Europe. Although sister city relationships existed before World War II, there were few official arrangements. Soon after the war, the mayors and citizens of European towns that were opposed in battle began pairing up unofficially as a way to promote peace and understanding. Sister city relationships are now valued as a source for economic growth through increased tourism or trade. But perhaps those economic relationships actually serve the mission of keeping the peace as well as any cultural engagement. I acknowledge in passing that sister city relationships are controversial in Australia because of some perception of abuse through local government—I will reflect on that and about my experience in a minute. Some researchers believe increased international trade decreases the likelihood of conflict between countries in a way that originators of the sister cities probably never imagined. The economic relationships of sibling communities may continue the institution's purpose of preventing war. After being established in 1978, the Japan-Australia Society of Nagoya soon started talking with the Australia-Japan Society of New South Wales about a sister city affiliation between Nagoya and Sydney.

In 1979 the Japanese Consul-General in Sydney informed the City of Nagoya that the Lord Mayor of Sydney would welcome the early realisation of a sister city affiliation with the City of Nagoya. After a series of discussions, Nagoya concluded a sister city affiliation with Sydney in 1980. That formal relationship goes back to not long after World War II when two adversaries—veterans from Japan and Sydney—decided to establish a relationship between Nagoya and Sydney. That is reflected in the Nagoya Gardens in Hyde Park, which were established in 1964. They are very much admired and appreciated by Sydneysiders and visitors from Japan.

The Japanese have taken sister city relationships very seriously—more so than the Australians in my view. With the Sydney and Nagoya relationship, pre-COVID Nagoya regularly sent large delegations of officials and business community leaders. The delegations would probably include between 60 to 100 people. Sydney in return sends two or three councillors. I was a lucky recipient of one of those return visits when I attended the thirtieth anniversary of the sister city relationship between Nagoya and Sydney. I was treated like royalty in the city of Nagoya where there were street parades and festivals to commemorate our friendship. There was a program of social and business engagements. I was honoured to be there. I also note that Nagoya zoo has koalas—the topic du jour—from Sydney and it is a sister city zoo to Taronga.

Strong people-to-people links continue to contribute significantly to the strength of our bilateral relationships. These links are reflected in extensive and well-established sister city relationships. In our COVID environment, one hopes that in future refreshed, restructured sister city relationships will flourish and be encouraged to flourish as we try to reach out to our friends across the globe sharing the suffering of the current pandemic. Perhaps controversially I say that I hope we can get past the current difficulties with our friends in China and restore our civic relationship with our friends in our sister State of Guangdong, and with Guangzhou, the sister city for Sydney. With those few words I reflected upon the modern relationship with our former adversaries.

FREE SPEECH

The Hon. ANTHONY D'ADAM (17:35:49): Australian public life is engulfed in a culture war between conservative and progressive notions of free speech. Conservatives would have us believe that free speech is under attack by marginalised peoples. They tell us how society should be afraid of gender-diverse children, climate scientists and people who publicly oppose bigotry on the basis of race, gender or sexuality. Conservative free speech is about mobilising fear of the other to agitate a narrow segment of the political spectrum. When media outlets are being raided by the Federal police, they are silent.

When public servants are being sacked for expressing private political opinions, they are silent. It seems that the conservative notion of free speech is applied selectively. It is a political weapon, not a principled commitment to freedom of expression and ideological pluralism. In contrast, progressives understand free speech as the foundation of public policy-making and robust public institutions. It is in that context that I will discuss the concerning trend towards employer regulation of workers' free speech in their private lives, particularly public service workers in light of the recent High Court decision, *Comcare vs Banerji*.

In summary, the High Court ruled that it is lawful to sack a public servant for expressing a private and anonymous political opinion on social media. Michaela Banerji's private tweet about the Commonwealth Government's refugee policy did not identify her by name, did not identify her employment and she did not disclose any confidential information. The only reason her tweets came to the attention of the Australian Public Service [APS] was after it conducted an investigation into her social media use. Clearly, it was a punitive response. The tribunal's judgement prior to the High Court appeal noted:

... restrictions in such circumstances bear a discomfiting resemblance to George Orwell's thoughtcrime.

The recent case of Josh Krook, a former employee the Department of Industry, Innovation and Science, provides a further example of the concerning trend. In April, Krook made a blog post arguing that COVID-19 could create favourable conditions for some online tech companies. His argument should be uncontroversial as it is ultimately true that the move to working and socialising at home has benefited some companies. The Nasdaq shows that the value of the top 100 tech corporations has increased by 12 per cent this year.

Forbes magazine estimates that the fortune of Jeff Bezos, the CEO of Amazon, has risen by 65 per cent since the beginning of the crisis. Josh Krook's blog post contained a commonsense observation that did not reference any particular company or criticise the Government in any way. Nonetheless, three months later, Krook was pulled into a meeting with his supervisor who gave him two options: take down the post or resign from the APS. Krook told *The Guardian* newspaper:

[My boss] said that the problem was that in talking about the big tech companies, we risk damaging the relationship the government has with the big tech companies and that when we go to do a public-private partnership, they could Google my name, find my article and then refuse to work with us. The experiences of Krook and Banerji reflect profound changes in the structure of contemporary capitalism and the lives of ordinary people. While the lives of previous generations were clearly delineated, we live in a society where the lines between work and private time are increasingly blurred. Gilles Deleuze describes the trend as an element of an emerging society of control which he described as "the progressive and dispersed installation of a new system of domination. The operation of markets is now the instrument of social control." A natural consequence of the trend is the expansion of management control into the private lives of workers. Public sector codes of conduct are being used to gag the private speech of government employees. The Krook and Banerji examples also have relevance for this State's public sector workers, where similar codes are in place.

If we accept that public service codes of conduct should regulate the private speech of public servants, we are gagging roughly 16 percent of Australian employees. We can also see this logic extend into the private sector. Employers regularly exercise their capacity to observe and record their workers' private opinions on social media. Children in our schools are forewarned of this possibility and encouraged to self-regulate on that basis. In the High Court Banerji decision Justice Edelman made the following remark in relation to public servants' code of conduct:

The code that now regulates their behaviour no longer turns public servants into lonely ghosts ... But, properly interpreted, it still casts a powerful chill over political communication.

Justice Edelman correctly highlights the self-imposed censorship that will be the obvious response of workers fearful of risking their job security in an already precarious labour market. If we accept that codes of conduct can regulate the private conduct of workers then the freedom of all employees is under threat. The empowerment of employers to undertake the policing of the private speech of millions of citizens is a fundamental threat to our democracy.

COVID-19 AND REGISTERED CLUBS

The Hon. ROD ROBERTS (17:40:43): It is the end of a long fortnight for us all and so it will be something a little bit lighter from me. I wish to inform members of the House of the fine work done by some of the registered clubs in New South Wales during the COVID-19 pandemic. The pandemic has hit us all hard, but none more so than the elderly and the vulnerable. With the support of their peak body ClubsNSW, clubs throughout New South Wales have been active in supporting local communities during this tough time. They have mobilised themselves to assist their communities in various ways such as providing care packages, meals, transportation and even phone calls to the elderly to check on their welfare. During this time clubs have shown that they are a vital part of the community. I would like to take the time to speak about three clubs in particular and what they have done to assist their members. I might do a geographical tour around New South Wales.

I will start in my own home town of Goulburn. The Goulburn Workers Club has been part of the fabric of Goulburn since 1959. It has a proud and rich history and has developed over time to become a vibrant and modern club. Last financial year it provided financial assistance to 99 community organisations. During the peak of the crisis the club set an aim to support club members via the provision of a Meals on Wheels type of service—very similar to the motion of the Hon. Ben Franklin yesterday. Club members who held a seniors or old age pension card and those with a disability card were eligible under the program. Under the initiative the club delivered approximately 300 meals every Wednesday to those involved. The club made a financial loss for each of those meals, charging a meagre amount of only \$5 to cover delivery expenses. Now let us visit the sunny, warm and picturesque far North Coast of New South Wales and the Cabarita Beach Bowls and Sports Club—hopefully a venue of live music. Again, Mr Franklin, there is a common theme here.

Established in 1963 the small but active club assists and supports many worthwhile community groups, charities and sporting organisations. It assists with both financial donations and in kind support. During the COVID-19 crisis the management and crew of the club came up with the idea of assembling care packages to assist local residents who had either lost their income or who struggled to access the shops because of old age or

infirmity. The care packages, valued at over \$1,000 per week, consisted of essential items including toilet paper, pasta and flour. They were basic items that we could not purchase, so I do not know what chance the frail or elderly had of accessing them. The packages were both timely and welcomed. Not only did the club deliver the care packages but it also delivered other essential items to needy community members, including pharmaceutical products. Like the Goulburn Workers Club, Cabarita Beach Bowls and Sports Club also delivered affordable meals to community members at cost price.

However, the initiative to make regular phone calls to elderly members to check on their welfare is what impressed me the most. Clubs are a meeting place for lots of people, whether they be single, widows or widowers. Clubs are the chosen spot to catch up with friends for some much-needed social interaction. As we know, the insidious virus targets the elderly and the frail, so a number of members were therefore unable to meet at their club. To alleviate their boredom from lack of interaction—and more importantly to check on their welfare and wellbeing—staff members made regular phone calls to elderly members to check on them. Of equal importance during the pandemic-induced economic downturn, those initiatives allow the club to employ its 13 part-time and full-time staff. By providing them with income it in turn allowed those staff members to continue to spend in the local economy, thereby assisting other small businesses. That is extremely important and valuable in rural locations.

In the north-western suburbs of Sydney, in the heart of the Hawkesbury region, is the Richmond Club. Founded in 1947 by a group of World War II returned servicemen, the Richmond Club has grown from its humble beginnings. With over 22,000 members it has grown to be the leading club in its region. Not only that, the club is the largest private employer in the region, with 169 employees. It provides both financial and in-kind support to 197 community and charity organisations. During the COVID lockdown the doors to the club may have been closed, but its community work continued. An example of that was what the club has described as "welfare cars" used by club staff to transport members to medical appointments. That was particularly important for elderly members whose wives or husbands were uncomfortable about taking their partner to the hospital and thereby potentially exposing themselves to COVID. The Richmond Club also provided meals and care packages to elderly members who were not confident in travelling to the shops amongst crowds. Its care packages consisted of toilet paper, sanitiser, gloves, masks and other essential items. Those initiatives shine a spotlight on the importance of clubs and how they add value to their local communities. [*Time expired.*]

24-HOUR ECONOMY STRATEGY

The Hon. NATALIE WARD (17:46:12): COVID-19 has had a devastating impact on the night-time economy. Small and medium enterprises, bars, clubs, restaurants, movie theatres, caterers and cafes, arts venues and artists have suffered immensely from the necessity to shut down, to keep people safe. It has been a torrid time, but the New South Wales Government has a plan to get us out of COVID-19. Since March 2020 the Government has announced \$16 billion in stimulus measures and tax relief to charge our economy, create jobs and help us recover from the crisis. Premier Berejiklian has injected \$3 billion into the Accelerated Infrastructure Fund. The fund is part of the Planning System Acceleration Program, which aims to fast-track developments and projects to help create 50,000 jobs and in turn inject \$25 billion into the economy. As part of the COVID-19 recovery plan, on 15 September 2020 the Minister for Jobs, Investment, Tourism and Western Sydney, the Hon. Stuart Ayres, announced the 24-hour Economy Strategy.

The strategy is aimed to tap into the potential \$16 billion night-time economy. Now is the time to embrace a safe, vibrant, diverse and inclusive 24-hour economy in Sydney. The strategy will create jobs, foster arts and culture, and reinforce Sydney's status as Australia's only truly global city. I thank Minister Ayres and Minister Dominello for working closely with industry and local government representatives to develop the strategy. It comprises 39 actions across five strategic pillars that will support more integrated planning and place making; encourage the diversification of night-time activities by supporting a wider variety of businesses at night; nurture industry and cultural development to help entrepreneurs thrive in the 24-hour economy; and explore ways to enhance mobility and improve connectivity between 24-hour economy hubs through safe and reliable transport.

It will highlight Sydney as a world-class night-time destination and encourage healthy behaviours; establish a coordinator general tasked with unlocking Sydney's cultural and economic potential by bringing together industry and local government stakeholders to implement the strategy; provide a 24-hour Economy Acceleration Program to assist councils lead the activation of sustainable 24-hour economy hubs across Greater Sydney, working with local stakeholders; and create a Neon Grid that will help Government, industry and councils identify, connect and accelerate Sydney's unique and vibrant 24-hour economy hubs. The strategy delivers on the Government's commitment in its response to the 2019 parliamentary joint standing committee inquiry into the Sydney night-time economy, a committee which I was privileged to chair and included my colleagues the Hon. Ben Franklin, Ms Cate Faehrmann, the Hon. John Graham, the Hon. Mark Latham and from the other place

the member for Sydney, the member for Riverstone, the member for Tweed, the member for North Shore and the member for Fairfield.

The strategy is the result of over eight months of close collaboration with industry, local government and other stakeholders. An industry advisory group met five times to provide a voice to industry and community stakeholders in respect of activities relating to the strategy. The group includes Stay Kind, Committee for Sydney, Sydney Business Chamber, Night Time Industries Association, Australian Hotels Association, Independent Bars Association, Live Music Office, Sydney Fringe, Merivale, APRA AMCOS, Transport & Tourism Forum Australia, Restaurant & Catering Industry Association of Australia and Live Performance Australia.

The 24-hour Economy Strategy concludes the Government's successful delivery on its three-stage response to the challenges identified in the 2019 inquiry of the Joint Select Committee into Sydney's Night Time Economy. Stage one was the roll back of the lockout laws on 14 January 2020. Stage two was the development of the Liquor Amendment (24-hour Economy) Bill 2020, which will come before the House shortly. The bill will remove outdated entertainment conditions on liquor licences, allow small bars to offer more family-friendly and diverse services to customers, remove red tape, reduce overlap and improve regulation of the industry. Stage three is the launch of the 24-hour Economy Strategy, which builds on the Government's existing support for Sydney's night-time economy.

My learned colleague the Hon. John Graham suggested the strategy is not accompanied by any money. With the greatest respect, that is not the case. To date the Government has announced over \$15.7 billion in measures to support the strategy, including a \$1 billion Working for NSW fund; payroll tax changes for businesses; the waiving of licence, registration and permit fees; direct financial and non-financial support to small and medium enterprises; COVID-19 support for the New South Wales small-to-medium arts and screen sector; the online COVID Safe Check program to help businesses restart operations safely; and the Small Business COVID-19 Recovery Grant of up to \$3,000. Many more measures support the strategy but I am running out of time to list them. I support the 24-hour Economy Strategy and cannot wait for Sydney to become a vibrant place once more.

THE NATIONALS

Mr JUSTIN FIELD (17:51:15): The Nationals' policies on natural resource management are failing the State. Regional New South Wales is being turned into one large industrial estate. The rivers and wetlands are seen by The Nationals as water system deliveries for big irrigators. The only productive use being contemplated is for agriculture. The forests and grasslands are paddocks to be cleared, levelled, watered and fertilised. I say to the New South Wales Liberal Party: Stop outsourcing natural resource management policy to The Nationals—it is failing New South Wales—and do not believe that The Nationals represent regional New South Wales.

I present the facts. Two out of three people in regional New South Wales voted for someone other than a National Party candidate at the last election. The Nationals represent only 13 out of 26 regional New South Wales electorates and only 28 per cent of regional New South Wales by area. At best, they represent half of regional New South Wales. However, that is an anomaly based on the disproportionate electoral system in the New South Wales lower House. More accurately, they represent about one-third of the people in regional New South Wales and perhaps 100 per cent of property developers.

Only six of 31 affected regional councils raised objections to the recent State environment planning policy [SEPP]. Most of those related to operational concerns and funding resources for the conduct of surveys. Everyone has an interest in this State. Australia cannot wall itself off from the world. New South Wales cannot wall itself off from the rest of the country and regional and urban New South Wales cannot pretend that what happens in one part does not affect the other parts. Recent debate on the SEPP has been absurd. Much of it has been bluff and bluster. The public claims of the Deputy Premier and other members of The Nationals about this SEPP are plain wrong.

I do not ask members to believe me; believe the recent words of the Government's former agriculture Minister Mr Niall Blair, as reported in the media. He said, "I would be more concerned about this koala SEPP if I was a developer rather than a farmer." The suggestion by the Deputy Premier that the SEPP will impact routine agricultural maintenance is absurd and simply untrue. Members should not take my word for that; they should take the lobbying documents sent by Nationals MPs on behalf of constituents to the key Ministers—the planning Minister, the environment Minister and the Deputy Premier. Nearly all of them were about forestry issues and development. Almost none were about routine agricultural maintenance.

The bigger issue is this: Why do some members of The Nationals assume that anything goes on rural land; that the owner can do what they want with it? I cannot do that on my block in Milton. I cannot add a third storey and overshadow my neighbour or burn rubbish in my backyard. In most parts of the State I cannot cut down a

habitat tree in my yard unless it is a risk to property. Why? Because what I do affects my neighbours. It affects other people. Our social contract determines where we draw the lines around the behaviours of others. We build society around those lines, respecting each other's rights, our shared resources, our amenity and our peace. We protect our liberty that way. The Liberal Party should respect that.

I was going to say that The Nats have never seen a tree that they did not want to cut down but that would be a little unfair. I do not think that The Nats want to cut down every tree but they grandstand about wanting to protect the right to do so. That attitude is increasingly apparent in insidious nationalistic, jingoistic, anti-government rights movements being embraced by some members of The Nationals. It plays in some areas but I say to those motivated by it: Members of The Nationals who do this do not speak for you and do not serve you. It is a front for the vested interests that make big profits on and use our shared resources for themselves. Rights do not exist without responsibilities. To pretend they do will lead to the decay of our society and of the freedoms we otherwise enjoy when we balance those rights and responsibilities. Debate about the koala SEPP is entirely out of whack, partly because of the absurd presentation of it by The Nationals.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 17:55 until Tuesday 13 October 2020 at 14:30.