New South Wales

Legislative Council

PARLIAMENTARY DEBATES
(HANSARD)

Fifty-Seventh Parliament
First Session

Thursday, 22 October 2020

Authorised by the Parliament of New South Wales

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LEGISLATIVE COUNCIL

Thursday, 22 October 2020

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

The PRESIDENT read the prayers.

Documents

STRONGER COMMUNITIES FUND

Noncompliance with Order for Papers

The PRESIDENT: On Tuesday 20 October 2020 the House ordered that, should the Leader of the Government fail to comply with paragraph (5) of the motion of contempt and further order for papers, the Leader of the Government is to:

> … attend in his place at the Table of the House at the commencement of the sitting of the House on Thursday 22 October 2020 to:
>
> (a) produce the signed written briefs approving successful applications; or
>
> (b) confirm that the documents do not exist, and provide a clear explanation about the manner in which formal approval by the Premier and her Ministers was executed and recorded, to the satisfaction of the House.

I call upon the Clerk to read the correspondence received this day from the Secretary of the Department of Premier and Cabinet.

Correspondence

The CLERK: The correspondence states:

Mr David Blunt
Clerk of the Parliaments
Legislative Council
Parliament House
Macquarie Street
SYDNEY NSW 2000
Dear Mr Blunt

Order for Papers — The Stronger Communities Fund — Further Order — 20 October 2020

I refer to the resolution of the Legislative Council under Standing Order 52 made on 20 October 2020 and your letter dated 21 October 2020 relating to the Stronger Communities Fund.

Enclosed at **Annexure 1** are certification letters from the:

- Chief of Staff of the Office of the Premier;
- Chief of Staff of the Office of the Deputy Premier and Minister for Regional New South Wales, Industry and Trade; and
- Chief of Staff of the Office of the Minister for Local Government,

certifying that, to the best of their knowledge, no documents covered by the terms of the Order and lawfully required to be provided are held.

I note that the Order made on 20 October is broader in scope than the Order made on 16 September 2020, in respect of which the Secretary of the Department of Planning, Industry and Environment **(DPIE)** confirmed by letter dated 17 September 2020 that DPIE had already produced all relevant documents in its response to the previous Order of the House made on 3 June 2020.

Given that DPIE had already produced the named documents to the House, and because the Department of Premier and Cabinet **(DPC)** had no reason to believe that it also held those documents because it did not administer the relevant grants program, DPC did not provide a certification letter to the House in response to the Order made on 16 September 2020 (which I note required a response within two days). I note that some Members of the House have been critical of DPC's approach in this regard.

To put the matter beyond doubt, DPC will now conduct a search process to confirm that it does not hold any documents that are required to be produced in response to the Order made on 20 October 2020. However, as DPC only received notification of the Order at 12.56pm on 21 October 2020, providing less than 24 hours to respond, DPC is not in a position to provide its certification today. A certification letter in response to the Order will be provided as soon as practicable, which I anticipate will be on or before 10 November 2020.

Should you require any clarification or further assistance, please contact Ms Kate Boyd, General Counsel, on telephone (02) 9228 4393.

Yours sincerely
Tim Reardon

Secretary
22 October 2020

The PRESIDENT: In accordance with the order of the House of Tuesday 20 October 2020, I call upon the Leader of the Government to explain his failure to comply with paragraph (5).

Noncompliance with Order for Papers

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (10:06:14**):** Under paragraph (5) of the resolution dated 20 October 2020, the House has ordered the production by 9.30 a.m. this morning of the:

> ... signed written briefs approving the allocation of funding from the Stronger Communities Fund, or any other document, however described, which records the actual decision to approve the allocation of funds, in the possession, custody or control of the Premier, the Department of Premier and Cabinet, the Deputy Premier or the Minister for Local Government.

The offices of all Ministers named in the resolution have certified that they hold no documents that fall within the terms of the resolution and that are lawfully required to be produced. I stress that point, as it has been the subject of discussion this week: The offices of all Ministers named in the resolution have certified that they hold no documents that fall within the terms of the resolution and that are lawfully required to be produced. The Department of Premier and Cabinet [DPC] has, however, been unable to finalise its return to paragraph (5) of the resolution, having received formal notification of this new order for papers less than 24 hours ago.

As this is a new order for the production of documents and would require the Department of Premier and Cabinet to conduct a new search to satisfy itself that there are no further documents, it is unreasonable to expect that DPC can perform such a search to satisfy its legal obligations within such a brief time frame. Given this House has expressed its displeasure at the adequacy of the searches conducted by DPC, it is reasonable to provide a sufficiency of time to a department such as DPC to conduct a search. Paragraph (6) of the resolution dated 20 October relevantly provides that should paragraph (5) not be complied with, I, as Leader of the Government, must attend in my place at the table of the House to:

(a) produce the signed written briefs approving successful applications; or

(b) confirm that the documents do not exist, and provide a clear explanation about the manner in which formal approval by the Premier and her Ministers was executed and recorded, to the satisfaction of the House. As to paragraph (6) (a), the Government has already produced to the House the signed written briefs approving the allocation of funding from the Stronger Communities Fund. These briefs were produced by the Department of Planning, Industry and Environment in response to the previous resolution of the House dated 3 June 2020. These signed written approval briefs fall into two categories: two approval briefs that were signed by the then Minister for Local Government; and approval briefs that were signed by the Chief Executive Officer of the Office of Local Government under delegation from the then Minister for Local Government.

With the exception of the two grants that were formally approved by the then Minister for Local Government, all grants from the Stronger Communities Fund were formally approved by the CEO of the Office of Local Government acting under a valid instrument of financial delegation issued by the then Minister for Local Government in accordance with the Public Finance and Audit Act 1983. Each brief signed by the CEO of the Office of Local Government attaches an email record from either the Premier's office or the Deputy Premier's office, listing the grant recipients and the amount of funding to be provided. A consistent approach was adopted for each individual grant and consistent records were maintained by the Office of Local Government.

By way of example, with respect to grants provided to Lane Cove Council, advice was provided from the office of the Premier to the Office of Local Government on 28 June 2018. The Office of Local Government then prepared a submission to the chief executive for the consideration and approval of a grant payment in the amount of $937,000 from the Stronger Communities Fund. The submission was approved by the chief executive of the Office of Local Government in accordance with the instrument of financial delegation dated 30 May 2016 on 31 July 2018. This allocation of funds was consistent with the Stronger Communities Fund guidelines for the tied grant round approved by the Premier, the Deputy Premier and the then Minister for Local Government on 27 June 2018.

By way of further example, with respect to grants provided to Cootamundra-Gundagai Regional Council, advice was provided from the office of the Deputy Premier to the Office of Local Government on 31 July 2018. The Office of Local Government then prepared a submission to the chief executive for the consideration and approval of a grant payment in the amount of $5.8 million from the Stronger Communities Fund. The submission was approved by the chief executive in accordance with the instrument of financial delegation dated 30 May 2016 on 31 August 2018. This allocation of funds was also consistent with the Stronger Communities Fund guidelines for the tied grant round approved by the Premier, the Deputy Premier and the then Minister for Local Government on 27 June 2018.

These records show that the final decision to approve the allocation of funds was made by the CEO of the Office of Local Government, acting on advice from the Ministers' offices, and in accordance with a valid financial delegation, which authorised the expenditure of appropriated funds. In this context, it is clear that no formal written brief to the Minister seeking approval of the same expenditure is required to legally expend the money. Given that the Government has already produced the signed briefs referred to in paragraph (6) (a) of the resolution dated 20 October 2020, paragraph (6) (b) of that resolution is not triggered. To be clear, the Government has provided the signed written briefs approving grant expenditure in accordance with the order of this House. These are the submissions from the Office of Local Government signed by the CEO of the Office of Local Government.

The government of the day is responsible to the Parliament and accountable to the people of New South Wales for the effective management of the State's finances and the expenditure of public money. However, members must accept what the records provided to the House show—that is, that the process for the expenditure of money from the Stronger Communities Fund was lawful, properly recorded by the agency responsible for the administration of the fund, and managed in a manner consistent with the approved guidelines for the tied grant round of the Stronger Communities Fund.

The Government respects the authority of the House to make orders to compel Ministers and agencies to produce documents. The Government acknowledges its obligation to comply with these orders despite the significant resource and cost burden that is imposed as a result. On this occasion, however, the House has exhausted its ability to call for papers in relation to this matter. Any further order for papers in relation to the same subject matter would fail the test of reasonable necessity, which limits the power of the House call for State papers. The disciplinary powers of the House are available for self-protective purposes only; they may be used as a shield, but not as a sword. Any further action in relation to this matter would be solely punitive and, therefore, beyond the power of the House. I say it again as it is a critical point: Any further action in relation to this matter would be solely punitive and, therefore, beyond the power of the House.

Bills

ROAD TRANSPORT LEGISLATION AMENDMENT BILL 2020

COMMUNITY LAND DEVELOPMENT BILL 2020

COMMUNITY LAND MANAGEMENT BILL 2020

First Reading

Bills received from the Legislative Assembly.

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

The Hon. DAMIEN TUDEHOPE: I move:

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

Motion agreed to.

Motions

MOYRA SHIELDS

The Hon. WES FANG (10:16:59**):** I move:

(1) That this House notes that:

(a) after more than 25 years at ABC Riverina, senior journalist Moyra Shields, an iconic voice on the airways, has decided to call time on her career at the broadcasting network; and

(b) as a Wagga-Wagga local, Moyra has been a passionate voice for the Riverina throughout her media career and a fierce advocate for rural and regional New South Wales.

(2) That this House:

(a) congratulates Moyra Shields on her esteemed career in journalism and as a mentor to countless journalists who have worked under her stewardship; and

(b) wishes Moyra all the best as she embarks on a new chapter in her life.

Motion agreed to.

Committees

REGULATION COMMITTEE

Reports

The Hon. MICK VEITCH: I table report No. 7 of the Regulation Committee entitled *Making of delegated legislation in New South Wales*, dated October 2020, together with transcripts of evidence, submissions, answers to questions on notice and correspondence related to the inquiry. I move:

That the report be printed.

Motion agreed to.

The Hon. MICK VEITCH (10:17:47**):** I move:

That the House take note of the report.

Debate adjourned.

Documents

DARYL MAGUIRE, FORMER MEMBER FOR WAGGA WAGGA

Correspondence

The CLERK: According to the resolution of the House of 14 October 2020, I table correspondence relating to an order for papers regarding Ministerial Disclosures of Private Benefits for Mr Daryl Maguire, received on 21 October 2020 from the Secretary of the Department of Premier and Cabinet, stating that no documents covered by the terms of the resolution and lawfully required to be provided are held by the Department of Premier and Cabinet.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. ADAM SEARLE: I move:

That business of the House notice of motion No. 1 be postponed until next sitting day.

Motion agreed to.

The Hon. COURTNEY HOUSSOS: I move:

That the matter of public importance on the *Notice Paper* for today be postponed until Thursday 12 November 2020.

Motion agreed to.

The Hon. DAMIEN TUDEHOPE: I move:

That Government business notices of motion Nos 1 to 3 be postponed until a later hour.

Motion agreed to.

The Hon. DAMIEN TUDEHOPE: I move:

That Government business order of the day No. 1 be postponed until a later hour.

Personal Explanation

AUSTRALIAN FEDERAL POLICE INVESTIGATION

The Hon. SHAOQUETT MOSELMANE (10:30:32**):** By leave: Given the gravity of this matter I hope members will grant me the eight or so minutes that I need. I thank honourable members for the opportunity to share a little of what I have gone through since 26 June. First and foremost I wish to reiterate the fact that I was never the subject of the foreign interference investigation. My legal counsel and I were advised that I am not a suspect in the investigation. It is almost four months since the raid and I have never been asked a question or accused of any wrongdoing. No charges have been laid against me and no allegations of any criminal offence have been directed to me. Furthermore, as noted by the Privileges Committee, the Australian Federal Police [AFP] search warrant does not allege that I have committed any offence under Commonwealth legislation. In fact, the warrant goes further than that. It clearly states that I was not even aware of what was alleged to have taken place. I quote from the warrant:

Zhang et al concealed from or failed to disclose to Moselmane that they were acting on behalf of or in collaboration with the Chinese State …

In a 10 September report of *The Australian*, national affairs editor Simon Benson and foreign affairs and defence correspondent Ben Packham expressly wrote:

> Mr Moselmane is not the subject of the foreign interference investigation; he has only been linked to some individuals who are subjects of the investigation.

Further, in another article of the same date, 9News senior journalist Richard Woods also wrote:

> Shaoquett Moselmane … is not part of the investigation.

There is no reason for me to be part of any investigation because I have never, ever done anything wrong, nor would I do anything that would jeopardise the welfare of our country and our people. To suggest otherwise is preposterous. Never in my life did I think that in Australia a member of Parliament could be effectively silenced for expressing a personal view about political matters, no matter how unpopular that view may be.

It was a tough and traumatic experience, especially for my wife and my 15-year-old son. They were effectively held hostage in their own home for approximately 19 hours while the AFP conducted its first day of investigation. My sick father and my sisters were also under siege next door. They were forced to block all sunlight to prevent the peering eyes and television cameras zooming into their privacy from an army of journalists camped outside our homes for three consecutive days. It was hard. To date I remain none the wiser as to what the investigation is all about. I do not know why my public humiliation was necessary, nor do I know who decided that it was necessary for the media to accompany the police raid into my home. I do not know why the AFP needed to collect hair and dust from my family cars and take sniffer dogs into my home. I wonder what evidence that would have provided the AFP to assist its foreign interference investigation.

I have many questions to ask but no answers to find. I sought a copy of the applications and affidavits that the AFP put before the magistrate and the registrar who signed the warrants authorising entry into my home. To my disappointment I was told that the applications and affidavits were returned to the AFP, as it requested. I will never know what the AFP were looking for and why there was a raid on my home. It is because I have done nothing wrong that I am back in this honourable House. I am also back here because of the wonderful support of many kind-hearted friends and family. I wish to thank a few people. I start by acknowledging the Privileges Committee, its Chair, the Hon. Peter Primrose, and honourable members for their work and the professional way they handled this matter. I thank the secretariat for their hard work in putting the report together in such a short time. I look forward to the AFP bringing their investigations to a conclusion as soon as possible; justice delayed is justice denied.

I trust that the material the AFP now has will be used solely for the purpose of its investigation and not for any campaign against me through the media. That will be a test of the bona fides of the investigation. I understand that yesterday the House debated and agreed to a motion requiring the President to write to the Commissioner of the Australian Federal Police to seek confirmation of a number of matters concerning the investigation. I welcome the decision of the House and look forward to the response that the President receives. I am hoping that it will not only give comfort to honourable members who continue to have concerns about this matter, but that it may also assist me and my family in finding closure from this terrible ordeal. I thank all members of this House who resisted further politicisation of the investigation. To do otherwise would have added to the trauma and mental anguish suffered by my family. I thank the many members across this Parliament, and the multicultural communities that I have come to love and respect, for their overwhelming support and for the many messages of good wishes, cards, flowers and home visits. It was enormously uplifting and I can only be grateful.

I thank the many organisations in the Australian Arab community for their unwavering support, particularly Mr Hassan Moussa of the Australian Arab Business Council. I am grateful to Dr Tony Pun and the Chinese Community Council of Australia. I thank President Iftikhar Rana and the Pakistan Australia Business Council, and many community leaders including Mr Zafar Hussain, Mr Zia Ahmad, Mr Ijaz Khan, Mr Farhat Jaffri, Dr Khurram Kayani, Dr Sayed Rizvi and Mr Azam Mohammed for their ongoing support. I also thank the faith-based organisations and all the rank-and-file Labor Party members, councillors and others who expressed their ongoing solidarity and support. I am humbled and grateful to them all. I wish to express my gratitude to Professor Stuart Rees, Adjunct Professor Peter Manning, Professor Ahmad Shboul, Professor Peter Slezak, Ms Cathy Peters, Dr Kassem Moustapha, Mr Hans Heilpern of the NSW Council for Civil Liberties, Mr Bashir Sawalha, Mr Ali Hammoud, Mr Anthony Bazouni, Mr Rick Mitry, Mr Cameron Murphy, Mr Ian Latham and Mr Greg Barns. I thank Mr John Menadue, editor of the significant journal *Pearls and Irritations*, for enabling particular authors to support the principles of civil liberties.

I thank the Hon. Amanda Fazio, the Hon. Leo McLeay, Mr Anthony Mundine, Mr Gerry Georgatos, my dear friend of 40 years emeritus mayor Councillor Bill Saravinovski and many others. I am eternally grateful to the Clerk of the House, Mr David Blunt, for his fantastic, fabulous—whatever word one wants to use—and wonderful guidance. Mr Blunt is worth his weight in gold. He is an absolute professional. I thank him sincerely

for facilitating and affording me the assistance that I needed to get through these traumatic times. I also thank the Deputy Clerk, Mr Steven Reynolds, and the kind-hearted Ms Kate Cadell.

Finally, I am grateful to you, Mr President, for calling me on over 100 mornings of the 117 days since the raid, simply to ask: Are you okay? I thank you, Mr President. I give special gratitude to my legal counsel Mr Stephen Stanton, who is a professional at what he does and an all-round gentleman. I thank him for his legal advice and guidance. I thank my loving and fiercely protective wife, Mika Fukuta Moselmane; my son, Joseph; my father, Chaher Ali Mouslimani; all my sisters and brothers; the entire extended family; and friends. I know I did nothing wrong. I know the truth will come out and I know justice will prevail. I am honoured to be back and I am proud to be amongst my colleagues. I look forward to working with all of them in serving the people of New South Wales.

Bills

WORK HEALTH AND SAFETY AMENDMENT (INFORMATION EXCHANGE) BILL 2020

Second Reading Debate

Debate resumed from 15 September 2020.

The Hon. SCOTT FARLOW (10:41:46**):** On behalf of the Hon. Damien Tudehope: In reply: I acknowledge the contributions of the following honourable members to the debate on the Work Health and Safety Amendment (Information Exchange) Bill 2020: the Hon. Daniel Mookhey, Mr David Shoebridge and the Hon. Anthony D'Adam. The bill is part of the Government's strategy to address the rise in silicosis cases in New South Wales. As members have heard, the bill authorises the Secretary of the Ministry of Health to provide information to the regulator under the Work Health and Safety Act 2011 if the secretary considers that the information is necessary to enable the regulator to perform its functions under that Act.

The bill is supported by the health Minister's order under the Public Health Act 2010, which made silicosis a scheduled medical condition with the effect that all New South Wales medical practitioners must notify NSW Health when they diagnose a patient with silicosis. The health Minister also amended the Public Health Regulation 2012 to prescribe the form that practitioners must use to notify NSW Health of a diagnosis of silicosis. The form was designed in consultation with SafeWork NSW to ensure that it captures the information that work health and safety regulators need to protect workers. The health Minister intends to make further orders shortly under the Public Health Act to make asbestosis a scheduled medical condition. The health Minister will also prescribe the relevant form under the Public Health Regulation. The form, like the silicosis notification form, will be designed in consultation with work health and safety regulators to ensure that it captures the data they need to perform their functions under the Work Health and Safety Act.

The asbestos-related cancers—mesothelioma and asbestos-induced carcinoma—are already notifiable to NSW Health. The Government will move amendments to the bill in the Committee of the Whole. Those amendments will strengthen the information-sharing framework between NSW Health and work health and safety regulators and will support a whole-of-government approach to addressing occupational disease. They will operate in tandem with the orders made by the health Minister under the Public Health Act to create a dust diseases register, which will be maintained by SafeWork NSW. The Hon. Daniel Mookhey will move amendments to codify the creation of a dust diseases register that has the potential to hold information in relation to any of the diseases listed in schedule 1 to the Workers' Compensation (Dust Diseases) Act 1942. For now it will focus on silicosis, mesothelioma and asbestos-related diseases

Government amendments will also support a transition to a national dust diseases register when one is established. A coordinated national approach is crucial to addressing the harms caused by occupational disease. Mr David Shoebridge will move amendments to enhance information sharing between SafeWork NSW and the Minister responsible for workplace safety, and to enhance monitoring of occupational dust diseases to measure the effectiveness of the regime codified by the bill. Moreover, the amendments will ensure that the New South Wales Government is held to account by requiring that each report to the Minister will be made available for public scrutiny. Mr David Shoebridge will also move amendments that create an obligation on SafeWork NSW to conduct a case-finding study to investigate respirable crystalline silica exposure in the manufactured stone industry and to gather information to address the specific risks of that industry.

The bill is the culmination of a collegiate working relationship between the Minister for Better Regulation, Kevin Anderson, who is present in the President's gallery, and Opposition and crossbench members, who have worked together to develop and agree to the amendments we will debate shortly. The bill, as proposed to be amended, is a strengthened and improved bill and it will equip work health and safety regulators with information they need to ensure that every worker in New South Wales is working safely with crystalline silica and other materials that create hazardous dust. I will speak to the amendments in detail in debate in the Committee of the

Whole. I thank all members who have contributed to the second reading debate and who will speak in debate on the amendments in the Committee.

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

Motion agreed to.

In Committee

The CHAIR (The Hon. Trevor Khan): There being no objection, the Committee will deal with the bill as a whole. I have four sets of amendments: Government amendments appearing on sheet c2020-128I, The Greens amendments appearing on sheet c2020-193A, The Greens amendments appearing on sheet c2020-194A and Opposition amendments appearing on sheet c2020-192A. We will commence by dealing with the Government amendments appearing on sheet c2020-128I, to which some amendments will be moved. I will then call on other members to deal with that.

The Hon. SCOTT FARLOW (10:48:33**):** By leave: I move Government amendments Nos 1 to 3 on sheet c2020-128I in globo:

No. 1 **Information to be provided to regulator by Health Secretary**

Page 2, clause 3, line 10. Omit "**Health Secretary may provide information to regulator**". Insert instead "**Provision of information from Health Secretary to regulator**".

No. 2 **Information to be provided to SafeWork NSW by Health Secretary**

Page 2, clause 3, proposed section 271B(2), lines 15–19. Omit all words on those lines. Insert instead—

(2) Without limiting subsection (1), the Secretary of the Ministry of Health must, as soon as practicable after being notified under the *Public Health Act 2010* about the following, provide to SafeWork NSW the information contained in the notification—

(a) cases of occupational dust diseases,

(b) deaths resulting from occupational dust diseases.

(3) Information is not required to be provided under subsection (2) if the information is about—

(a) a disease or condition that is included on a register under Part 6 of the *Public Health Act 2010*, or

(b) a disease or condition prescribed by the regulations.

(4) Information may be provided in accordance with this section despite any prohibition in, or the need to comply with any requirement of, any Act or other law.

(5) In this section—

occupational dust disease means—

(a) a dust disease set out in Schedule 1 to the *Workers' Compensation (Dust Diseases) Act 1942*, or

(b) any other respiratory disease or condition prescribed by the regulations.

271C National register of dust diseases

(1) The provisions of this Division, other than sections 268–271A, 271B(1) and 272–273, expire on a day prescribed by the regulations.

(2) The Minister may recommend the making of a regulation under this section only if satisfied that a national register has been established to monitor the prevalence of dust diseases and conditions.

No. 3 **Long title**

Insert "; and for other purposes" after "that Act". The Government amendments to the bill will strengthen the process by which New South Wales cases of silicosis and other occupational dust diseases may be tracked, responded to and prevented. The first amendment alters the title of the proposed section 271B and simply reflects amendment No. 2. Amendment No. 2 contains a series of provisions that reinforce the information-sharing framework between NSW Health and work health and safety regulators. That information-sharing framework is an integral component of the Government's overall silicosis prevention strategy. The amendments reflect the fact that the information-sharing framework established by the bill was always intended to be a responsive instrument that could easily accommodate reporting on conditions of concern. First, an amendment to proposed new section 271B requires the Secretary of NSW Health to notify SafeWork NSW of a case of an occupational dust disease or a death from an occupational dust disease as soon as is practicable after the secretary

> receives a notification under the Public Health Act. "Occupational dust disease" is a defined term set out in schedule 1 to the Workers' Compensation (Dust Diseases) Act 1942 or any other respiratory disease or condition prescribed by the Work Health and Safety Regulation 2017.

The effect of that will be that the health secretary will be required to pass notifications on to SafeWork relating to conditions that are notifiable under the Public Health Act, which are also listed in schedule 1 to the Workers' Compensation (Dust Diseases) Act. Currently, those conditions are mesothelioma and asbestos-induced carcinoma, which are notifiable under the Public Health Act as types of cancer and silicosis. In recent years there has been significant attention on the increase in occupationally acquired silicosis. Reducing the instances of that disease has a been a major area of focus for the Government. In fact, it was one of the key driving forces behind the introduction of the bill.

However, a number of other occupationally acquired dust diseases would not have been captured by the regime established under the draft bill. One such disease is asbestosis, which, despite the efforts of regulators over many decades, is still being acquired by workers. I am pleased to announce that that disease will also now be made notifiable by the health Minister by 1 March 2021 and, as such, become notifiable to SafeWork under the arrangements introduced through the bill. Once the health Minister has made the necessary orders, the health secretary will also be required to provide notifications to SafeWork relating to diagnosed cases of asbestosis. That is a significant enhancement to the arrangements that were first proposed and will ensure a far more comprehensive information-sharing scheme that will empower SafeWork to identify and investigate cases of occupationally acquired asbestosis where necessary.

I thank all members of this place who have advocated for that enhancement, in particular the Hon. Daniel Mookhey and Mr David Shoebridge. It will help drive down the occurrence of that deadly disease. Not all of the diseases in schedule 1 are or will become notifiable under the Public Health Act. That reflects the Government's current focus on the dangers posed by crystalline silica and asbestos. Other conditions in schedule 1 are considerably rarer. If they become notifiable in future, then the health secretary will be required to pass any information received to SafeWork NSW. In order to ensure that the notification framework has the flexibility to respond to emerging workplace health issues, diseases and conditions can be included or excluded by the Work Health and Safety Regulations. It is important to note that that provision is not intended to limit the broad information-sharing power contained in proposed new section 271B (1).

Those information-sharing provisions will give workplace health and safety regulators the information that they need to focus their compliance and enforcement efforts on workplaces that are not taking the necessary steps to stop their workers contracting entirely preventable dust diseases. I turn now to proposed new section 271C, which is also inserted by amendment No. 2. It is an important provision because it supports a transition to a national dust diseases register when one is established. Currently, a considerable amount of work is being done at a national level to develop a coordinated, Australia-wide approach to addressing occupational dust diseases. The Commonwealth Government has launched a National Dust Disease Taskforce, which provided an interim report to the Commonwealth Minister for Health at the end of last year. The report recommended the establishment of a national dust diseases registry.

The Government believes a national registry is the best way to monitor the prevalence and incidence of dust diseases. It looks forward to the final report of the National Dust Disease Taskforce following the further consultation that it is currently conducting. The Minister for Better Regulation and Innovation is a strong supporter of a national register and will raise the issue at the next national meeting of workplace safety Ministers to ensure that progress is continuing. Once that national registry is established, the Government wants New South Wales efforts to focus on supporting that registry, rather than maintaining a separate New South Wales registry. That is why proposed new section 271C provides that the amendments that enable the creation of a New South Wales register expire on a day prescribed by the Work Health and Safety Regulations.

The Minister for Better Regulation and Innovation may only recommend such a regulation if he is satisfied that a national register has been established to monitor the prevalence of dust diseases and conditions. That avoids the duplication of efforts to address those conditions at a State and national level. Finally, amendment No. 3 simply alters the long title of the bill to reflect the new clauses relating to the dust diseases register and the case-finding study. Before other members move additional amendments, the Minister asked that I make a few observations. He offers his thanks to a number of members of the House. The bill is the result of genuine collaboration across the political divide. It seeks to provide information to the workplace regulator that will let it detect situations where workers are being put at risk of deadly dust diseases at their workplace.

The register and information sharing enabled by the bill will help reduce the number of people acquiring those diseases and will ultimately save lives through intervention by the regulator. It deals with an issue that has been the subject of a number of inquiries in this place and one that all sides of politics have been working to

address. The bill is the result of lengthy discussion and input from many people, in particular, the Hon. Daniel Mookhey and Mr David Shoebridge. The Minister has asked me to express his personal thanks to both of them for the work that they have done cooperatively with him and his office to refine the bill and get us to a place where there is genuine bipartisan agreement for the regime that will be set up. I commend the amendments to the House.

The CHAIR (The Hon. Trevor Khan): I will invite the Hon. Daniel Mookhey and Mr David Shoebridge in turn to move their amendments. As all members are aware, members are not restricted to speaking once and may contribute further if they wish. The Hon. Daniel Mookhey has the call.

The Hon. DANIEL MOOKHEY (10:56:18**):** I move Opposition amendment No. 1 on sheet c2020-192A to Government amendment No. 2 on sheet c2020-128I:

No. 1 **Dust Diseases Register**

In Government Amendment No. 2 insert after proposed section 271B(5)—

271BA Dust Diseases Register

(1) SafeWork NSW must ensure a register is kept of the information provided under section 271B(2), other than information prescribed by the regulations.

(2) Subject to the regulations, the register is to be kept in the form approved by SafeWork NSW.

(3) The purposes of the register are—

(a) to monitor and analyse the incidence of occupational dust diseases that are required to be notified under section 271B(2), and

(b) to enable information about the diseases and conditions to be exchanged with a Public Service agency.

(4) The register is to be known as the Dust Diseases Register.

At the outset I indicate that the Opposition will not oppose Government amendments but has moved its own amendment to improve them. The Opposition amendment takes a significant step forward in toughening up the New South Wales legislative framework when it comes to dealing with killer dust and terrible dust diseases. We are taking a substantial step forward today on a bipartisan basis to establish New South Wales' first dust diseases register. That register will effectively facilitate a contact tracing regime for the purposes of workplace health and safety law enforcement. It will enable the workplace regulator, SafeWork NSW, to be told every time a worker is diagnosed with one of those killer diseases.

Although the legislation was prompted by silicosis, it also covers mesothelioma, asbestosis and other carcinogenic diseases. SafeWork NSW, equipped with that information much faster, will, therefore, be in a position to commence investigations immediately to determine whether other classes of workers have been exposed but who have not yet been detected. That will allow them to access medical treatment and screening and any medical intervention may well be lifesaving, which is crucial.

It is also crucially important in the current context of an epidemic of silicosis spreading through the New South Wales community. In the second reading debate we said—and it was acknowledged—that that was a fact and we know of 140 silicosis cases that have been diagnosed in the past 12 months, up from the historic average of three to four that we were experiencing just as recently as 2015 to 2016. We are dealing with an urgent problem. We do not know whether 140 is the maximum. It is entirely possible that more people are being diagnosed with the disease, but there is no way to know unless the disease becomes notifiable. I acknowledge that on 1 July the health Minister made it notifiable to NSW Health. That information has to arrive to SafeWork NSW so it can discharge its responsibility.

The amendment I move makes clear that SafeWork NSW must keep a register provided under section 271B (2) and other information prescribed by the regulations. The purpose of the register is to monitor and analyse incidents of occupational dust diseases that are required to be notified under section 271B (2), which is what the Hon. Scott Farlow is referring to in his contribution. It also enables this information about the diseases and conditions to be exchanged with other public services agencies. I will speak after Mr David Shoebridge moves his amendment on additional information requirements. His amendment works in partnership and in conjunction with the amendment of the Opposition. We move this amendment because this problem is urgent. I want to say quite clearly that we will pass this bill. It has been produced in a bipartisan way. I will save some reflections on that until later.

Once we establish the register, it is clear that there is still more to be done. The register is a tool that enables us to understand the scope and speed of the problem. Once we have better information, I imagine that debate in this House and its various committees will continue on the appropriate response. As long as 140 people in one

calendar year are being diagnosed with a preventable occupational dust disease, this issue will remain, as it should, at the forefront of public debate. We will save to another day the other aspects of law improvements that the Opposition will seek and which we outlined in our policy earlier this year. We will continue to campaign and advocate for the other tools needed in New South Wales to deal with this explosion of silicosis. But I acknowledge that we are taking a big step forward today in modernising our laws to deal with the scope of the problem.

I had planned to save acknowledgements for the third reading stage but I will take the lead from the Hon. Scott Farlow, who has made his acknowledgements at the Committee stage. I also want to acknowledge the collegiate manner in which this amendment came about. It arose as it should: between both sides of the partisan divide. We have our views, we find out what we have in common and we work towards a developed solution. I take the opportunity to acknowledge and pay respect to the professionalism of the Minister, as it is now his habit to appear in this House when his bills are being debated. It is good form and a sign of courtesy and respect to the House, which we appreciate. Equally, the dialogue that the Minister facilitated allowed us to harmonise our differences and arrive at a better outcome for the people of New South Wales. I also acknowledge the Minister's chief of staff and policy adviser, who are in the President's gallery, for the professionalism with which they conducted themselves, the honesty and the frankness of the dialogue and the respect shown to the confidence of the dialogue and exchanges, which meant that we could do business.

It would be remiss of me not to acknowledge the health Minister, who allowed the arrangement that was arrived at to be facilitated in a manner that will allow the bill to pass. I said to the Minister's office that the Opposition will have to find something else to clobber him with during budget estimates. Rest assured that we are onto that already. We will continue our pursuit of accountability. I acknowledge the contributions of others that have led to this point. I acknowledge Mr David Shoebridge and the professionalism of his office and staff, as always. He has been campaigning on this issue for a very long time. He and his staff should be acknowledged for the forcefulness of their advocacy. I acknowledge my staff member, Ms Elyse Harding, who has worked very hard on this issue.

I also acknowledge the very heroic workers who have been speaking out on this issue in recent times. Mr Andrew Klohk is a silicosis victim. He is a stonemason of some 30 years' standing who has been forced out of his profession because it is dangerous to him. He is now training to become a truck driver, amongst other things. We wish him well in his health and employment. Mr Kyle Goodwin from the northern New South Wales region spoke out heroically and persistently. He was exposed to silicosis at 25, diagnosed at 27 and given the prognosis that he may well be lucky to live beyond 40. He has a partner and a child and is dealing with a terrible circumstance. Every single stonemason on his shift in that plant on the Gold Coast was told that they too had the disease. It is a terrible circumstance but he has shown tremendous courage in dealing with it. He deserves a lot of praise.

Of course, the trade union movement of New South Wales has been campaigning relentlessly ever since the issue first emerged. The Construction, Forestry, Maritime, Mining and Energy Union's Sherri Hayward, Natasha Flores from Unions NSW and Jamila Gherjestani at the Australian Workers' Union are the three officials who have really pushed this issue hard. I will save specific comments about Ms Sherri Hayward when we get to the case-finding study amendment that Mr David Shoebridge will move. But those three made immense contributions. Of course, Professor Deborah Yates from the Thoracic Society of Australia and New Zealand, who is known to many of us who were involved in the law and justice committee inquiries, led the medical profession to this point of acceptance. She is one of the few doctors who is trained to deal with this disease. I am looking forward to meeting her patients when she can organise it to inform them of the progress we have made. She has been a relentless voice as well. I am glad she has received recognition; she should be acknowledged. I commend this amendment to the House. It is an important step to take forward. I look forward to this bill passing on a bipartisan basis.

Mr DAVID SHOEBRIDGE (11:05:45**):** On behalf of The Greens, I indicate our support for the Government amendment and the Opposition's amendment to that amendment and I move a further amendment. I move The Greens amendment No. 1 on sheet c2020-193A to Government amendment No. 2 on sheet c2020-128I:

No. 1 **Information to be reported and published by SafeWork NSW**

In Government Amendment No. 2 insert after proposed section 271BA—

271BB SafeWork NSW must report to Minister

(1) As soon as practicable after the end of each financial year, but no later than 30 September, SafeWork NSW must ensure the Minister is given a report stating—

(a) the number of cases of occupational dust diseases notified to SafeWork NSW under section 271B during the financial year, and

(b) the number of deaths resulting from occupational dust diseases notified to SafeWork NSW under section 271B during the financial year, and

(c) the types of diseases or conditions recorded in the Dust Diseases Register during the financial year, and

(d) the actions SafeWork NSW has taken to implement the purposes of the register, and

(e) any other information about a disease or condition recorded in the register that SafeWork NSW considers appropriate.

(2) However, SafeWork NSW must not include personal information or health information in the report.

(3) The Minister must, as soon as practicable after receiving the report, cause it to be tabled in the Legislative Assembly.

(4) In this section—

financial year means the period of 12 months ending at the end of 30 June in each year.

health information has the same meaning as in the *Health Records and Information Privacy Act 2002*.

personal information has the same meaning as in the *Privacy and Personal Information Protection Act 1998*.

271BC SafeWork NSW to publish information on website

(1) SafeWork NSW must publish on its website—

(a) each report provided to the Minister under section 271BB, and

(b) the number of cases of occupational dust diseases notified to SafeWork NSW under section 271B during a financial year, and

(c) the number of deaths resulting from occupational dust diseases notified to SafeWork NSW under section 271B during a financial year, and

(d) the types of diseases or conditions recorded in the Dust Diseases Register for each financial year, and

(e) any other information prescribed by the regulations.

(2) SafeWork NSW must keep the information published under subsection (1) up to date.

As we contribute to this debate, thousands of construction workers across the State are cutting and installing manufactured stone products. There are dozens, potentially hundreds, of other construction workers who are under our city tunnelling through sandstone with high silica content. There are literally thousands of workers whose lives are at risk from exposure to silica dust. We have seen a dramatic and disturbing rise in the rate of silicosis among that workforce over the past four years. We have seen it in New South Wales, following a case-finding study in Queensland. Indeed, Mr Chair, you will recall from evidence we heard in the inquiry of the Standing Committee on Law and Justice that it is a worldwide phenomenon. This relatively new product of manufactured stone, some two decades old and with a particularly high silica content, kills those who work with it if it is not used with extreme caution.

That is why we have managed to work across the political divide, with the Minister's office coming to these negotiations in genuine good faith and with the mindset, as I understand it, to protect the workforce and have Parliament do its job. I give credit to the Opposition and the work of the Hon. Daniel Mookhey and his team. I give credit to my staff, Ms Lauren Gillin and Ms Kym Chapple. I want to particularly give credit to two people from the union movement: Sherri Hayward from the Construction, Forestry, Maritime, Mining and Energy Union [CFMMEU] and one of her bosses, Ms Rita Mallia, President of the CFMMEU. My advice is do not get in the way of those two. I also acknowledge Ms Natasha Flores from Unions NSW.

These are people who collectively care about the workforce and want to keep their members safe. I credit the work that they have done. It has been an odd fortnight in State politics; some might say it has been a little dysfunctional. But this is one of those occasions where Parliament is actually doing its job. We have listened to stakeholders, listened to doctors from the thoracic society, heard from the workers themselves, many of whom are in their twenties and thirties and have a potentially terminal diagnosis of silicosis, and heard from the union officers who have come from the front line and we have come together in good faith and have worked in confidence to try to find a solution.

That is the purpose of the debate today. A State register for dust diseases will be produced. Through the good offices of the Minister and in collaboration with the health Minister, we are ensuring that asbestosis will finally be a notifiable disease. We are told that it will be included on the register from 1 March 2021 as a notifiable

disease. After continued work from the Standing Committee on Law and Justice—and I note your work on that, Mr Chair, and that of the two different Chairs of the committee who have progressed the silicosis issue—on 1 July this year we finally made silicosis a notifiable disease.

The Opposition's amendment creating the dust diseases register is a signal moment and we should reflect upon that. It is a longstanding recommendation of the law and justice committee and we are doing it today. To work, the register needs to be a public document and needs to have visibility. We need to hold the regulator to account over what it does with the information on that register. That is why the amendments that The Greens are moving to sections 271BB and 271BC are especially important. Section 271BB provides that:

> As soon as practical after the end of each financial year, but no later than 30 September, SafeWork NSW must ensure that the Minister is given a report stating—
>
> (a) the number of cases of occupational dust disease notified to SafeWork NSW under section 271B during the financial year, and
>
> (b) the number of deaths resulting from occupational dust disease notified to SafeWork NSW under section 271B, and
>
> (c) the types of diseases or conditions recorded in the Dust Diseases Register during the financial year, and
>
> (d) the actions SafeWork NSW has taken to implement the purposes of the register, and
>
> (e) any other information about a disease or condition recorded in the register that SafeWork NSW considers appropriate.

That report will be critical, which is why The Greens move that amendment to insert section 271BB. I have appreciated the work of the Minister and his office and I give particular credit to the hard work and diligence of his chief of staff. Trying to keep this motley collection together to produce this result has been an achievement and I accept the work that has been done in that office. But it is one thing for the information to be provided to the Minister. Section 271BC then provides that the core of that information will then be tabled in Parliament and be provided and available to MPs. We will be able to do our work—both on the law and justice committee and in our broader role as MPs—to ensure that not only is information being gathered but also that SafeWork is doing its job by shutting down any dangerous workplace.

The Hon. Daniel Mookhey referred to the register as being effectively a contact tracing tool and that is one of the key features that it will have. We will see if there are clusters, surges or increases in any of those deadly dust diseases—occupational diseases that we should have extinguished 40 or 50 years ago. We will have that early warning. It will be the contact tracing or the canary in the coalmine, if you like, and that is why it is critical to keeping workers safe. I commend the Government's amendment, the Opposition's amendment to the Government's amendment and The Greens' amendment to the Government's amendment to the House.

[*Business interrupted.*]

Visitors

VISITORS

The CHAIR (The Hon. Trevor Khan): I welcome to the President's gallery the Hon. Duncan Gay, a renowned former member of this House and a former Deputy President. He will no doubt be horrified by my performance today in allowing such latitude, but we will see how we go.

Bills

WORK HEALTH AND SAFETY AMENDMENT (INFORMATION EXCHANGE) BILL 2020

In Committee

[*Business resumed.*]

The Hon. SCOTT FARLOW (11:13:40**):** I also welcome the Hon. Duncan Gay. It is great to see him and he is always missed in this Chamber. The Hon. Daniel Mookhey and the Hon. David Shoebridge have proposed amendments. I will deal with the Hon. Daniel Mookhey's first, an amendment to Government amendment No. 2 to insert after subsection 271B (5) a new section 271BA, which establishes a dust diseases register. The Government supports the amendment, as was foreshadowed earlier. The dust diseases register will have two purposes. First, it will monitor and analyse the incidence of occupational dust diseases that are notified by Health to SafeWork. Secondly, it will enable information about diseases and conditions to be exchanged with a public service agency. The amendment formalises the data-sharing arrangements that SafeWork and NSW Health were proposing to enter into via a memorandum of understanding once the bill was law. I am sure, Mr Chair, that you remember much discussion of that in our committee hearings on this matter.

The intention was that both agencies would have access to the repository of information collected from silicosis notifications and that both agencies would be in a position to draw on that information to fulfil their respective functions: the regulation of work health and safety, and the protection of public health. The Government

is happy to amend the bill to formalise that position and believes the information-sharing arrangements will be strengthened by the inclusion. The dust diseases register will be a valuable resource for New South Wales government agencies in monitoring and responding to occupational diseases. It will inform the efforts of work health and safety regulators to prevent workers in New South Wales from being exposed to hazardous dusts that threaten their long-term health.

The Hon. David Shoebridge has moved further sensible amendments to this bill. Amendment No. 1 from sheet c2020-193A inserts proposed section 271BB. The amendment will require SafeWork NSW, as soon as practicable after the end of each financial year but no later than 30 September, to provide the Minister for Better Regulation and Innovation with a report on the dust diseases register. The report to the Minister will cover a range of matters relating to the register. It must contain:

(a) the number of cases of occupational dust disease notified to SafeWork NSW under section 271B during the financial year, and

(b) the number of deaths resulting from occupational dust disease notified to SafeWork NSW under section 271B, and

(c) the types of diseases or conditions recorded in the Dust Diseases Register during the financial year, and

(d) the actions SafeWork NSW has taken to implement the purposes of the register, and

(e) any other information about a disease or condition recorded in the register that SafeWork NSW considers appropriate.

The report must not include personal information or health information. Workers would not expect information about their health to be made public in a way that could identify them and SafeWork NSW will need to ensure that all information is sufficiently de-identified.

As mentioned by Mr David Shoebridge, the Minister will then be required to table the report in the Legislative Assembly. Amendment No. 1 also inserts proposed section 271BC, which formalises the Government's existing commitments to provide transparency via updates in relation to occupational diseases. It requires SafeWork to publish on its website each report to the Minister as well as the number of cases and deaths notified to it each year, the types of diseases and conditions recorded in the register and any other information prescribed by the regulation. SafeWork is required to keep the information that it publishes on its website up to date. Again, the amendment strengthens the regime that is being put in place and the Government supports both amendments.

The Government also supports amendment No. 1 from sheet c2020-194A. It is intended to formalise the Government's existing commitment to the active finding of cases of silicosis among people working in industries in which they are exposed to those hazards. It requires SafeWork to ensure that a case-finding study is carried out to investigate respirable crystalline silica exposure in the manufactured stone industry and to gather information to improve the identification and assessment of workers at risk of exposure. A report on the findings of the study must be completed on or before 1 July 2021. The Work Health and Safety Regulation already imposes a duty on persons conducting a business or undertaking to provide health monitoring to workers.

There is a whole-of-government approach to improving the identification and assessment of workers at risk of exposure. In the case of silicosis case identification, NSW Health, SafeWork NSW and icare already have a working partnership to actively identify new cases of silicosis resulting from respirable crystalline silica exposure in the manufactured stone industry. Those whole-of-government measures are crucial to improving the identification and assessment of workers at risk of exposure when it comes to any occupational dust disease. The amendments strengthen the bill, providing a comprehensive response to the workplace dangers that may cause silicosis and other dust diseases. The Government is committed to taking the action necessary to protect workers from unnecessary disease. The amendments target workplaces that are not doing enough to keep their workers safe. I commend the amendments to the House.

The Hon. DANIEL MOOKHEY (11:19:09**):** Before I contribute to the debate, I acknowledge the presence of the Hon. Duncan Gay in the President's gallery. I assume he is here to see whether his statue has been erected. The Hon. Duncan Gay would be shocked to see how far standards have fallen in the House, given that members are in agreement on a bipartisan amendment. That never would have happened under his watch, I am sure. I am also sure that the Government requires his wisdom right now.

The Opposition does not oppose The Greens amendment. In fact, Labor enthusiastically supports the amendment and also welcomes the public disclosure of the information that would be provided to the register. Labor welcomes the fact that the register would allow for greater scrutiny of what is going on in the industry but equally the effectiveness of SafeWork NSW's response and whether or not further methods and measures are needed to deal with the explosion of silicosis and other dust diseases in our State. The genesis of those amendments arose from a tripartite discussion. From the Opposition's perspective, I am indebted to Maurice Blackburn, who was able to explain the information requirement aspects of the Queensland regime to the Opposition quite effectively. I acknowledge Mr Jonathan Walsh and Ms Jade Knight in that respect as well for their very useful

expertise about the validity and the importance of the public information disclosure and how that should be configured. I commend the amendments to the Committee.

The CHAIR (The Hon. Trevor Khan): The Hon. Scott Farlow has moved Government amendment No. 2 on sheet c2020-128I, to which the Hon. Daniel Mookhey has moved Opposition amendment No. 1 on sheet c2020-192A. The question is that the amendment of the Hon. Daniel Mookhey to Government amendment No. 2 be agreed to.

Amendment of the Hon. Daniel Mookhey to Government amendment No. 2 agreed to.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No. 1 on sheet c2020-193A to Government amendment No. 2 on sheet c2020-128I. The question is that the amendment of Mr David Shoebridge to Government amendment No. 2 be agreed to.

Amendment of Mr David Shoebridge to Government amendment No. 2 agreed to.

The CHAIR (The Hon. Trevor Khan): The Hon. Scott Farlow has moved Government amendment No. 2 on sheet c2020-128I, which has now been amended. The question is that Government amendment No. 2 as amended be agreed to.

Amendment No. 2 as amended agreed to.

The CHAIR (The Hon. Trevor Khan): The Hon. Scott Farlow has moved Government amendment No. 1 on sheet c2020-128I. The question is that the amendment be agreed to.

Amendment agreed to.

The CHAIR (The Hon. Trevor Khan): The Hon. Scott Farlow has moved Government amendment No. 3 on sheet c2020-128I. The question is that the amendment be agreed to.

Amendment agreed to.

Mr DAVID SHOEBRIDGE (11:23:30**):** I move The Greens amendment No. 1 on sheet 2020-194A:

No. 1 **Case-finding study**

Page 2, clause 3. Insert after line 19—

(2) Section 276A

Insert before section 276B—

276A Case-finding study

(1) SafeWork NSW must ensure that a case-finding study is carried out—

(a) to investigate respirable crystalline silica exposure in the manufactured stone industry, and

(b) to gather information to improve the identification and assessment of workers at risk of exposure.

(2) A report on the findings of the study must be completed on or before 1 July 2021.

The amendment will insert a new section 276A into the Act. The reason The Greens have been so insistent upon a case-finding study—and I say that this is an amendment from The Greens but all parties who engaged in debate have acknowledged the need for it—is because of the Queensland experience. In Queensland the first signature case of silicosis that was reported in Australia for the first time in 40 years occurred in 2015. A series of cases were reported in Queensland in the years that followed up to 2017. Cases were being reported in the single digits and then in the low double digits. However, there was a very real concern that the true prevalence of silicosis was much higher than was reported in the data.

To its credit, the Queensland Government required an audit to be undertaken of workers in the construction industry and in the manufactured stone industry in particular. That audit, which was published in February 2019, reported a further 98 cases of silicosis over a four-month period. Of those cases, 15 workers were documented to be in the advanced end stages of the disease, and some of those were tragically incurable. The only solution is a lung transplant, if that is available. Going from the data that I have to the end of last year, which I think is reliable, 151 Queensland workers have been diagnosed with silicosis and 25 of those have had progressive massive fibrosis, which is a tragic and incurable diagnosis. The history in Queensland is extremely relevant because one can see that up until the end of 2019, of the 151 cases of silicosis that have been identified in Queensland 98 of those were found during the case-finding study, or two-thirds.

That is why the Standing Committee on Law and Justice has said repeatedly that a case-finding study should be undertaken, that is why we have been pushing SafeWork NSW to undertake a case-finding study, that is why The Greens says it is essential and that is why The Greens particularly appreciate the time frame for that case study to be delivered. The findings need to be reported by 1 July 2021, consistent with the four-month case-finding study that happened in Queensland. That will allow the case-finding study to go out into the field and report by 1 July 2021. I hope that the numbers are low and that whatever action has been taken to date has been effective in the industry but I fear that we will find many more workers whose lives have been irreparably damaged by that dreadful disease. We need that information. I commend the amendment to the Committee.

The Hon. SCOTT FARLOW (11:27:24**):** I will not add to the debate other than to say that the Government supports the amendment moved by Mr David Shoebridge.

The Hon. DANIEL MOOKHEY (11:27:40**):** The Opposition obviously supports the amendment of Mr David Shoebridge. Labor said that the dust diseases register was effectively, through contact tracing, a regime for finding cases that are notified from the point of its establishment. A case-finding study is effectively a retrospective contact-tracing regime to find other workers who may have been historically exposed to silica and whom we did not know about because the register did not exist at the time. It is designed to go back in time to find who else could have been exposed to ensure that those people get screened and to get them help if they are diagnosed. It is vitally important for that reason. I acknowledge that Mr David Shoebridge said it is his sincere hope that the case-finding study finds very few workers with silicosis. Labor shares that view but we are realistic.

The stonemason industry, which involves the cutting of manufactured and artificial stone, is much greater in New South Wales than it is in Queensland. The industry is concentrated in New South Wales. To be clear, it is concentrated in south-west Sydney. The 250 known sites that cut manufactured and artificial stone are overwhelmingly in south-west Sydney, although there are also major sites in regional and rural New South Wales. Today 7,000 people work in the industry, which has high levels of churn. Many people have come and gone from the industry. Other workers may well have been exposed as a result. It is important to see whether or not the data can point to any potential clusters. From there we can find out whether or not there has been wider exposure so that those people can get help.

We are realistic about the fact that this case-finding study may well surface a much larger problem. On the one hand it is akin to Schrödinger's cat where we are better not to look. It is crucial that we look at silicosis because those people could get help in time, which means it is possible that silicosis could become a chronic disease rather than a deadly one; therefore, it is absolutely necessary. I acknowledge that the case-finding study has been acknowledged and recommended by two successive committee chairs and committee reports, including the Hon. Shayne Mallard—

The Hon. Shayne Mallard: After my time.

The Hon. DANIEL MOOKHEY: It was before his time. Certainly, it was acknowledged by the Hon. Wes Fang earlier this year.

The CHAIR (The Hon. Trevor Khan): And the Hon. Niall Blair.

The Hon. DANIEL MOOKHEY: And the Hon. Niall Blair. The Hon. Trevor Khan took part in those inquiries as well. It is fair to say that the law and justice committee, in inquiring as to why the case-finding study was not done, never found a good reason. It seemed at the time that a pointless level of resistance was being waged by people, for God knows what reason. We should acknowledge that it took the forthright advocacy of Shari Hayward, Rita Malia, Ben Cruise and Natasha Flores to keep this on the agenda until the point that we could act on it.

I acknowledge that the Minister overcame whichever obstacles were stopping it from proceeding when he took over the portfolio. We can take comfort in the fact that we will have this information by July of next year. It is important for no other reason than it allows us, in partnership with the register, to get a better picture of how we are managing the issue and, therefore, whether this House needs to be taking further measures to deal with this explosion of silicosis. It is a good amendment and a necessary task. We hope that SafeWork NSW is well resourced to pull it off by 31 July next year. I commend the amendment to the House.

The CHAIR (The Hon. Trevor Khan): Mr David Shoebridge has moved The Greens amendment No. 1 on sheet c2020-194A. The question is that the amendment be agreed to.

Amendment agreed to.

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

Motion agreed to.

The Hon. SCOTT FARLOW: I move:

That the Chair do now leave the chair and report the bill to the House with amendments, together with an amendment to the long title.

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.

NATIONAL PARKS AND WILDLIFE LEGISLATION AMENDMENT (RESERVATIONS) BILL 2020

First Reading

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Ben Franklin, on behalf of the Hon. Damien Tudehope.

Second Reading Speech

The Hon. BEN FRANKLIN (11:35:10**):** On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a second time.

The bill to amend the National Parks and Wildlife Act 1974 will adjust park boundaries to ensure appropriate management and allow upgrades of roads and other priority public infrastructure. It will facilitate the transfer of land of high cultural significance to the Aboriginal community and support expansion of the Port Macquarie Koala Hospital. The bill will also enable the harvesting of existing pine plantations to proceed by correcting an historical error. Finally, it will deliver commitments associated with a legally enforceable undertaking. National parks are our most precious environmental assets. They protect places of outstanding natural and cultural value and spectacular landscapes, and provide a vast array of recreational and visitor opportunities that underpin much of the New South Wales tourism industry.

The events of the 2019-20 summer have brought home just how important our national parks and reserves are, as people have flocked to enjoy all that they have to offer. National parks are protected in perpetuity. The requirement for Parliament to approve any proposal to remove land from our national parks is an important mechanism to safeguard the State's conservation assets. I can assure the House that the proposals contained in the bill are in the public interest. They are necessary because there is no other feasible option and they do not result in any net loss of conservation values. In recognition of the need to ensure a balance between supporting essential infrastructure projects and conservation objectives, where relevant, the bill will ensure that appropriate compensation is provided for revocation of land from the national parks system. This longstanding practice has been followed for similar bills over many years.

I turn to the proposals in detail. The New South Wales Government is committed to improved transport infrastructure and road safety across the State. The bill will revoke about 5.4 hectares from Western Sydney Regional Park to enable the widening of Horsley Drive, which is an important arterial road in western Sydney. It facilitates the Coffs Harbour bypass process, which is a necessary and essential component of the long-term efforts to complete the Pacific Highway upgrade. It will correct a minor error associated with the widening of the Pacific Highway by revoking 184 square metres from Kororo Nature Reserve for the Coffs Harbour bypass. The bill will rectify an historical mapping error for the alignment of the Illawarra Highway, which passes through Macquarie Pass National Park, west of Albion Park.

The constructed road does not fall wholly within the boundaries of the road reserve, meaning that essential maintenance and safety works require approval under the National Parks and Wildlife Act 1974 and relevant environmental assessment legislation. Revocation of about 16.6 hectares will support the simplification of those processes by clarifying that the road corridor is not part of the national park. This will assist a more efficient future management of the corridor and associated safety and drainage improvements. Two proposals will support improved outcomes for regional roads that are managed by local councils. Mid-Western Regional Council is proposing to upgrade and realign part of Wollar Road adjacent to Munghorn Gap Nature Reserve. Wollar Road

is a key link between Mudgee and Merriwa. The Wollar Road project will deliver important road safety improvements and address a recognised accident blackspot.

Road design options to avoid impacting the nature reserve were considered and exhausted. About 0.4 hectares from Munghorn Gap Nature Reserve will be revoked so that the project can proceed. Mid-Western Regional Council has agreed to provide compensation for the revocation. The second regional road proposal involves the revocation of about 0.38 hectares from Abercrombie River National Park, which is the site of the existing Bummaroo Ford bridge in the Central Tablelands near Oberon. Oberon Council recently constructed the bridge with funding support from the Australian Government to improve road safety outcomes for the local community. The bill will revoke the land within the national park that is occupied by the bridge and its approach roads to facilitate its future transfer to Oberon Shire Council. Oberon Shire Council will also provide compensation for this revocation.

In addition to these important road infrastructure and safety projects, the bill addresses the revocation of land from national parks and reserves for several other infrastructure projects. In the Tweed shire the bill will revoke about 1.9 hectares from Mount Jerusalem National Park. This is needed to enable the Tweed Shire Council to continue planning to increase the water supply to one of the fastest growing areas in the State. The council intends to increase the height of the Clarrie Hall Dam near Murwillumbah, which will result in some inundation of this small area of land within the national park. Inundation of land within the national park is not permissible under the National Parks and Wildlife Act 1974, hence, revocation is required for the project to proceed. While the bill will revoke the land from the national park, it is important to note that it will not be transferred to the Tweed Shire Council until the Minister for Energy and Environment is satisfied that appropriate compensation has been provided.

In the Port Macquarie-Hastings local government area the bill will revoke about six hectares from Queens Lake State Conservation Area near Port Macquarie. The purpose of this is twofold. First, it will enable the Port Macquarie-Hastings Council to install a new water main alongside an existing road corridor. Secondly, it will remove land from the State conservation area that is now an existing constructed road. This is consistent with an enforceable undertaking made between the former Office of Environment and Heritage and Port Macquarie-Hastings Council following damage to the State conservation area that was caused by council roadworks in 2016. This revocation does not require compensation as the enforceable undertaking made in 2018 already addressed this requirement. In addition, the proposed water main will not have any additional impact on the State conservation area.

I take this opportunity to highlight the proposed revocation of about 15.4 hectares from the Davidson Whaling Station historic site near Eden. This is a particularly significant outcome of this bill as it will facilitate the future transfer of this culturally significant area to the Aboriginal community and will support resolution of longstanding issues related to the regional forest agreement process of the late 1990s. The revocation and eventual transfer of this land to the Eden Local Aboriginal Land Council will deliver on the agreed outcomes of the whole-of-government Eden Solution Brokerage Accord. This was endorsed by the New South Wales Government in 2017 as the framework to resolve concerns related to the 1999 regional forest agreement. The land to be revoked from the Davidson Whaling Station historic site is of significant Aboriginal cultural heritage value. When transferred to the Eden Local Aboriginal Land Council, it will ensure that the Aboriginal community has responsibility for management of this land. No compensation is required as the revocation is consistent with commitments made under the Eden Solution Brokerage Accord.

I am also pleased to note that the bill takes an important step towards supporting efforts to protect the koala, one of our most treasured native species and one that we all know needs significant efforts to ensure its recovery from the recent bushfires and its long-term survival. To that end, the bill will revoke about 0.6 hectares from Roto House Historic Site in Port Macquarie. This land is currently occupied by the Port Macquarie Koala Hospital, which provides a critical service in looking after injured koalas and ensuring that they are fit and healthy enough to return to the wild. The revocation of this land will enable the operator of the hospital, the not-for-profit charity Koala Conservation Australia Inc., to proceed with planning to expand and upgrade the hospital as quickly as possible.

This project is being supported by the New South Wales Government, with $5 million from the New South Wales Regional Growth—Environment and Tourism Fund. Generous public donations from the 2019-20 bushfires will also enable this project to go forward. The revocation of this small area of land is therefore a critical step towards progressing the planned expansion of the koala hospital, which will serve the dual purpose of allowing the hospital to undertake the critical task of koala rehabilitation and to improve education opportunities for visitors and tourists of the region.

The final aspect of the bill that I refer to is the revocation of 45.2 hectares from Winburndale Nature Reserve near Bathurst. This land adjoins Sunny Corner State Forest and contains an existing pine plantation that

has now reached maturity and is due for harvesting. This revocation will correct a basic historical error that resulted in the inclusion of the existing pine plantation in the nature reserve when it was gazetted in 1967. It will enable the land to be vested in the Minister administering the Forestry Act 2012. This will support the harvesting of mature pines in the short term and also ensure that long-term management of the land as part of the State forest can be appropriately undertaken by the NSW Forestry Corporation. Compensation is not required for this revocation as there are no significant natural values of the land and it is addressing an historical reservation area.

In total, the bill proposes the revocation of about 92 hectares of land from 10 national parks and reserves. These are sensible outcomes that will enable important public infrastructure projects to proceed, address historical errors and facilitate the transfer of land to Aboriginal communities. Revocations are a routine and necessary part of managing the national parks estate but are only undertaken as a last resort. Importantly, the bill provides for compensation to be provided for a number of the proposed revocations. That includes compensation for the revocation of land from Western Sydney Regional Park, Mount Jerusalem National Park, Munghorn Gap Nature Reserve, Abercrombie River National Park and Macquarie Pass National Park.

In the case of Western Sydney Regional Park, I understand that Transport for NSW has already agreed on the compensation for the removal of about 5.4 hectares of land from the regional park. Transport for NSW will transfer 11 hectares of land with conservation values to Maroota Ridge State Conservation Area, together with funding for boundary fencing and a weed control program. Compensation for other relevant revocations will be determined following passage of the bill and, in accordance with the bill, must be to the satisfaction of the Minister for Energy and Environment. All proposals in the bill have been the subject of consultation with the National Parks and Wildlife Advisory Council, relevant regional advisory committees, relevant State agencies and local councils. This bill is a sensible and balanced outcome that delivers essential revocations and supports conservation and park management objectives. I commend the bill to the House.

Debate adjourned.

Committees

JOINT SELECT COMMITTEE ON COERCIVE CONTROL

Establishment and Membership

The Hon. DAMIEN TUDEHOPE: I move:

(1) That this House agrees to the resolution in the Legislative Assembly's message of Wednesday 21 October 2020 relating to the appointment of a Joint Select Committee on Coercive Control.

(2) That the time and place for the first meeting be advised once it has been determined.

The Hon. ADAM SEARLE (11:47:31**):** I thank the Leader of the House for putting forward this motion and I indicate that the Opposition will support it. I place three matters on the record. First, I thank the Attorney General for consulting with the Opposition as to the structure and composition of the committee. It is appropriate that with significant issues such as this there be committees of this kind. Obviously, committees across both Houses are good in principle, although they can have a very large membership due to the need to accommodate the composition of each House.

Secondly, I believe that it is undesirable in principle for there to be more crossbench representation than there is Opposition representation. The Government is the government, the Opposition is the alternative government and the crossbench is the crossbench. This is no reflection on my crossbench colleagues either here or in the other place. The usual approach is that the Government has whatever representation it has, the Opposition has one or two fewer representatives and the crossbench has the balance. We do not oppose this motion but I place that on the record. This has happened before, for example, with the Joint Select Committee on Sydney's Night Time Economy. The joint select committee on religious freedoms was structured a bit differently; the Opposition had more representation.

Thirdly, and this is not a reflection on the Attorney General, we asked for a third member on the committee. If the Government has four members on the committee, the Opposition should have three and then the crossbench has its representation. Because of the diverse nature of the crossbench here and in the other place, on this occasion the crossbench representation would be significant. I do not cavil with that; it is more about the level of representation given to the Opposition. I ask the Government to reflect on these gentle comments, offered in good faith and in a friendly way, when joint committees are established in future.

The Hon. MARK LATHAM (11:49:36**):** I raise a point about the perceived independence of a committee chaired by a Parliamentary Secretary. I do this with no reflection at all on the Hon. Natalie Ward, who is Parliamentary Secretary to the Attorney General. I served on the Joint Select Committee on Sydney's Night Time Economy, which she chaired, and she did an outstanding job. But that was in an area of public responsibility away

from her responsibilities as a member of the Executive Government. I am not overly comfortable with members of the Executive Government getting on committees that supposedly represent an independent view of the Parliament, because there could be suggestions that they are placed in a difficult position. If a member of the Executive outlines a point of view contrary to their own, what do they do?

As Parliamentary Secretary to the Minister responsible for the policy area, chairing the committee would place the Hon. Natalie Ward in an invidious and difficult position such as having to, if she thought necessary, disagree with the public views that have already been expressed by the Hon. Mark Speakman in this contentious area of policy development. I raise that for the consideration of the Government and I ask it to go back and rethink it. The perception of the committee, as well as the reality, must be independent. I do not think we should put Parliamentary Secretaries in a difficult position in which their own view as a member of Parliament on a committee may conflict with the views of the Minister who they serve. I make those points with no adverse reflection on the abilities or the good character of the Hon. Natalie Ward—far from it—but I think the way it has been organised will not reflect an independent viewpoint as perceived by the public. I ask the Government to try to address it.

Ms ABIGAIL BOYD (11:51:45**):** The Greens support the establishment of the committee. I find the comments that have been made quite interesting. In relation to committee composition, there is a longstanding problem with many of the upper House committees—not so much with the joint committees—where there is nothing even approaching gender parity. Often I find myself as the only woman on a committee. I note the comments from the Hon. Mark Latham about the potential conflict of having Parliamentary Secretaries and others on those committees. Unfortunately, I have been told before that, from the Government's perspective, the reason there are not so many women on those committees is that they hold ministerial and Parliamentary Secretary positions. I feel like we do not have a choice. I put on the record that The Greens take that point and we take conflicts of interest very seriously. But, in the circumstances, we support the Hon. Natalie Ward being on the committee.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (11:53:13**):** In reply: I acknowledge the contributions made by members. Anyone who has seen the Hon. Natalie Ward perform either in this place or on committees would have no doubt about her ability to handle conflicts and act in a way that ensures that those committees work and that all views are expressed properly and given proper weight. I think the point that Ms Abigail Boyd made is a valid one. The Government sees it as an important issue, wants the committee to work well and identifies the Hon. Natalie Ward as a person who runs good committees and runs the process well. Notwithstanding the observations made by the Hon. Mark Latham, members ought to have confidence that she will act properly, and not at the direction of the Executive, in the manner in which she conducts the committee. With those comments, I commend the motion to the House.

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

Motion agreed to.

The Hon. DAMIEN TUDEHOPE: I move:

That a message be forwarded to the Legislative Assembly conveying the terms of the resolution agreed to by the House.

Motion agreed to.

Bills

DRUG SUPPLY PROHIBITION ORDER PILOT SCHEME BILL 2020

First Reading

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Scott Farlow, on behalf of the Hon. Damien Tudehope.

Second Reading Speech

The Hon. SCOTT FARLOW (11:56:52**):** On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a second time.

The Government is pleased to introduce the Drug Supply Prohibition Order Pilot Scheme Bill 2020. The bill implements the New South Wales Government's election commitment to introduce drug supply prohibition orders, or DSPOs, which will give police new powers to search convicted drug dealers and manufacturers, as well as their homes and vehicles, at any time without a warrant. The New South Wales Government made that commitment at the last election to provide police with an additional strategic tool to prevent and disrupt the supply and

manufacture of prohibited drugs, and to deal with serious drug offenders who have re-engaged or are likely to re-engage with drug supply or manufacture activities.

To that end, it is anticipated that the DSPO scheme will serve two purposes. First, it will assist police to gather evidence of drug supply and drug manufacture effectively and efficiently. Second, it will have a deterrent effect on a person subject to a DSPO, who may reconsider whether re-engaging in a lifestyle involving the manufacture or supply of illicit drugs is worth the increased risk of police detection and further conviction. Under the DSPO scheme, police will be able to apply for a DSPO against the person who is 18 years of age or older and has been convicted of a serious drug offence in the past 10 years. For the purposes of the DSPO scheme, a serious drug offence will include drug supply or manufacture offences involving more than the trafficable quantity of a prohibited drug and other drug offences relating to the supply or manufacture of prohibited drugs. A DSPO application will be made to an authorised magistrate on an ex-parte basis.

The potential subject of the DSPO is not entitled to be told about the application and is not permitted to make a submission. That is necessary to protect confidential criminal intelligence that may form part of an application, which was a key priority for the New South Wales Government when designing the DSPO scheme. DSPO applications are also not required to be decided in a courtroom. An authorised magistrate will be able to make a DSPO if they are satisfied that the person subject to the application meets the eligibility criteria in relation to age and criminal history, and is likely to engage in the supply or manufacture of prohibited drugs. As an additional safeguard, the role of an oversight commissioner has been created for the DSPO scheme. The role of the oversight commissioner will be to work with police throughout the application process and, if required, make a submission to an authorised magistrate regarding a DSPO application, including objecting to an application. An authorised magistrate will not be able to make a DSPO unless the oversight commissioner has had a reasonable opportunity to make a submission in relation to the DSPO application.

The oversight commissioner function has been modelled on the Surveillance Devices Commissioner under the Surveillance Devices Act 2007 and, for the purposes of the pilot, the role of oversight commissioner will be exercised by the current Surveillance Devices Commissioner. A person who is subject to a DSPO will be able to apply to the Local Court for the order to be revoked after a minimum of six months. This time period strikes an appropriate balance between allowing sufficient time for a DSPO to effectively operate to disrupt and unsettle drug supply and manufacture operations and providing the opportunity for a person who is subject to a DSPO to prove that such an order is no longer necessary.

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

Questions Without Notice

HIGHER SCHOOL CERTIFICATE

The Hon. ADAM SEARLE (12:00:10**):** My question without notice is directed to the Minister for Education and Early Childhood Learning. Given that dozens of HSC students at Wyndham College at Quakers Hill were given incorrect exam times, forcing them to submit incomplete exam papers, will the Minister investigate that matter and ensure that those students' results and Australian Tertiary Admission Ranks are not affected through no fault of their own?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:00:38**):** I thank the Leader of the Opposition for his question. Of course I am aware of an error at Wyndham College where 46 out of 180 students were given an incorrect exam finish time for the first paper. I am advised that the supervisor wrote "12.30 p.m." on the board as the finish time instead of the correct finish time of "11.30 a.m." I am advised that the supervisor realised the error at 11.35 a.m. and immediately stopped the exam, which was understandably upsetting for the students who were impacted.

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

The Hon. SARAH MITCHELL: The correct protocols have been reiterated to the presiding officers and supervisors involved. The school has also reached out to students and parents to apologise. A group misadventure application will be made on behalf of those students. All presiding officers have been reminded by the NSW Education Standards Authority to follow the pre-exam checking protocols, which are designed to avoid errors.

The PRESIDENT: I remind the Hon. Walt Secord that he is already on a call to order. He will cease interjecting.

SYDNEY OPERA HOUSE

The Hon. TAYLOR MARTIN (12:01:56**):** My question is addressed to the Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. Will the Minister update the House on the redevelopment works at the Sydney Opera House?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:02:11**):** With alacrity I am delighted to answer the honourable member's question. I am so proud of the $207,500,000 that is being invested in the first stage of the iconic Sydney Opera House renewal program. That investment will safeguard one of Australia's premier cultural institutions and a State national world heritage masterpiece for future generations of artists, audiences and visitors.

In February this year construction began on major upgrades to the concert hall and on a new creative learning centre. Concert hall works will transform the concert's acoustics, stage and backstage areas, theatre systems and accessibility in and around the venue ensuring that performers, staff and audiences enjoy a world-class venue. Currently the concert hall is filled with an innovative scaffold to support the building works and a new state-of-the-art theatre stage where the state-of-the-art machinery and staging system is taking shape. The new concert hall will be more versatile, as its original architect intended. It will showcase orchestral pieces, live music, comedy and the full spectrum of twenty-first century performance.

The new accessible passage and lift shafts have also been created. On Tuesday the accessible passage was completed, which I was delighted to see on my visit that day. All demolition and concrete pours have been completed for the new creative learning centre and high-level services are now being installed. That project is on track for completion in 2021. It will create a dedicated space at the Opera House for children and young people to play, experiment and learn in a building that embodies creativity and innovation. As I said, I was pleased to visit the site this week and see the great progress that has been made while the Opera House has been closed for public activities during COVID. I congratulate the Opera House on the progress it has made on those important upgrades and on the care with which it is renewing the building in a way that respects and conserves its unique architectural heritage.

STUDENTS WITH DISABILITY

The PRESIDENT: I have no intention of embarrassing the Hon. Penny Sharpe by telling members that today is her birthday.

The Hon. PENNY SHARPE (12:05:04**):** Thank you, Mr President. I think Facebook has already managed to do that in a way that drew a bit too much attention. My question without notice is directed to the Minister for Education and Early Childhood Learning. Given that students with disability require comprehensive medical evidence to access integrated funding support from the education department, what is the Minister's response to community concerns that carers and parents cannot afford those reports, denying students the necessary support they need?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:05:35**):** I thank the honourable member for her question, which is obviously very important, in relation to supports for students with disability and the provisions that they need to access in their school communities. It is quite a detailed question about concerns where families might struggle to access that support because of financial reasons. I will take the question on notice so I can obtain more detail. It is an important and serious issue that I know the member, as shadow Minister for Disability and Inclusion, is asking in good faith. With the indulgence of the House, I also wish the member a very happy birthday.

The Hon. PENNY SHARPE (12:06:16**):** I ask a supplementary question. When seeking the information to which she refers, will the Minister elucidate her answer with respect to the available support when a school identifies that a family is unable to afford the necessary evidence? Is there any particular support that the Government provides to enable them to get that evidence?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:06:45**):** I am happy to do that. Obviously, as the member would know, we have a range of disability funding loadings through the Gonski and Resource Allocation Model arrangements. As I said, it is quite a complex area but I will take it on notice and provide a detailed answer to the member.

THE HON. GLADYS BEREJIKLIAN

The Hon. MARK LATHAM (12:07:05**):** My question is directed to the Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, representing the Premier. I draw the Minister's attention to the Premier's statement that she is a very private person and to the content of her recent interviews with the newspaper gossip writer and Kyle Sandilands. Given that Daryl Maguire

had a key to the Premier's North Shore home for many years and, while cohabiting, came and went as he liked as recently as last month, does that not demonstrate an intimate personal relationship and the Premier's failure under the NSW Ministerial Code of Conduct to declare all of Daryl Maguire's business interests?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:07:42**):** I will take the question on notice.

LOCAL TRADES SCHEME

The Hon. SAM FARRAWAY (12:07:55**):** My question is addressed to the Minister for Education and Early Childhood Learning. How is the New South Wales Government supporting jobs in regional New South Wales?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:08:06**):** I thank the honourable member for his question. I know the topic is close to his heart. Clearly, 2020 has been a challenging year for many communities across the State and, indeed, across the country. Communities in New South Wales, particularly in our regions, have endured the worst drought on record and the devastating bushfire season. Of course we are now living with the COVID-19 pandemic. Members on this side of the House know and appreciate the difficulties presented by those challenges, as, I am sure, do many other members in this place. That is why I have made a commitment that, where possible, we will ensure that our record infrastructure spend supports our local communities by engaging local trades. That includes not only our pipeline of major projects but it also includes our minor works program and the ongoing maintenance of our schools. As members know, a lot of spending is taking place in education.

To make this happen, we committed to making it easier for local tradies to access a selection of jobs at schools in their area with our Local Trades Scheme, which I launched alongside the Deputy Premier and the member for Dubbo, Dugald Saunders, in November last year. The Local Trades Scheme is an initiative of the Department of Education to support local trades, which is particularly important for regional communities. We have partnered with hipages—one of Australia's leading on-demand tradesperson platforms—to provide local trade businesses the opportunity to quote for school maintenance jobs valued up to $50,000. Those jobs include painting walls; replacing items such as carpet, windows and doors; and repairing or replacing floor coverings and roofing. Maintenance jobs are available to qualified trade businesses across New South Wales.

The partnership allows us to simplify how we source, tender and appoint local trades to deliver a selection of maintenance jobs for our schools. Since the platform was launched 1,400 trades have signed up. As we finalise our program of works for the 2020-21 financial year, tradies across our regional communities will have the opportunity to tender for those works. The new online platform streamlines how they access jobs and improves the speed at which works are delivered at local schools across the State. There is no need to subscribe because access is free for all tradies registered with hipages. The Local Trades Scheme will better support local trade businesses to access a selection of maintenance jobs at their local schools.

Existing contracts the department has with a contractor or business to deliver maintenance work at public schools are not impacted by the scheme. The scheme will enhance the program of maintenance work. As I indicated earlier, the Government appreciates the challenges the past year has presented. We understand that communities have been hit hard and we will continue to find ways to support them. It is important we invest in projects and programs that support job creation. Of course, our record $6.7 billion major capital works program is integral to this but it is complemented by the smaller scale investments we can make through our minor capital works and maintenance program. Those pipelines of work are critical to supporting local jobs in local communities. I am proud of the initiative, particularly the opportunity it presents for our local tradies.

The PRESIDENT: Reverend the Hon. Fred Nile is next on the list but is not present. I do not propose to go to the next crossbench member because it is unfair to the crossbench members who are here on time. Instead, I will go to the Opposition. The Hon. Walt Secord has the call.

CHILDCARE CENTRES AND CRIME SYNDICATES

The Hon. WALT SECORD (12:11:28**):** My question without notice is directed to the Minister for Education and Early Childhood Learning. Given community concerns about alleged criminal syndicate involvement in childcare centres, what action has the Government taken to step up its monitoring and auditing of New South Wales childcare facilities?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:11:54**):** I thank the member for his question about a serious issue. It is a good opportunity to put on record some of the work that the Government has been doing in relation to those matters. The member would no doubt be aware—and potentially what prompted his question—of today's operations as part of the significant investigations by

Strike Force Mercury. The Department of Education is working closely with the NSW Police Force and the Commonwealth Department of Education. Information has been shared with the task force to assist with its inquiries. I can tell the member that authorised officers from the department were on the ground yesterday assisting police with their raids. The department has worked in sync with the NSW Police Force to put in place the necessary and proportionate compliance actions relating to the services and individuals subject to the operation.

I say to the honourable member and all members that it is true that the extent and scale of the alleged fraud uncovered within those operations is concerning. I commend the work of the task force to date in addressing that sophisticated criminal behaviour—and make no mistake, it is sophisticated criminal behaviour. I look forward to continuing to share information with the police and the Commonwealth department following the resolution of the operation to address fraud within the sector concerning the childcare subsidy. I also expect that as further information comes to hand at the resolution of the operation, we will be able to provide advice on the compliance action taken against education providers that have been found to be in breach of the national law. Action may include prosecution of offences and the suspension or cancellation of provider and service approvals. More broadly, New South Wales has led efforts to combat the rise in unscrupulous providers within the family day care sector by putting in place safeguards and strategies.

As I have said to the House on many occasions, we have the toughest entry requirements for family day care providers in the country. We have an enhanced approvals process that was introduced in late 2019 and, as part of the risk-based approach to regulation, we have significantly reduced the number of family day care provider and service approvals. The community can continue to rest assured that we will act decisively whenever the safety, health and wellbeing of children are compromised and whenever breaches of the national law are identified that threaten the educational and developmental outcomes of all children. I also again make the point that New South Wales does not provide any funding to the family day care sector.

As the Commonwealth Government provides funding directly to family day care providers, the responsibility for ensuring the integrity and the use of those funds rests with the Commonwealth Government agencies. Our highest priority is the health, safety and wellbeing of children. The regulatory authority continues to monitor all services, including family day care services, to ensure that there is no risk to children. As members know, the vast majority of family day care providers do the right thing. It is important to identify those that are trying to take advantage of the system and shut them down, and that is what we have seen with the activities today.

The Hon. WALT SECORD (12:15:04**):** I ask a supplementary question. Will the Minister elucidate her answer regarding Strike Force Mercury? Following the bust, what steps has the Government taken to assist lawful parents with children in those facilities to continue to receive proper, healthy and safe care?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:15:28**):** I have given the member the information that I have at this point on Strike Force Mercury. It is obviously a police operation and actions were taken yesterday. I have asked for a more detailed briefing from my department on the matter, so I am happy to take that question on notice and come back to the member with a response. I understand the importance of the question that he is asking but given some of the complexities around the process I will take it on notice.

The PRESIDENT: Reverend the Hon. Fred Nile has the call, then a Government member, the Hon. Wes Fang.

OLYMPIC GAMES CENTENARY

Reverend the Hon. FRED NILE (12:16:00**):** My question without notice is directed to the Minister for Education and Early Childhood Learning, representing the acting sport Minister, the Hon. Geoff Lee. How is the Minister proposing to commemorate the centenary of Australia's participation in the Olympics as a separate national team in our own name? How has the Government contributed to our national team's preparations for the Tokyo Olympics, which will be held in the near future?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:16:40**):** I thank the honourable member for his question. It is important to ask what we will do to celebrate and commemorate the centenary of Australia's participation in the Olympics. Unfortunately, it is not information that I have.

The Hon. Bronnie Taylor: I think I am the Minister who represents the Sport portfolio.

The Hon. SARAH MITCHELL: There is some confusion because I represent Minister Lee, who is acting in two positions. Because it is an important issue that deserves due consideration, I will take it on notice and come back to the member with an answer.

RURAL ADVERSITY MENTAL HEALTH PROGRAM

The Hon. WES FANG (12:17:37**):** My question is addressed to the Minister for Mental Health, Regional Youth and Women. How is the Government's investment in the Rural Adversity Mental Health Program supporting people living in regional New South Wales?

[*Members interjected.*]

The PRESIDENT: I did not want to be rude and interrupt the Hon. Rose Jackson while she was interjecting and having a conversation with the Hon. Walt Secord, who is already on one call to order. The Minister has the call.

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:18:27**):** I thank the honourable member for his question. As we have said numerous times, people in rural and regional New South Wales have had a particularly tough year with drought, bushfires and the pandemic. Mental health support for our rural and regional communities is now more important than ever. During these challenging times, the coordinators of the Rural Adversity Mental Health Program [RAMHP] have been an invaluable part of our response. Those local mental health experts were already on the ground since well before the bushfires to provide mental health assistance to their communities. They do exceptional work supporting a statewide program that connects people living in rural and remote communities to mental health services and resources.

RAMHP coordinators are based in local health districts across rural and regional New South Wales. They provide training and workshops in mental health and wellbeing to rural communities, businesses and government and non-government agencies. The work these coordinators do in supporting the mental resilience of our regional communities is invaluable. The program has been running successfully for the past five years. Whether providing support to families who have lost everything during the bushfires or being there for a chat with a farmer or local business owner who is feeling down, the coordinators are trusted by their local communities and are often the first people locals will contact when looking for mental health advice.

The current funding agreement employs 13.5 RAMHP coordinators. In 2019-20 the New South Wales Government committed an extra $900,000 in additional funds to coordinators as part of the Emergency Drought Relief mental health package. This provided five additional RAMHP coordinators, bringing the total to 19.5 across New South Wales. As mental health Minister, it is my absolute priority to support and maintain all of these positions. That is why I am pleased to say that all 19.5 full-time equivalent RAMHP coordinators will be locked in for nearly six more years until 30 June 2026. My number one priority, as I have always said, is to fund service delivery on the ground.

I thank the RAMHP coordinators for all the incredible work that they have done during what has been an extremely challenging year for all of us. It is vital and essential. I am very pleased to talk to the RAMHP coordinators frequently, some of whom I have worked with for over 20 years in my own professional capacity and who have gone on to work in these positions across the State. They are good and professional people doing an incredible job on the ground. That is our priority. I am so proud to support these amazing individuals providing on-the-ground mental health support for regional and rural New South Wales. I am sure I speak on behalf of all members in this Chamber when I say that this is an extremely important role supported by the New South Wales Government.

STATE ENVIRONMENTAL PLANNING POLICY (KOALA HABITAT PROTECTION)

The Hon. MARK PEARSON (12:21:33**):** My question is directed to the Leader of the Government, representing the Minister for Energy and Environment. The Minister stated in *The Sydney Morning Herald* on 26 July 2020, "I do not want to see the koala extinct by 2050. I want to see their population doubled by 2050." Will the Minister explain how the recent changes to the koala State Environment Planning Policy 44 will further this aim?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:22:04**):** I am sure the Minister's statement of aspiration about the koala population is one that is shared by almost all Australians—I would hope every Australian, but I will just say almost all Australians—and certainly every member of this Chamber. Everything that the Government has done over the past couple of weeks in terms of the koalas has been designed to ensure that that aspiration can be met. There can be no doubt of that. There are some specific pieces of information that—

The PRESIDENT: The Minister will resume his seat. The Clerk will stop the clock. There is nothing like a good, robust question time, but it does not assist me if I cannot hear the Minister's answer and if someone then asks a supplementary question. I have to hear his answer, as does Hansard.

The Hon. DON HARWIN: As I was saying, I will invite the Hon. Matt Kean to provide a response and additional information for the honourable member, because I know that he has a great deal of interest in the subject and that would be the appropriate thing to do.

CHILDCARE CENTRES

The PRESIDENT: I call the Hon. Rose Jackson. I will make sure no-one interjects when she asks her question.

The Hon. ROSE JACKSON (12:23:52**):** Apologies, Mr President. My question without notice is directed to the Minister for Education and Early Childhood Learning. Are any of the childcare centres under investigation in receipt of New South Wales stimulus or other support measures and, if so, what is the value of this support?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:24:16**):** As I said in my earlier answer in relation to family day care, those centres are funded through the Commonwealth Government. It provides that support directly and we do not provide any funding to the family day care sector.

GREAT SOUTHERN NIGHTS

The Hon. MATTHEW MASON-COX (12:24:45**):** My question without notice is addressed to the Minister for Finance and Small Business. Will the Minister please outline how Great Southern Nights will kickstart the recovery of the live music, hospitality and tourism industries in a COVID Safe environment, and will he please join us in leading a singalong?

The PRESIDENT: I rule that the last part of the question is out of order. The Minister can answer the balance of the question.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (12:25:33**):** I am delighted to report that as of last Saturday tickets for Great Southern Nights have gone on sale. With 2,500 artists performing in 1,000 gigs at more than 300 venues across Sydney and in more than 130 New South Wales towns, there is a gig spanning every genre and destination. Great Southern Nights is delivered by Destination NSW in partnership with the Australian Recording Industry Association [ARIA]. ARIA CEO Dan Rosen has said that Great Southern Nights is unrivalled by any Australian music event that has come before it. He says that it is innovative, gives back directly to artists and venues, is the only one of its kind ever undertaken in this country and that everyone is looking forward to getting back out on the road, getting into live music venues and enjoying a gig from the country's leading and emerging artists.

At greatsouthernnights.com.au there is a page on hitting the road to assist music lovers to find gigs off the beaten track that suit their taste in live music and to plan a road trip around these gigs. It might be Birds of Tokyo in Wollongong, Diesel in Katoomba, Josh Pyke on the Central Coast, Winston Surfshirt in Newcastle or Thelma Plum at Brunswick Heads. As well as enjoying the live music, visitors will have a wonderful opportunity to get out and explore the other restaurants, cafes, bars, shops and attractions on offer in the region. Venues all across Sydney—from the Oxford Art Factory in Darlinghurst hosting The Veronicas, to the Sydney Coliseum Theatre in Rooty Hill hosting Jimmy Barnes—will be alive with the sound of music.

But there is one gig, Mr President, that I am very interested in. It is at 107 Projects in Redfern. That is where you would go to hear producer Mookhi. Mookhi, who grew up in India, has been described—and this is an interesting description—as an "enigmatic creative" who has:

> … absorbed her musical surroundings, favouring dark eastern-based scales, chords and melodies. Capturing and sampling snippets of sounds off the street, she weaves distinctive layers of sounds together, creating unlikely combinations of textures and noises.

The Hon. Mick Veitch: Sounds like our Mookhey.

The Hon. DAMIEN TUDEHOPE: Indeed, it sounds like ours. Mr President, I encourage all members to get online and book tickets to one or more of these 1,000 gigs

STUDENT GENDER IDENTITY

The Hon. MARK LATHAM (12:28:45**):** My question is directed to the Minister for Education and Early Childhood Learning. I refer the Minister to the contents of the NSW Teachers Federation LGBTIQ inclusive schools professional development webinar and, in particular, the instruction not to inform parents of any information teachers have regarding students coming out about their gender or sexuality, with instructor Mel Smith saying, "Of course it is not okay to call people's parents, because it may not be safe for that child if parents know. It could put them in an unsafe situation. It could mean they are kicked out of home." What action is the Minister taking to ensure in the New South Wales public education system that parents are always informed of matters important to the development and wellbeing of their children and never deliberately excluded?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:29:35**):** I thank the honourable member for his question. The honourable member may already be aware that the course he referred to is no longer endorsed by NSW Education Standards Authority [NESA]. The honourable member may also know, because I have spoken about it in the House before, that the course presented was not reviewed by NESA. I have asked it to undertake a review of professional development, which is due to be completed next month. That review is considering specifically the process for assessing and endorsing professional development providers to ensure that course content is taken into consideration for accreditation. I know that the honourable member is aware of that but I want to put it into context for that particular course.

The honourable member has raised issues more broadly around student privacy, in some cases dealing with incredibly private and personal matters for those students. The reality is that teachers do have a duty of care to respect the confidence that is bestowed upon them by students. It is incredibly important that all children have a safety network of trusted adults that they are able to approach if they are feeling unsafe or need help. For some students, their school might be the place for that. We also know from youth mental health experts that some children who are dealing with some of those issues—whether it is in relation to their sexuality, mental health or any other personal matter—are at a higher risk for particular impacts, including potential self-harm. From conversations that I have had with the department about the issue, I know that teachers and schools can be the ones to support those students to access further help, which can also include supporting them to raise any personal and private issues with their families.

The Hon. MARK LATHAM (12:31:21**):** I ask a supplementary question. Will the Minister elaborate on her statement that teachers and schools would support students? What role does she see for parents in supporting students—their children?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:31:40**):** I will refer to what I said. I think I encapsulated that in my earlier answer. It is really important that children have a safety network of trusted adults that they are able to turn to when they are feeling unsafe and need help.

The Hon. Mark Latham: What about parents? It's unbelievable.

The Hon. SARAH MITCHELL: For many children, that will be their parents. The role of our teachers here is to support students to access what help they need, including helping them raise those issues with their families.

STUDENT BEHAVIOUR STRATEGY

The Hon. ANTHONY D'ADAM (12:32:19**):** My question is directed to the Minister for Education and Early Childhood Learning. In her 27 August parliamentary answer, the Minister said that the student behaviour strategy had undertaken "extensive stakeholder consultation over the past two years". What consultation has been undertaken, given that peak bodies representing teachers, principals and parents have said that they received little or no opportunity for feedback or consultation?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:32:54**):** I thank the honourable member for his question on the behaviour strategy. As I said in August when I gave the answer on this policy area, a lot of that work predated my time as Minister. I have been advised that it had been going on for two years. Obviously it is important that we continue to talk to our schools and stakeholders about the implementation of the strategy. Again, I am pretty sure that I said that quite clearly at the time. The consultation period was finishing at the end of term 3. That was extended for an additional two weeks until the end of the school holidays on 11 October. Work on it has been underway, as I said, since the Ombudsman inquiry into behaviour management in schools in 2017.

Since March 2018 there has been extensive engagement and consultation with key education stakeholders, including groups such as the NSW Teachers Federation, the New South Wales Secondary Principals' Council, the NSW Primary Principals' Association, the NSW Aboriginal Education Consultative Group, the P&C Federation and other parent groups. I am grateful for the consultation and particularly the feedback that we have received so far on this strategy. That will continue. As we have said, it is all about working with our schools to support them on any changes that come into place. This matter has certainly been raised in my meetings with both the principals organisations. Members of my staff have been speaking to some other representative groups. I have also met with some parent groups to talk about their views on the policy. That will continue as we finalise the policy and implement it in our school communities.

The Hon. ANTHONY D'ADAM (12:34:46**):** I ask a supplementary question. Will the Minister elucidate why the details of that extensive consultation process, particularly the submissions of the stakeholders, have not been placed in the public domain?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:35:01**):** I will seek advice from the department to find out if and when any of those consultation documents will be made public. As I said, the consultation finished only on 11 October. I am waiting for further advice on the consultation process and what came back, and for that to be collated. I am happy to take on notice what will be made public and when.

The Hon. COURTNEY HOUSSOS (12:35:32**):** I ask a second supplementary question. Will the Minister elucidate that part of her answer where she talked about consultation with key education stakeholders, including the NSW Teachers Federation, the NSW Primary Principals' Association, the New South Wales Secondary Principals' Council and the P&C Federation? Will the Minister explain why they signed a joint letter last week appealing for more information and saying that the consultation process was flawed?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:36:04**):** They sent me the same statement and said that there are issues that they want to talk about, particularly the implementation of the policy and what it will mean in terms of resources. As I said in my earlier answer to the Hon. Anthony D'Adam and in my answers on the issue in the Chamber in August, we will absolutely work with our stakeholders in terms of any changes to this policy. We have made that clear. We have been talking to them about it for the past couple of years and we will continue to talk to them as we implement it. As I said in my earlier answer, we are now collating all of that consultation material that has come back. Of course we will talk to them about it. They are very important to the work that we do in our schools. We must support our school communities with any changes. As I said, I have had many consultations with stakeholders about this issue. I expect to have many more, which is appropriate.

OLD GUNDAGAI GAOL

The Hon. SHAYNE MALLARD (12:37:06**):** 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 the listing of Old Gundagai Gaol on the State Heritage Register?

The PRESIDENT: Before I call the Minister, I have indicated to the Clerk that I can still hear the bell from the other Chamber. If a message can please be conveyed to it, we do not want to hear its bells.

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (12:37:43**):** This is one for the Hon. Mick Veitch, no doubt about that. I am absolutely delighted to announce that I have approved the listing of Old Gundagai Gaol on the New South Wales State Heritage Register. The small rural gaol was built and expanded by three successive Colonial and then Government Architects: Alexander Dawson, James Barnet and Walter Liberty Vernon. They collectively fashioned its design within the prison system from 1859 to 1909.

Members might also be interested to know that Old Gundagai Gaol has a strong historical association with the notorious bushranger Andrew George Scott, known as Captain Moonlite, who was held and displayed to the public at Old Gundagai Gaol following his capture in 1879. The Mount Egerton bank robbery in 1869, his daring breakout of the so-called inescapable Ballarat Gaol in 1872 and his educated upbringing built the reputation of Captain Moonlite as someone who, while certainly engaging in criminal behaviour, was nonetheless quite eccentric and very eloquent and who had interesting notions of honour and, I might even say, a Robin Hood-style ethos of supporting those struggling with society.

On 18 November 1879 his bushranging came to a sudden end when the desperate Captain Moonlite and his gang were caught by police in a hold-up at Wantabadgery Station near Gundagai. Hostages were taken and there was a shoot-out, which ended with the deaths of a Gundagai policeman and two members of Moonlite's gang, including James Nesbitt, who was thought to have been Captain Moonlite's partner. Moonlite was incarcerated in Gundagai Gaol while the inquest was held into the police shootings. The preliminary hearing was held at Gundagai Court House. After a long trial Moonlite, who represented himself, was ultimately convicted of murder. On 20 January 1880 Moonlite and another member of his gang were hanged at Darlinghurst Gaol. As one of the last bushrangers, Captain Moonlite holds a special place in the history of frontier lawlessness in colonial Australia. Moonlite is much loved by the community of Gundagai, as is its jail.

The PRESIDENT: The Minister's time has expired.

The Hon. DON HARWIN: I seek leave for a very brief extension of time.

Leave granted.

The town's love for Moonlite was evidenced in 1995. A group of locals formed a funeral procession behind a horse-drawn carriage, which carried Moonlite's remains to a site in north Gundagai. Moonlite was buried beside the final resting place of James Nesbitt, as was his dying wish. I hope the listing of Old Gundagai Gaol will assist

Cootamundra-Gundagai Regional Council, which has been working to preserve the site and turn it into a premier tourist destination for Gundagai.

The PRESIDENT: Next on the list is Mr David Shoebridge and then the Hon. Mark Banasiak. The Hon. Mark Banasiak has the call.

FLOODPLAIN HARVESTING

The Hon. MARK BANASIAK (12:41:38**):** I direct my question without notice to the Hon. Bronnie Taylor, representing the Minister for Water, Property and Housing. Does the Minister accept that after 18 years irrigators in downstream communities need competent and clear rules on floodplain harvesting? Is the Minister aware that the Shooters, Fishers and Farmers Party has a lawful solution under the Water Act 1912, which includes a sunset clause on the provisions that would force the Government to transfer floodplain harvesting through a water sharing plan to the Water Management Act 2000? Will the Minister provide specific advice on whether the disallowed management regulation 2020 will stand up in court, given that papers returned from the recent call for papers under Standing Order 52 suggest otherwise?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:42:29**):** I thank the honourable member for his question to Minister Melinda Pavey, who resides in the other House and whom I represent in this House. As the question contains some detail, I will take it on notice and get back to the honourable member. The Coalition and the National Party look after farmers and are doing the right thing in looking at all of the issues. The Nationals is the party that is talking about water with the community. The National Party will always deliver for the people of rural and regional New South Wales, particularly in the water and agriculture space. I thank the honourable member for his question. I look forward to providing a response from the Minister in the other place.

STUDENT ONLINE CHECK-IN ASSESSMENTS

The Hon. COURTNEY HOUSSOS (12:43:25**):** I direct my question to the Deputy Leader of the Government and Minister for Education and Early Childhood Learning. Given the Minister's answer to the House on 15 October, is the Minister concerned that students in the 910 schools that have not registered for the online check-in assessments which measure student progress will now miss out on reading and numeracy support?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:43:52**):** I thank the honourable member for her question. Now is a good opportunity to say, as I said on 15 October, that the check-in assessment was optional. I am pleased about the number of schools that wanted to participate. As I said on 15 October, the feedback that I have had from principals who were part of it, including from some principals' organisations, was that it was useful. In fact, they liked the way that they could use it quickly and get the data back in the classroom. As to whether I am concerned that schools that did not take part in the assessment would miss out, no, I am not concerned. As I said, the check-in assessment was optional for schools and was based on whether or not they felt it was needed by their school community. It is just one way in which our schools assess the progress of children in their learning. I am very pleased with how the check-in assessment has gone and I am happy with the number of schools that have decided to take part in it. I am pleased that it has been useful.

The Hon. COURTNEY HOUSSOS (12:45:02**):** I ask a supplementary question. In relation to the part of the Minister's answer where she talked about the optional opt-in assessment, will the Minister now commit to giving parents the results of their children's online check-in assessments?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:45:28**):** I will take the question on notice in relation to advice that will be provided to parents. Obviously schools give reports to parents on their children's academic capabilities and their progress at school. I will seek advice around the information that will be made available. That is a good question. I will come back to the honourable member.

The Hon. WALT SECORD (12:45:55**):** I ask a second supplementary question. Will the Minister elucidate her answer in relation to the optional check-in? Was the low response from schools due to a lack of computers?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:46:06**):** As I said, schools opted to take part in the check-in assessment if they wished. I have not received any indication that schools did not elect to take part due to a lack of computers.

TEACHER RESOURCES

The Hon. LOU AMATO (12:46:35**):** I address my question to the Minister for Education and Early Childhood Learning. Will the Minister update the House on the "What works best" documents and how they can help with school improvement?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:46:51**):** The "What works best" documents are resources for our teachers to use to help them to select and implement evidence-based teaching practices that are strongly associated with improved student outcomes. The resources focus on eight quality teaching themes, some of which include high expectations for all students; explicit teaching, where teachers clearly show students what to do and how to do it; effective feedback; use of data to inform practice; classroom management; and collaboration. The themes in those resources provide a framework for teachers to connect students with the curriculum and to improve student achievement and skills. The resources have been a huge success.

An example of that success can be seen at Concord High School. Each year its maths teachers study the data that is collected from HSC results to find the areas where students were struggling. They then use the information to work with students in younger years to help them before they get to year 12. The school changed some of its teaching methods as early as year 7 to make sure that students understood the core concepts that they would need in the senior years. Another example of success can be seen at Trangie Central School, which is a great school with a culture of high expectations across every classroom. The "What works best" documents have contributed to the school improving its students' behaviour and academic results. At Trangie Central School, setting high expectations has played a major role in changing the school culture. That has been built through concepts such as respect: respect for yourself, your peers, your teachers and your family.

Homebush West Public School also uses effective feedback strategies to help its students improve on their work. Students at the school are given a feedback checklist that breaks down what the students need to do to complete each activity. Students use the checklist to reflect on and check whether they have completed all of the steps before they ask a peer to give them feedback using the specific methods that the students have been taught. The teacher also checks students' work against the checklist and gives them feedback on how they can improve. The most updated version of the "What works best" methodology takes the latest evidence from the literature and from recent data to show what works to improve student outcomes. The chapters highlight why each of the eight themes matter and outlines the evidence about each theme and the implications for schools and teachers.

Teachers may also access evidence-based, practical strategies to support the implementation of the eight "What works best" themes and to meet the needs of students. The guide provides examples and scenarios on how teachers can implement "What works best" into their teaching and learning, including best practice for schools. The guide includes links to the teaching standards as well as reflection questions that support professional learning in schools.

A "What works best" toolkit has been developed to help teachers reflect on their current practice. This reflection framework supports teachers to consider their current practice on each of the eight themes and identify areas for improvement. The themes and strategies for implementation in these resources are some of the best evidenced practices in education. These resources will assist with school improvement by making explicit and actionable the ways that teachers can draw upon evidence of what works best to provide quality teaching. When all teachers in all classrooms implement effective teaching practices consistently, all students have access to teaching and learning that improves their outcomes.

YOUNG HIGH SCHOOL

The Hon. ROBERT BORSAK (12:49:57**):** My question is directed to the Minister for Education and Early Childhood Learning. Why was Young High School the only school in the electorate chosen to receive what will become a $32 million upgrade by building what the New South Wales Government has described as "a joint-use library and community education facility?" Why did Hilltops Council not get the opportunity to refurbish the current library or find a new greenfield site for a new library?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:50:26**):** I thank the honourable member for his question in relation to the work happening in Young. This project has been talked about many times in the House. I will take the question on notice, as the member has asked why that school was chosen.

The PRESIDENT: The Hon. Robert Borsak has asked his question and the Minister is attempting to answer it. The member should allow her to do so.

The Hon. SARAH MITCHELL: Thank you, Mr President. The Hon. Robert Borsak has asked questions regarding why that school was chosen for that particular upgrade. As this decision predates my time as education Minister, I will have to obtain advice in order to provide an answer, and that what I will do.

STUDENT REMOTE LEARNING

The Hon. MARK BUTTIGIEG (12:51:12**):** My question is directed to the Minister for Education and Early Childhood Learning. Given that Victoria is employing 4,100 tutors for school students who have fallen behind due to remote learning, is the Minister's Government considering similar measures or steps to assist New South Wales students who have been disadvantaged by remote learning?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:51:47**):** I thank the honourable member for his question. At the outset I say that I am very confident in the support that has been provided to our students, particularly as we come off the back of the COVID-19 pandemic. Schools have record amounts of flexible funding to assist students in their learning. I am pleased with the support given to our schools during the time that students were working from home, particularly in relation to the incredible work of our teachers. This has been acknowledged in the House before but it is important to put on the record again.

Obviously, I am aware of the decisions made in Victoria to employ tutors in schools and that they have had quite a good uptake. I saw a tweet from the education Minister, James Merlino, whom I speak to regularly, in relation to the number of people who were interested in taking on those positions. Victoria, in particular, has had an incredibly challenging year. As members would be well aware, students in Victoria have been significantly more affected by the pandemic than those in New South Wales. Many of them have spent the majority of the pandemic learning from home.

Of course, that is very different to what happened in New South Wales. Our students have been back at school for many weeks now. Unfortunately, that has not been the case in Victoria, given the health concerns there. I feel for them. It has been a very difficult year for all students and for Victorian students in particular. I certainly sympathise with them. I am glad that the Victorian Government is looking at ways to support students. As to the honourable member's question about the New South Wales Government considering ways to further support our students, of course we will consider the options available going forward.

The Hon. MARK BUTTIGIEG (12:53:33**):** I ask a supplementary question. Will the Minister elucidate her answer in respect to the differential disadvantage between States? Is the Minister therefore satisfied that the degree of disadvantage has been ameliorated to the same extent that it has in Victoria?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:53:58**):** I am very proud of the work our principals, teachers and school communities have done to support our students throughout the year. As I said in relation to the earlier question that was asked, of course we will be supporting students now that they are back in the classroom. If there are other measures we need to look at we are open to them, as I have said publicly before. That remains the case.

CENTRAL COAST YOUTH SERVICES

The Hon. TAYLOR MARTIN (12:54:50**):** My question is addressed to the Minister for Mental Health, Regional Youth and Women. Will the Minister update the House on the support the Government is providing for young people across the Central Coast?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (12:54:56**):** I thank the honourable member for his question relating to young people across the Central Coast, a subject he is extremely passionate about. Almost one-third of regional young people in New South Wales live on the Central Coast. It was a pleasure earlier this year to join the fabulous local member Adam Crouch, who is one of my favourite people in the Parliament, to deliver some good news to local young people and youth workers. The member is a lovely and outstanding man. Regional Youth Support Services [RYSS] already does great early intervention work in the Central Coast community. And now, thanks to a $436,689 grant through the Stronger Country Communities Fund, it is establishing a grassroots Central Coast Youth Collective to provide direct support for young people facing issues such as mental ill health, bullying, drug use and family violence.

It was great to hear directly from RYSS CEO Kim McLoughry. I am pleased that RYSS is already working with other local organisations through the collective to deliver workshops for local school students and to create an online forum. Coast Shelter, Lifeline Central Coast, Headspace Gosford and Wholesome Collective are a few of the organisations already on board to feed into the workshops and forum. The Central Coast is unique and, like every regional community, has its own challenges. These workshops will focus on specific topics that local young people are facing and explore the themes of resilience, high school survival, respectful relationships and healthy living. The programs will be structured and delivered over three years.

Mr Adam Crouch and I also visited Bateau Bay PCYC to announce $150,164 in funding to build and fit out a music and performance space. Currently the PCYC runs a youth music group five afternoons a week, with more than 20 young people attending each day. However, the instruments have seen better days and instead of

expressing their musical creativity in a dedicated space, they are currently squeezed into the office of the youth case manager. This funding will transform an open area of the club into a purpose-built music room as well as go to the purchase of instruments and sound and other equipment. The room will be a safe and welcoming space for the music group and other at-risk young people to learn, create and build their confidence. They will be supported by professional musicians, New South Wales police and PCYC staff. The music program will boost the wellbeing of young people as well as reduce anxiety, depression and life challenges.

These two projects are not the only Stronger Country Communities Fund initiatives that will support young people on the Central Coast. Other initiatives include resurfacing and replacing Terrigal's BMX facilities, at which I am sure the Hon. Taylor Martin will have a go; upgrades for the Step Forward Learning Centre, which provides pathways to employment; a Youthsafe mentoring program to help young people get their driver licence; and the Live Life Get Active program, which gets young people moving and addresses their mental and physical health. [*Time expired.*]

The PRESIDENT: I have on my list Ms Abigail Boyd, Ms Cate Faehrmann, Mr Justin Field, the Hon. Emma Hurst and the Hon. Mark Latham.

SCHOOL CURRICULUM

The Hon. MARK LATHAM (12:58:22**):** My question is directed to the Minister for Education and Early Childhood Learning. In the current New South Wales school curriculum or the proposed Masters version, can the Minister name anything being taught to students that is designed to build pride in Australia and our country's many achievements?

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (12:58:42**):** I thank the honourable member for his question regarding the curriculum review and the work that is underway in relation to what will be taught in our schools. As the honourable member would be well aware, there are many opportunities in our schools and certain subject areas to teach students about matters of which all Australians should be proud. Particularly in our history courses, there are ways we can celebrate Australia and what makes it a great nation. It is obviously an extremely broad question. Clearly there are many, many examples of students who will have the capacity to be taught and to learn about what makes Australia great, and that is something that we should all be celebrating. We should be making sure that children leave school with the knowledge of some of our country's proudest achievements.

I will take the question on notice because I do believe that it is an important issue and it is important that I am able to provide the member with quite a detailed list of the sorts of things that are being taught in this space. More broadly in relation to the curriculum review, yes, of course we have talked about what it means in the early years to help students with literacy and numeracy, which are very important foundational skills, because if we want students to learn about the history of our country—particularly our great achievements—we need them to be able to read and write and to be able to understand those concepts. There are a lot of links to this work and what it will mean for us in putting out of our schools great Australian citizens. I know that is something that the member is very interested in and I am happy to provide him with more detailed information on notice.

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

CHILDCARE CENTRES AND CRIME SYNDICATES

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (13:00:34**):** Earlier in question time the Hon. Walt Secord asked a supplementary question in relation to what support will be available to families requiring care who might have been affected with services impacted by the Strike Force Mercury operations. I have been advised that minimal or no care has taken place by this provider. However, in accordance with the national law, the provider has been notified that they are required to give parents written notice of the cancellation. Any parents who inquire will be supported by the department to find alternative placements in a high-quality education and care service.

Supplementary Questions for Written Answers

STUDENT ONLINE CHECK-IN ASSESSMENTS

The Hon. COURTNEY HOUSSOS (13:01:22**):** My supplementary question for written answer is directed to the Minister for Education and Early Childhood Learning. Will the Minister provide the House with the list of the 910 schools that did not register for the online check-in assessment?

THE HON. GLADYS BEREJIKLIAN

The Hon. MARK LATHAM (13:01:45**):** My supplementary question for written answer is directed to the Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, representing the Premier. In the many, many interviews and verbiage regarding the Premier's private life, why did she not make any mention of the fact that Daryl Maguire had a key to her North Shore home?

Questions Without Notice: Take Note

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. COURTNEY HOUSSOS: I move:

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

OLD GUNDAGAI GAOL

STUDENT REMOTE LEARNING

The Hon. COURTNEY HOUSSOS (13:02:30**):** I begin my remarks by noting that the Leader of the Government gave an extensive answer about Captain Moonlite today. At the end he spoke about James Nesbitt. Nesbitt is my mother's maiden name and my grandfather's name is James Nesbitt. There are some questions about where the name came from, but I can inform the House that he did heroically die defending Captain Moonlite.

I move my remarks to the questions that were directed to the Minister for Education and Early Childhood Learning about the assessment of what students missed out on during their remote learning period. We have spoken a lot in the House about students who are undertaking the HSC this week, but it is important that we also remember that the rest of our student cohort spent seven weeks—almost an entire school term—during March, April and May this year learning at home. A recent study by the Grattan Institute found that educational disadvantage increases by about three times when children are learning remotely, and that is for a range of reasons: there is less parental support at home, especially in families who speak languages other than English; there is less access to digital devices to support their learning; there is less physical space to be able to learn; and they are more likely to be already behind their average student cohort. I give the House an example. A socially disadvantaged year 9 student can be up to 2½ years behind a more advantaged student in the same year. That is before they spent almost a term learning at home.

We have to ensure that we have an accurate picture of what was missed out at that time. I asked a supplementary question today about whether this information will be provided to parents individually and be aggregated. I ask the Minister now: Will it be aggregated to school communities? Will this data be released statewide so we can get a clearer picture of what has happened? As the question asked by the Opposition Whip alluded to, the Government's task does not end with the assessment. There is a clear need for targeted resources to ensure that children who missed out during remote learning are given the help that they need to learn what they missed. We cannot let the COVID pandemic be an excuse for further decline across the system, especially for our most disadvantaged students. We need to talk openly and honestly about what our kids missed out on and we need to have a clear plan of additional targeted resources to get our kids back on track. In the midst of the year of disruption and uncertainty that we have all lived through, all of our kids deserve that.

STUDENT GENDER IDENTITY

SCHOOL CURRICULUM

THE HON. GLADYS BEREJIKLIAN

The Hon. MARK LATHAM (13:05:20**):** I take note of the answers given by the Minister for Education and Early Childhood Learning and outline my complete shock—and I am sure many parents in New South Wales are shocked—that when the expression "trusted adults" was used with regard to the interests of students and children, there was no mention made of the primary role of parents. The Minister should reconsider the approach if she is trying to defend the webinar by the Teachers Federation in which they say do not tell the parents, because while there are many teachers in the system who do a great job, we all know from personal experience that essentially they are strangers to our lives; they come and they go in and out of schools, in and out of classrooms, but the parents are there 24/7. In the vast majority of cases the parents provide the love, attention and care that is the foundation stone of the development and wellbeing of children. In politics over the years, I have heard many lectures about family values and I cannot believe that it has now got to the point, in defining this essential function in schools, that parents would be left out of the equation of "trusted adults". It is just phenomenal. So I urge the Minister to reconsider that approach.

I also express my surprise at another answer, which was mostly taken on notice, but there was mention of the history curriculum and the Minister could not, as the custodian of public education in New South Wales, list

the areas very clearly where students would be taking pride in our wonderful nation and its achievements by the teachings in the classroom. That is a worry. I will mention someone who used to bang on about family values and about the black armband view of history that has been cultivated in our schools. The Minister was not able to give an account of the positives of our history—the military service, the Anzac legend—all the things about our technological development and the fact that we are the envy of the world and so many people want to live here. Those things have gone missing in the curriculum, replaced by the black armband view. The Minister needs to correct that. I will be fascinated by the answer that comes back to the question she took on notice.

Finally, if I can reflect on the third answer—again to a question taken on notice—I will be fascinated to hear the answer about Daryl Maguire's key, because clearly this was an intimate personal relationship that required disclosures.

The Hon. Damien Tudehope: Point of order: The question was taken on notice. In relation to the subject matter of the question, it is an attempt to reflect on another member in another place and, in my submission, it is appropriately dealt with in circumstances where the person the subject of the question should be given an opportunity to reply.

The PRESIDENT: I do not uphold the point of order. No point of order was taken when the question was asked. The question was taken on notice and what the honourable member was indicating was that he was aware that the question was taken on notice and that he was interested to see the answer. There is no point of order. The member's time has expired.

GREAT SOUTHERN NIGHTS

The Hon. MATTHEW MASON-COX (13:08:51**):** Mr President, may you have a terrific lunch. Maybe you are going to attend the Pie of Origin, the live auction for charity. I encourage all members to perhaps join the President on level 9 at 1.10 p.m. to have a pie and support some local businesses.

I wanted to make reference to the Minister for Finance and Small Business in relation to Great Southern Nights. Whilst we did not get a singalong—we are probably all relieved about that fact—we did hear about Mookhi. That was deeply gratifying. Our Mookhey certainly has many talents and those in his wider network have many talents. Dare I say, when the Mookhey wing of the Legislative Council is built in the corner of the building that I showed him the other day, we will be able to go to the Mookhey to hear Mookhi and maybe have a cookie and looky. It is going to be a wonderful time. I look forward of the opening of the Mookhey; we will certainly be playing some live music on that day. Live music is what it is all about.

The Hon. Anthony D'Adam: Point of order: The clock does not appear to have started.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): I uphold the point of order. I think the member may have concluded.

The Hon. MATTHEW MASON-COX: I am just starting, Mr Deputy President, but I do not want to take members' time unnecessarily. I understand it is a hotly contested time of the day.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): I believe there was about a minute left. The member may continue for that duration of time.

The Hon. MATTHEW MASON-COX: Great Southern Nights is a great initiative. I encourage members to come along if they can get to some of the concerts, particularly in regional New South Wales. That is where we have been hurting a lot. I see that the Hon. Mick Veitch, who is the only member from the regions in the Labor Party—a sad reflection in itself—understands the impact that is a problem in relation to businesses being constrained. The pubs and the clubs in particular, under the four square-metre rule, have found it very difficult. This is a great way of giving them a shot in the arm. I encourage all members to participate in the Great Southern Nights.

STUDENT GENDER IDENTITY

The Hon. PENNY SHARPE (13:11:35**):** I make a contribution in relation to two answers given today. The first is the one given by the Minister for Education and Early Childhood Learning in relation to the very complex issues that teachers have to manage when children in their care disclose very private issues. The issues that the Hon. Mark Latham has raised in terms of the role of parents and teachers in how we look after the welfare of children are extremely important. But as the shadow Minister for Family and Community Services—and as someone who has quite a lot of experience when it comes to LGBTI kids' disclosure and the impact of that disclosure on the relationship with their families—I say that we have to be very careful when we tread this path. Children's privacy is important, and choosing to disclose to a teacher is one of the most significant things that child will do in their life.

The idea that they would automatically tell their families is a dangerous one. We know that there are 17,000 kids in care who are not safe with their families. We know that LGBTI kids can find themselves in direct conflict, homeless or in self-harm situations if they disclose that to their family. It is a very dangerous road to simply say, "Teachers have to tell the parents." It is not the reality. I am very pleased that today the Minister showed sensitivity and understanding about the difficulties that children find themselves with and the incredibly trusted position in which teachers in our schools find themselves. I know wonderful teachers who are managing very difficult issues with the children in their care. The idea that there is some sort of primacy that the parents must be told, regardless of the situation of that child—which is where the Hon. Mark Latham is going with this—has to be rejected. It is dangerous. It will hurt people and it cannot be allowed to stand.

RURAL ADVERSITY MENTAL HEALTH PROGRAM

The Hon. WES FANG (13:14:02**):** Exactly one year ago today in this Chamber I asked Minister Taylor how the Government's investment in the Rural Adversity Mental Health Program [RAMHP] was supporting people living in regional New South Wales through extreme drought. One year ago the Minister told the Chamber about the amazing work of the Rural Adversity Mental Health Program and that the New South Wales Government was enhancing the program by funding five additional RAMHP coordinators. Over the past year when the bushfires hit, the RAMHP coordinators were already on the ground. They were connected with their local communities, as they always are. They were right there on the front lines helping to support people and link them with care. When the global pandemic arrived, who do members think continued to support the needs of the local rural communities? It was the RAMHP coordinators.

The Rural Adversity Mental Health Program is not just a drought response or a bushfire response; it has been designed to be flexible and to respond to whatever form of adversity our regional and rural communities experience. RAMHP coordinators are based in local health districts across rural and regional New South Wales and their work is invaluable. They are exactly what our rural and regional communities need during this difficult time. I congratulate the Minister for the work she has done in this space and for ensuring that the funding for the program has been locked away. She is working with the program to ensure that the great work that these people do on the ground for our rural and regional communities continues into the future.

STUDENT BEHAVIOUR STRATEGY

The Hon. ANTHONY D'ADAM (13:16:19**):** I take note of the answer that the Hon. Sarah Mitchell gave to the question that I asked. The answer she gave flies in the face of the evidence from the stakeholders. We all want schools that are safe and conducive to learning, and I think we all want fewer suspensions. No teacher wants to suspend, but sometimes suspensions are necessary to enable a reset or to keep staff and students safe. Suspensions are a tool and that tool cannot be taken away from teachers without proper replacements being put in place. Suspensions are also a symptom, and the data that comes from them draws the attention of the department and the school to where there are specific problems. It is a complex policy problem and as a consequence it needs thorough consultation, but that clearly has not occurred. A number of stakeholders have said that they had no knowledge of the policy before it was announced. That is one of the reasons why Labor tried to get a Legislative Council inquiry around this.

Unfortunately, there was not the appetite. There was an unholy alliance between The Greens and the Government to prevent an inquiry taking place. As an alternative, Mr David Shoebridge suggested that we participate in a round table. I participated in the round table with some trepidation because I expected that it was going to be stacked with people who were supportive of the policy. When I got there I was quite surprised because, almost to a person, they said that they had not been properly consulted and that they did not have enough information. They are the people who are supposed to be supporting the Minister's position! It beggars belief. The details for the policy have not been adequately provided. The submissions that form the basis of the consultation that the Minister says has occurred are not in the public domain. The details of the policy have not been provided to all of the stakeholders yet. It is clearly a bungled consultation process and I think the Minister needs to go back to the drawing board.

OLD GUNDAGAI GAOL

The Hon. SHAYNE MALLARD (13:18:50**):** I take note of the answer by Minister Harwin to my question regarding the listing of the Old Gundagai Gaol on the New South Wales State Heritage Register. Gundagai is a township that most of us know well and had travelled through many a time, until the bypass occurred.

The Hon. Mick Veitch: I was born there.

The Hon. SHAYNE MALLARD: You were born there? Very good. That is another reason to visit Gundagai. The township has many attractions. Now I feel that someone in this place is more of an expert than I am on Gundagai. It has one of the longest timber bridges in the Southern Hemisphere.

The Hon. Mick Veitch: It has. It should be on the heritage list as well, the Prince Alfred.

The Hon. SHAYNE MALLARD: Indeed, it should be listed. Can you walk across it still?

The Hon. Mick Veitch: No, you cannot walk across it.

The Hon. SHAYNE MALLARD: When I was a kid, we used to drive across it. I used to love it.

The Hon. Mick Veitch: It was the Hume Highway.

The Hon. SHAYNE MALLARD: Indeed it was.

The PRESIDENT: Would the members like to take their discussion outside?

The Hon. SHAYNE MALLARD: Five miles outside of town is the Dog on the Tucker Box statue. Members know that it was abducted and then put back. It is a beautiful, quaint town full of lovely buildings. The jail was designed by three outstanding architects of New South Wales government architecture, particularly Alexander Dawson but also James Barner and Walter Liberty Vernon, who designed courts, jails, churches and all kinds of buildings in the colonies. Minister Harwin mentioned the grave of Captain Moonlite and how the community relocated his remains to the township. He is buried alongside his partner James Nesbitt.

Bushranging occurred more than 150 years ago. Sometimes I feel awkward about romanticising bushrangers because their contemporaries must have been horrified and scared. We have heard about the murder and robberies they committed. But the mists of time changes and romanticises people's views. The Minister referred to Robin Hood. Frequently I visit Beechworth on the Victorian border. Captain Moonlite worked in that area. It is said that he was chased out of the area by the Kelly gang.

The Hon. Mick Veitch: A territorial war.

The Hon. SHAYNE MALLARD: Indeed. They moved across the border to New South Wales to ply their trade. Beechworth has done a good job, as have the other nearby towns, of capitalising on the Ned Kelly legend for tourism. The Kellys were in the jail there, as was Ned Kelly's mother. There is opportunity for Gundagai and other towns to capitalise on the heritage and the stories of our State in their communities. That is a good incentive for our rural and regional towns to look at those stories. I commend the Minister.

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. NATALIE WARD (13:21:50**):** On behalf of the Government, I thank members for their contributions. In particular, I acknowledge the quite hilarious running commentary of "Waldorf and Statler" in the gallery. We have heard about a range of issues from the Government. We heard about rural health and mental health from the Hon. Bronnie Taylor. We heard about the arts, the Opera House, the economic stimulus of its revitalisation and the heritage listing. We heard about the Australian live music stimulus, about our Local Trades Scheme and about justice—my particular bailiwick—in respect of the Old Gundagai Gaol and the criminals on horseback, the bushrangers. We also heard about mental health on the Central Coast. We heard about a whole range of measures with which this Government is trying to stimulate and support our regions, our economy and our industries across New South Wales.

It was interesting that almost all questions today touched on education. In fact, it was "education day" from the Opposition. The education Minister was asked a lot of excellent questions about education. They were all very important questions that would keep the union masters very happy. I wonder about the rest of New South Wales. I am interested in the Minister's responses with respect to the economy, the regions and what we are doing about the pandemic. I focus on two of those in particular. The excellent Local Trades Scheme partners with local trades so that they can support their local schools by providing the maintenance they need. It is about local schools and local decisions. The Infrastructure NSW schools program is fantastic. I commend the Minister on that scheme.

My particular penchant is the Great Southern Nights response and the live music initiative. It is not only a fun and interesting opportunity for us to talk about our live music tastes but it is also an important economic imperative in this incredibly difficult time of recession and pandemic. Supporting our regions, supporting live music, supporting the industry and supporting venues is incredibly important as well as being a whole lot of fun. We all took it for granted some 12 months ago but not now. I commend Minister Ayres for his work on that important initiative. I look forward to those live music events. My particular penchant is for Jimmy Barnes. That might be surprising, but I think anyone who does not know every word to *Khe Sanh* is un-Australian. I think Birds of Tokyo are magnificent. I encourage everybody to participate in those live events and to help out the bands

and the music industry, whatever their taste. If it is country and western we will tolerate that too. I emphasise that the Government's response ensures that we are stimulating and supporting our economy and our industries.

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

Motion agreed to.

Written Answers to Supplementary Questions

HIGHER SCHOOL CERTIFICATE DISABILITY PROVISIONS

In reply to **the Hon. COURTNEY HOUSSOS** (21 October 2020).

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

Schools know their students best and submit applications for disability provisions and provide evidence to NESA as required.

In 2017 the former Minister for Education, the Hon. Rob Stokes, MP, asked NESA to undertake a review of the HSC disability provisions program.

An independent reviewer assessed NESA's implementation of the program and consulted with key stakeholders, including teachers, parents and carers, medical experts and advocates for the education of students with disability.

In response to the review recommendations, NESA is introducing a range of initiatives to ensure that every eligible student receives the appropriate provisions.

This included bringing the applications forward to earlier in the year to give schools more time, and developing a comprehensive disability provisions guide which has been published on the NESA website.

NESA has also developed a comprehensive professional learning program to help teachers and school staff understand the requirements and scope of the provisions.

In addition, over the next three years NESA is conducting a school roadshow to reach every school in New South Wales to provide on the ground advice and support to improve schools' understanding of disability provisions.

Bills

WORK HEALTH AND SAFETY AMENDMENT (INFORMATION EXCHANGE) 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.

DRUG SUPPLY PROHIBITION ORDER PILOT SCHEME BILL 2020

Second Reading Speech

Debate resumed from an earlier hour.

The Hon. SCOTT FARLOW (13:04:04**):** On behalf of the Hon. Damien Tudehope: The Drug Supply Prohibition Order [DSPO] scheme will operate as a pilot in four locations across the State: Bankstown Police Area Command, Coffs-Clarence Police District, Hunter Valley Police District and Orana Mid-Western Police District. The selected locations represent a cross-section of different policing environments across the State and include three regional police districts and one metropolitan police area command. The Government recognises that policing in regional New South Wales presents unique difficulties, particularly in relation to the detection, investigation and prevention of drug supply and manufacture.

For example, criminal investigations into the supply and manufacture of drugs often involve the use of covert investigation techniques; however, in smaller regional areas local police are often known and unfamiliar faces are noticed. That can make it difficult for police to conduct covert surveillance undetected, which is why the geographical areas selected for the DSPO pilot include a range of police districts in regional New South Wales. The inclusion of a metropolitan area in the pilot, Bankstown Police Area Command, will also allow the Government to assess the operation of the DSPO scheme in a metropolitan context.

The bill sets out that the pilot scheme period is two years from the commencement of the legislation. That will enable the pilot to run for a period of two years, at which point the NSW Bureau of Crime Statistics and Research will review the pilot to assess its effectiveness, in terms of both qualitative and quantitative measures. The proposed DSPO model is based on the successful firearms prohibition order scheme. A firearms prohibition order prohibits a person from acquiring, possessing or using a firearm, a firearm part or ammunition on the basis that it is not in the public interest for them to do so.

When a firearms prohibition order is in force against a person, police are able to detain and search that person at any time without a warrant for the purposes of determining whether the person has committed a relevant offence. The firearms prohibition order search power also permits police to enter and search the person's premises and vehicle at any time without a warrant. Firearms prohibition orders have been operating effectively for some time now and the Government expects that DSPOs will have a similar disruptive and deterrent effect on drug supply and manufacture.

I turn now to the detail of the bill. Clause 4 provides specific powers that may be exercised by police when a DSPO is in force, allowing a police officer to stop, detain and search that person without a warrant. A police officer will also be able to enter and search a dwelling at which a DSPO subject resides, premises that the police officer reasonably suspects are owned by the DSPO subject or are under the direct control or management of the DSPO subject and premises that the police officer reasonably suspects are being used by the DSPO subject for an unlawful purpose involving the manufacture or supply of a prohibited drug. A police officer will also be able to stop, detain and search any vehicle, vessel or aircraft being driven by, or otherwise under the control or management of, or occupied by a person subject to a DSPO, and any vehicle, vessel or aircraft parked on land that is for the use of premises that are subject to the search power. It will not be necessary for the DSPO subject to own the vehicle, vessel or aircraft in order for it to be searched.

A vehicle parked on land that is shared with a DSPO subject's premises will also be able to be searched if police reasonably suspect the vehicle is being used by the DSPO subject in relation to the manufacture or supply of a prohibited drug. A person who is not subject to a DSPO cannot be searched using the DSPO search powers. That includes a person who is present when a DSPO subject is being searched, or who is in a vehicle or premises that is being searched under a DSPO. Items that can be seized during a DSPO search are outlined in clause 4 (2) and include anything a police officer suspects on reasonable grounds is stolen and that may provide evidence of the commission of an offence involving a prohibited drug, or is a dangerous article.

Clause 4 also contains restrictions on the use of the DSPO powers. Firstly, a police officer will only be able to exercise a DSPO power within a pilot area or an area the police officer reasonably believes to be in a pilot area. Secondly, a police officer will only be able to exercise a DSPO search power if it is reasonably necessary to determine whether the DSPO subject is involved in the commission of an offence involving prohibited drugs. Legislative safeguards in the Law Enforcement (Powers and Responsibilities) Act 2002 that apply to normal searches—for example, section 32 and part 15 of that Act—will apply to DSPO searches. However, clause 4 (7) of the bill provides that a strip search must not be carried out when exercising a DSPO search power, unless it is authorised under part 4, division 4 of the Law Enforcement (Powers and Responsibilities) Act 2002.

Clause 5 of the bill outlines the eligibility requirements for the DSPO scheme. A DSPO can only be sought against an eligible person, defined as a person who has been convicted of a serious drug offence within the previous 10 years and who is at least 18 years of age at the date of application. The definition of "serious drug offence" primarily captures offences under the Drug Misuse and Trafficking Act 1985 involving supply or manufacture of prohibited drugs at indictable quantities or above.

It does not include supply or manufacture offences involving trafficable or small quantities. Certain other offences that relate to drug supply or manufacture are also included in the definition of "serious drug offence", such as offences for the possession of pill presses and precursors or for the manufacture of drugs and for organising drug premises. An offence committed in another jurisdiction that would constitute one of the abovementioned offences if committed in New South Wales is also included in the definition of "serious drug offence".

Clause 6 of the bill outlines the application process for a DSPO. A police officer or another person on the police officer's behalf will be able to apply to an authorised magistrate for a DSPO against an eligible person if the police officer reasonably believes that the eligible person is likely to engage in the manufacture or supply of a prohibited drug. The application must not be made within two weeks of a previous refusal of a DSPO application by an authorised magistrate unless the application contains material evidence or information not previously presented. An application cannot be made within six months of the revocation of a previous DSPO made against a person.

Clause 7 outlines the requirements for a DSPO application. An application must include information such as the identity of the eligible person, the details of each serious drug offence the eligible person has been convicted of, any practicable alternative means that may be reasonably available to prevent or obtain evidence of the eligible person engaging in the supply or manufacture of prohibited drugs, and details about any attempts to use those alternative means. Details of any previous unsuccessful applications and previous orders against a subject will also need to be included. Additionally, a DSPO application must be accompanied by an affidavit that supports the application and sets out the grounds on which the DSPO is sought, identifies persons who may be incidentally affected by the order as far as reasonably practicable, and includes any information known to the applicant that

may be adverse to the application. A DSPO application will not be able to be made unless it is approved by a police officer of the rank of superintendent or above.

Clause 8 of the bill requires the Commissioner of Police to ensure that the oversight commissioner is given a notice containing information about a DSPO application, including information contained in the supporting affidavit. This notice must be provided as far in advance of an application being made as is practicable to allow police and the oversight commissioner to work through any issues with the application before it is lodged. Clause 9 of the bill provides the grounds on which an authorised magistrate may make a DSPO on application by the police. For a DSPO to be made, the authorised magistrate must be satisfied that the person who is subject to the application is both an eligible person and is likely to engage in the manufacture or supply of a prohibited drug.

Additionally, an authorised magistrate must not make a DSPO unless satisfied that the oversight commissioner has been given reasonable opportunity to make a submission in relation to the application. If an authorised magistrate decides to make a DSPO, the authorised magistrate is required to make a record of the reasons for making the decision and the evidence used to support that decision. The DSPO application will be an ex parte application, meaning the person who is the subject of the DSPO application is not entitled to be told about the application and is not entitled to make a submission in relation to the application.

Additionally, no person, including the subject of the DSPO application, is entitled to know the reasons for the decision to make a DSPO or is entitled to be given access to any document that formed part of the application. The application is not required to be decided in a courtroom. When considering an application, an authorised magistrate will be able to question, or ask for additional information from, the applicant or the oversight commissioner. This will be able to be done in a manner the authorised magistrate considers appropriate, including through audiovisual link or telephone.

Clause 10 of the bill provides a list of matters the authorised magistrate may take into account when determining that a person is likely to engage in the manufacture or supply of a prohibited drug. The list is not exhaustive but includes criminal intelligence, assets or cash out of proportion to income, and drug-related associates. The authorised magistrate retains discretion, when considering the application, to take into account any matter that they consider to be relevant. Clause 11 provides that a DSPO must be signed by the authorised magistrate and include his or her name, and also outlines the information that must be contained in a DSPO.

Clause 12 provides that a DSPO commences on the day it is made by the authorised magistrate; however, the DSPO search powers cannot be used until a copy of the DSPO has been personally served on the subject of the order. A record must be kept by police of the date on which a DSPO is served on the subject of the order. Clause 13 of the bill provides that a person who is subject to a DSPO can apply to the Local Court for the order to be revoked. Revocation of a DSPO can be sought by the subject of the order after six months from the day the order commences or at any time by the Commissioner of Police.

If an application is made to revoke an order, the Local Court can revoke the order, affirm the order or vary the term of the order. A DSPO can only be revoked if the Local Court is satisfied that the order is unreasonably onerous, that the DSPO subject is not likely to engage in the supply or manufacture of drugs, or that the risk of the DSPO subject engaging in the manufacture or supply of prohibited drugs could be mitigated in another way. Proceedings for revocation are heard afresh in the Local Court and no material relied on for the application will be available for examination. This includes the reasons of the authorised magistrate in making the order and the application documents unless the police choose to tender that material again. Clause 14 of the bill requires the Commissioner of Police to prepare and supply reports to the authorised magistrate and to the oversight commissioner at the conclusion of the DSPO. The report will include information such as the frequency of searches, any evidence recovered and whether revocation of the order was sought.

Clause 15 of the bill establishes the role of the oversight commissioner. A person cannot be employed as the oversight commissioner unless the person is an Australian legal practitioner with at least seven years of legal practice experience and is either a current or former judge or judicial officer of a superior court of record or eligible to be appointed as a judge or judicial officer of a superior court of record. Clause 16 of the bill provides for the appointment of authorised magistrates under the DSPO scheme. Authorised magistrates will consider DSPO applications in their personal capacity, not as officers of the Local Court. A magistrate must therefore consent to being appointed as an authorised magistrate by the Attorney General. An authorised magistrate who is exercising a function conferred on them by the Act will have the same protection and immunity that a magistrate has in relation to proceedings in the Local Court.

Clause 17 of the bill creates a regulation-making power. In addition to a general regulation-making power, regulations will be able to prescribe requirements for applications—for example, procedural requirements—and also prescribe forms. Clause 18 provides the sunset clause for the Act. The DSPO Pilot Scheme Act will be repealed three years after the day it commences. The Drug Supply Prohibition Order Pilot Scheme Bill provides

and delivers on an election commitment from the New South Wales Government. These reforms send a clear message that drug-related crime will not be tolerated in our community and continue to support the important work that police do every day in fighting crime on our streets.

Debate adjourned.

Business of the House

NOTICES OF MOTIONS

The Hon. ADAM SEARLE: By leave: Pursuant to Standing Order 71, I give notice of a motion relating to noncompliance with an order of the House relating to the Stronger Communities Fund.

Bills

RETIREMENT VILLAGES AMENDMENT BILL 2020

First Reading

Bill introduced, and read a first time and ordered to be printed on motion by the Hon. Natasha Maclaren-Jones, on behalf of the Hon. Damien Tudehope.

Second Reading Speech

The Hon. NATASHA MACLAREN-JONES (15:21:19**):** On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a second time.

I am proud to introduce the Retirement Villages Amendment Bill 2020. The bill delivers on the New South Wales Government's promise to give a fair go for the more than 66,000 retirement village residents in New South Wales—a number that is expected to almost double by 2023—and give them a stronger, better future so that they can enjoy their well-earned retirement. The bill reflects the latest tranche of reforms that the Government has made as part of its overhaul of the retirement villages sector as a result of the 2017 retirement villages sector review led by Ms Kathryn Greiner, AO. The reforms include the establishment of a new mediation service within Fair Trading for village disputes; changes to the Retirement Villages Act 1999 in 2018 to require annual contract check-ups and mandatory rules of conduct for operators; and enhanced powers for Fair Trading to collect, share and publish retirement village sector information.

The Government is proud of its record on retirement villages, particularly over this term of government when the sector is facing new challenges. The swift action of the Government earlier this year to give stronger protections and flexibility to the sector has been part of the Government's response to the COVID-19 pandemic, keeping residents safe and protecting the longevity of the sector. Today we build on those reforms to implement some of the key recommendations of the Greiner review to reduce the burden and uncertainty for residents of ongoing recurrent charges when a resident leaves a village, and of costs and liability when a resident's unit remains unsold. We took the reforms to the last election, telling voters that if re-elected we would amend the Retirement Villages Act 1999 to cap the length of time villages can charge for general services such as operational and management costs after a person leaves, require village operators to pay exit entitlements sooner and give residents transitioning into aged care more options at a time when they need extra support.

While the reforms are a win for residents across New South Wales, the Government is mindful that the changes will also impact operators across the State, including their budgets and how they interact with residents. Despite the impacts that the changes may have on operators in the short term, we are confident that the changes will effect a fairer and more sustainable sector in the long term. The Government has been most pleased with the coalition of support it has received for the bill from stakeholders representing residents, operators and those in the aged care space, including the Retirement Village Residents Association and the Property Council of Australia. The continued viability of the sector is important and the ability to work with peak bodies to finalise the proposals following extensive public consultation, in which the Government received over 700 submissions, has ensured that the bill before the House is fair and balanced.

I turn now to the substance of the bill. The focus of the reforms proposed by the bill is on enhancing rights and safeguards for registered interest holders. Under the Act registered interest holders are those residents who either have their village contract in the form of a registered long-term lease that includes a provision entitling them to at least 50 per cent of any capital gain, own their lot in a strata scheme or community scheme village, or are the owner of shares in a company title village that gives them a residence right. The reforms proposed in the bill to recurrent charges, exit entitlements and aged care apply only to those residents who have their village contract in the form of a registered long-term lease that includes a provision entitling them to at least 50 per cent

of any capital gain—that is, the amendments will not apply to residents in a strata scheme, community scheme or company title village.

That is because operators in a strata scheme, community scheme or company title village are engaged by the owner's corporation or company only to provide limited general services to residents—that is, the operator does not have any financial interest in the residential property. It is owned by the former resident, who takes 100 per cent of any capital gain on the sale of their residential premises. The operator would, therefore, never be required to pay the former resident an exit entitlement under the new provisions. While the Government continues to be committed to supporting all residents of retirement villages, the amendments proposed by the bill are intended to address the particular issues faced by registered interest holder residents in villages with village contracts in the form of a registered long-term lease. That is to ensure that residents are able to realise the financial benefits from their properties sooner, empowering them to make future decisions with a firmer financial foundation.

Turning to recurrent charges, for the purposes of the Act these are day-to-day administration costs—such as general gardening and office costs—that a resident is required to pay to support the operation of the village. When a resident leaves a village, they must continue to pay the recurrent charges for a 42-day period. After that period, they must then continue to pay a portion of the recurrent charges until the property is sold. The issue is that where the property remains unsold, the resident must continue to pay this share to the operator of the village. The Greiner review showed that properties could remain unsold for two or more years, with residents and their families paying charges for little to no benefit. For unregistered interest holders who are residents in a short-term unregistered lease or residential tenancy agreement, there is already a cap of 42 days for the payment of those charges after their permanent departure from their premises. The bill, therefore, addresses the issue by amending section 152 of the Act to provide that the former resident's liability to pay recurrent charges after they have permanently vacated the premises ceases 42 days after the date the former resident permanently vacates the premises.

If the contract entered into between the resident and the village operator provides for a cessation of liability earlier than 42 days after permanent vacation, then the earlier date specified in the contract will apply. The bill provides that the trigger for the commencement of the 42-day period is when the former resident permanently vacates their premises. That will require the former resident to have moved out, taken all of their possessions out of the residential property and returned the keys to the property to the operator. It is, of course, common that the former resident will move out of their premises—perhaps to an aged care facility, another village or even back with relatives.

However, the Greiner review found that, unfortunately, in a number of cases former residents had passed away but their personal possessions and goods remained on the premises for some time, thus preventing the operator from dealing with the property. To address that issue, the definition of "permanent vacation" for section 152 has also been amended to provide that permanent vacation will occur when the executor or administrator of the person's estate delivers up vacant possession of the person's residential premises to the operator of the retirement village following the person's death. The Government recognises that the reform will impact on village budgets—and remaining residents who finance these budgets—and affect the services they benefit from. On balance, the reform is a fairer proposition for all, including departing residents and remaining residents. The 42- day maximum period will provide certainty for former residents as well as a suitable financial buffer for village operators to enable them to adjust their budgets accordingly.

I turn now to the new exit entitlement provisions in the bill. As I have already noted, the sector review found that the current exit entitlement provisions in the Act seriously hampered former residents from being able to finalise their financial affairs and make a clean break from their retirement village. That was a particular concern if the former resident wished to either move to another village closer to their family or to live with family members. The reason for the difficulty is that the payment of exit entitlement moneys to departing residents depends on the sale of the premises and another resident entering the village. The review noted that those processes can take up to 12 months or more to be completed, which means that former residents can face great uncertainty about when they will receive payments.

Residents who wish to move to another village or transition into aged care are particularly disadvantaged, as they often rely on the exit entitlement money to pay for their new accommodation. The bill proposes new pathways for residents to seek their exit entitlements prior to the sale of their property. First, the bill will allow former residents to apply to the secretary for an order directing the operator of a retirement village to pay the exit entitlement—an exit entitlement order—to the former resident if the premises are not sold within the period prescribed by the regulations. For the benefit of members, the Government proposes that that will be within six months for a premises situated in the metropolitan area and within 12 months in regional areas. New

section 182AB of the bill provides that the prescribed period will be deemed to have started 40 days after the former resident permanently vacates the premises, including by returning to the operator all keys to the premises.

If a former resident wishes to remain in their premises while it is being sold, then the six- or 12-month period will be deemed to have started 40 days after the date on which the former resident notifies the operator in writing that the former resident will continue to occupy the premises while the premises is for sale. The Government has created that deeming provision to ensure that there is a clear time frame that both parties are working towards to get the property on the market. The 40-day deeming provision will provide fairness to all parties, ensuring that a property can be prepared and marketed for sale as quickly as is necessary, but still taking into account the time for refurbishment of the premises to make it saleable. Noting the intention of those provisions is to support residents and operators to remove delays to sell properties, the bill will provide that residents who already have their premises on the market when the legislation commences can also avail themselves of the exit entitlement amendments.

The time for those former residents to access the new exit entitlement order scheme will start when the Act commences, even when they have already permanently vacated their premises. The exit entitlement that is normally paid to a former resident is calculated under the terms of the village contract that was entered into between the former resident and the operator when the former resident first entered the village. It usually consists of two parts. The first part is calculated on the remainder of any ingoing contribution paid by the former resident as per the village contract and the second part is the amount of any capital gain. Under the Act, former residents who sell their residential premises obtain their share of any capital gain as provided for in their village contract. The amount of any capital gain which forms part of the payments can be readily calculated. That cannot happen under the new exit entitlement provisions, as no actual sale of the residential premises takes place to trigger a payment of the exit entitlement when the secretary makes an order on the operator for payment of the exit entitlement.

Under the new exit entitlements scheme the amount of the capital gain must be estimated, either through the former resident and the operator agreeing to the sale value of the residential premises or, if they cannot agree, through the use of an independent property valuer. The estimated sale amount is substituted so that the capital gain component of the exit entitlement can then be calculated. To provide for that calculation, new section 182AB (4) will provide that a former resident may apply for an exit entitlement order only if the agreed valuation of the residential premises is calculated by the former resident and the operator at least 30 days before making their application to the secretary for an order. New section 182AB (5) requires an application to be made in a form approved by the secretary. New section 182AB (6) will provide that a former resident may not apply for an exit entitlement order for the same residential premises more than once in the time period applicable to their premises, as prescribed by the regulations.

That provision has been inserted to prevent operators from having to respond to repeated applications when the circumstances relating to the sale of a property are unlikely to change over such a short period. If the former resident and the operator cannot agree on an estimate of the value of the former resident's residential premises, to determine the capital gain part of the exit entitlement, new section 182AI provides that it must then be determined by an independent property valuer. New section 182AK will replicate the provisions of section 180 (5) of the Act to provide former residents a review right to the NSW Civil and Administrative Tribunal, where the prescribed component of an exit entitlement was not calculated by the operator in accordance with the Act or the relevant village contract.

If that has occurred, the tribunal will be able to order that the operator do a recalculation and, if necessary, pay an additional amount including interest. The independent valuer is required to have appropriate experience or expertise to give valuations and, importantly, must not have a pecuniary or other interest that could reasonably be regarded as capable of affecting the independent valuer's ability to give the valuation in good faith. The independent valuer is to be appointed by agreement between the former resident and the operator. However, if they cannot agree, the president of the New South Wales division of the Australian Property Institute is to appoint a suitable valuer. New section 182AI places a number of requirements on the valuer in relation to their estimate of the value of the residential premises, including that the estimate must be in writing, must contain detailed reasons for the determination and must specify the matters which the valuer had regard to for the purposes of making the determination.

As the independent valuer is appointed by both parties, and both parties benefit by the valuation, the former resident and the operator are to pay the costs of the valuation in equal shares. Once the operator has determined the exit entitlement that is payable, new section 182AC then allows the secretary to make an exit entitlement order in respect of a former resident who has applied to the secretary for an order. The exit entitlement order will contain information such as the amount of the exit entitlement; how it is to be paid, including whether it is to be paid as a lump sum or in instalments; and the date by which the exit entitlement must be paid. The date cannot be earlier

than 30 days after the order is served on the operator. The exit entitlement order can be subject to conditions. That will provide the secretary with the greatest flexibility in being able to tailor the exit entitlement order to the individual circumstances of each applicant and the operator.

While the intention of the new provisions is to create a new avenue for former residents to access their exit entitlements sooner, new section 182AC (2) prevents the secretary from making an exit entitlement order if the secretary is satisfied that the operator has not unreasonably delayed the sale of the premises. The new exit entitlement orders are designed to address situations where there has been a delay in the sale of the property due to the operator, either by delaying getting the property ready for sale or through not taking reasonable steps to secure a sale. However, the Government recognises that there are going to be circumstances where, notwithstanding the efforts of the operator to sell the property as quickly as possible, the property remains unsold. While the secretary will not issue an exit entitlement order where the operator has not caused an unreasonable delay, the new approach puts the onus on the operator to prove that they have not unreasonably delayed the sale of the premises and recognises the different positions the two parties are in during that process.

In the majority of cases the operator is selling the property on behalf of a former resident who has already left the village. It is the operator who retains the paperwork and has control over the sale process, including granting access to sale agents. The former residents will be elderly and may not be directly handling their own financial affairs or the property sale. Noting the potential power imbalance and the greater access to information relevant to any determination by the secretary, it is fair that the operator bears the onus of having to satisfy the secretary that they have not unreasonably delayed the sale of the residential premises.

The new process builds on existing protections under the Act and regulation that require operators to support the sale of premises, including providing prompt support to selling agents. It reflects industry best practice and we are confident that it will create a more level playing field for operators and residents. In order to ensure that we get those new provisions right, new section 182AC (3) creates a regulation-making power for the regulation to prescribe what matters the secretary must consider when determining whether an operator has unreasonably delayed the sale for residential premises. The Government will consult with relevant experts in the sector to ensure we prescribe the right issues for this process.

New section 182AC (5) also provides that if the secretary refuses to make an exit entitlement order, the secretary must give the operator and the applicant written notice of the decision and the reasons for the decision. This provision is important for transparency for the former resident and the operator. New section 182AC (7) requires an operator to comply with the exit entitlement order to pay the former resident. To demonstrate the seriousness of not complying with the order, a maximum penalty of $11,000 for a corporation or $5,500 for an individual applies for a breach of this provision.

The order must also include the reasons for the making of the order. This is important as new section 182AL (a) and (b) of the bill provides that a decision of the secretary to make, or refuse to make, an exit entitlement order, or extend an order, is reviewable by the NSW Civil and Administrative Tribunal under the Administrative Decisions Review Act 1997. The Government recognises that there may be exceptional circumstances where an operator is unable to pay the exit entitlement within the time frames. This was highlighted in the discussion paper last year and was subject to in-depth discussion with stakeholders in subsequent roundtable meetings. It was judged that it is important to acknowledge this issue and to address it in the bill so it is fair on both the operator and also on former residents.

We are particularly aware of the difficulty faced by operators in regional areas with limited markets and those operators who may be required to sell multiple properties at the same time. To support this, new section 182AE will allow the secretary, on an application by the operator, to approve a period longer than the relevant prescribed period within which particular residential premises in the retirement village may be sold. It is important that we hear from operators facing those difficulties as well as the resident impacted by the application to ensure that we make the right decision. New section 182AE ensures that the resident is involved throughout the process by requiring the operator to also give written notice to the former resident to whom the application relates within seven days of making the application. Failing to do so will incur a maximum penalty of $11,000 for a corporation or $5,500 for an individual for a breach of this provision.

Underpinning this entire process is finding a solution that is workable for former residents and operators. We want to support the financial security of former residents pursuing different accommodation options, while also ensuring the ongoing financial viability of village operators. Two additional protections include review rights under new section 182AL for a person aggrieved by a decision of the secretary to extend or refuse to extend the period for exit entitlements, and limits on the number of times an operator can apply for an extension on the payment of an exit entitlement.

I now turn to one of the most satisfying provisions in the bill that the Government is particularly proud of. While known as an aged-care rule, the provisions of part 10AA, division 3 effectively allow a former resident to request the operator to make exit entitlement payments to an aged-care facility to smooth the transition to this type of accommodation when it is required. More than 60 per cent of retirement village residents directly transition into aged-care accommodation and this rate will grow in years to come. Fair Trading data indicates that the average age of a person entering a retirement village throughout Australia is currently 75 years and the average age of residents is 81 years. More people will be moving into aged-care accommodation from retirement villages in the future. At this time of greater vulnerability and frailty, they can often be faced with huge decisions affecting their financial future in relation to how they will pay for this accommodation.

Former residents wishing to move to aged-care accommodation are assessed by Services Australia to determine their assets and income and whether they are able to pay the daily accommodation payment for their desired premises. As its name suggests, the daily accommodation payment is the amount a person needs to pay a provider on a daily basis for their accommodation. It is a percentage of a much larger amount that people can pay, called the refundable accommodation payment. Often the only income former residents have is a pension, and if it or a significant portion of it is used for accommodation then the person will suffer significant financial hardship in being able to pay for the other services they may require.

The amendments in the bill will go some way towards addressing the concerns that former residents have in being able to fund their transition. Accordingly, new section 182AF will apply the new provisions, colloquially known as the aged-care rule, to registered interest holders who have entered an aged-care facility after permanently vacating their premises, or who propose to enter an aged-care facility. They must also have not received the prescribed component of their exit entitlement and their premises must not have been sold. The prescribed component or fixed component of the exit entitlement is the amount of the exit entitlement owed by the operator to the former resident, usually worked out on a percentage of the person's ingoing contribution paid to the operator when they first entered the village over the term of the person's occupation. The residual amount of that contribution is what is returned to the former resident when they leave.

The regulations will contain detail of the prescribed component. The operator will subtract any termination payment and any other money owed to arrive at the final amount owed which forms that part of the exit entitlement. New section 182AF will allow the former resident to request the operator to make an accommodation payment, or daily accommodation payment on behalf of the former resident, from this prescribed component of the exit entitlement. It is important to note that new section 182AB provides that former residents who access the aged-care rule cannot then access the new exit entitlement provisions. We need to ensure that we strike the right balance between the needs of operators who are, in effect, paying the former resident's entitlement earlier and the immediate needs of residents seeking to access aged care. Former residents who access the aged-care rule will continue to obtain their share of any capital gain on the actual sale of the premises.

New section 182AG requires the operator, following a request made by a former resident, to pay the accommodation payment to the approved provider of the aged-care facility. A former resident who proposes to enter an aged-care facility must make a payment within 28 days of the date on which the former resident proposes to enter the facility. A former resident who has already entered an aged-care facility must make a payment within 28 days of the former resident's request under new section 182AF. There will be circumstances where an operator is not required to pay the accommodation payment.

The need and detail of those circumstances has been closely examined and the bill prescribes that accommodation payments will not need to be paid where the former resident becomes entitled to an exit entitlement under section 180 because the residential premises have been sold, the former resident requests the operator to cease making the payment, or the former resident passes away. Before payments cease the operator must provide notice to both the former resident and the aged-care facility. The operator will only be required to pay up to 85 per cent of the prescribed component of the former resident's exit entitlement. This protects operators from overpayment situations where there is no capital gain when the premises are sold.

It is important to balance the needs of both the operator and the resident in these amendments to ensure a viable future for the industry. The Government recognises the difficulties some operators may face in paying accommodation payments. Therefore, new section 182AH provides that an operator who receives an application from a former resident to make an accommodation payment may apply to the tribunal for an order to extend the time in which the operator is required to make the first accommodation payment or to exempt the operator from the requirement to make an accommodation payment. An operator must apply to the tribunal for an order within 28 days from the date of the former resident's request under section 182AF. The tribunal may make an order under section 182AG only if satisfied that the making of an accommodation payment would impose a significant financial burden on the operator. A refusal by an operator to pay the accommodation payment will be reviewable by the tribunal.

The bill amends section 189B of the Act to enable the tribunal to take guidelines issued by the secretary into consideration when making a determination. New section 182AG clarifies that a payment by the operator under either an exit entitlement order or the aged-care rule is taken to satisfy the exit entitlement payment requirement under the contract between the operator and the resident to ensure that the operator is faced with only one exit entitlement payment. Additionally, new section 182AG requires the operator to pay the former resident any part of the exit entitlement that is not paid under either an exit entitlement order or under the aged-care rule. This ensures that any residual amounts of the exit entitlement are paid to the former resident. To provide comfort to former residents and their families, new section 182AG further clarifies that if a former resident passes away before the whole of the exit entitlement is paid the operator must, instead, make the payment to the executor or the administrator of the former resident's estate.

The bill amends section 129 of the Act, which sets out how and when a resident's right or contract is terminated. In accordance with the new provisions in the bill, proposed section 129 (1) will now provide that for registered interest holders the resident's right is terminated on the completion of the sale of the premises or, if an exit entitlement order is made, the date on which the operator pays the former resident the amount required under the order. It will be necessary for the secretary to issue guidelines to operators for compliance with the new provisions. Section 189AB of the Act is therefore amended to permit the secretary to issue guidelines in relation to how and when a resident's right is terminated, recurrent charges for registered interest holders and part 10AA payments if a certain resident's premises are not sold. The tribunal is able to take the non-observance of guidelines into account when considering breaches of the Act.

I turn briefly to another important amendment provided in the bill. Honourable members may recall the Retirement Villages Amendment Bill 2018, which made a number of important amendments to the Act, many of which have already been implemented. One provision that has not yet been implemented is a regulation-making power to require operators to prepare and keep up-to-date asset management plans to better manage the maintenance, repair and replacement of capital items. While the regulations are currently being finalised, the bill amends section 101A of the Retirement Villages Amendment Act 2018 to provide a regulation-making power. This will allow items of capital to be defined and clarified for the purposes of asset management plan provisions.

I turn briefly to the transitional arrangements for the new requirements introduced by this bill. Consequential provisions clarify that the 42-day cap provisions in the bill relating to recurrent charges will apply to all present and future residents. I have previously noted that the Government recognises that this reform will impact on villages' budgets. To allow residents and operators to address their budgets, the amendments to section 152 will not apply to a former resident of a retirement village until the delivery of the village's first budget on or after 1 July 2021. This will effectively provide operators with a minimum six-month window if the amendments were to commence from 1 January 2021.

The Government is aware of concerns about how the cost of this reform will be operated by operators. In particular, there is the potential for a significant reduction in the amount of recurrent charges that are received by the village operator towards the annual operating budget. This could result in deficits in the recurrent budget. There are concerns these may be passed on as increases in recurrent charges to those residents who remain in the village. Section 120C of the Act already provides a range of regulation-making powers to address situations where deficits may occur in the financial accounts of villages and empowers regulations to be made that ensure that operators do not unduly pass on additional costs to residents as a result of any deficit. The Act specifically requires that operators act only in accordance with any requirements prescribed in the regulation or the secretary guidelines when increasing recurrent operating charges to residents.

The Government intends to work with residents and operators in the coming months to develop supporting regulations to implement an equitable situation in respect to how any deficits in the operating budgets of villages arising from this reform are managed. This regulation will be in place in time for the 2021-22 financial year. The new exit entitlement provisions will apply for all present and future residents who, as registered interest holders, have a long-term registered lease that entitles them to at least 50 per cent of any capital gain on their residential premises. However, as I have noted, special provisions will apply to present residents who have advertised their premises for sale when the legislation commences. Those persons' six- or 12-month periods, as provided for in the regulation, will commence on the date of the commencement of the provisions. If the former resident occupies the premises while the premises are for sale, the six- or 12-month periods will commence on the date after the commencement of the section on which the former resident notifies the operator under new section 182AB.

The completion of this bill delivers on the Government's commitments to implement the recommendations of the Greiner review. While there is still more work to be done on supporting regulations, I thank the department for its efforts to reduce this comprehensive bill. The bill reflects a new era of a fair go for the people living in retirement villages to help ensure that their financial future is secure while also balancing the needs of operators

to ensure a vibrant and secure future for this important industry in New South Wales. I commend the bill to the House.

Debate adjourned.

ROAD TRANSPORT LEGISLATION AMENDMENT BILL 2020

Second Reading Speech

The Hon. SCOTT FARLOW (15:58:15**):** On behalf of the Hon. Don Harwin: 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.

I am pleased to speak on the Road Transport Legislation Amendment Bill 2020. The bill proposes amendments to the Road Transport Act 2013, the Driving Instructors Act 1992, the Photo Card Act 2005, and consequential amendments to the Fines Act 1996 to support improved road safety and customer outcomes, reduce red tape, and increase the effectiveness of Transport for NSW as a regulator.

The majority of the amendments are a result of the five-yearly review that is required to be undertaken in accordance with section 280 of the Road Transport Act 2013. This review is required to determine whether the policy objectives remain valid and whether the terms of the Act remain appropriate for securing those objectives.

The review report was tabled on 13 October 2020 and found that the policy objectives of the Act remain valid and the terms of the Act meet the community's needs and are considered appropriate for securing its objectives.

In broad terms, the objects of the Act provide for

- a driver licensing and vehicle registration system as part of a uniform national approach to driver licensing, vehicle registration vehicle standards and the regulation of road users,
- systems for the improvement of road safety and transport efficiency, as well as the reduction of costs relating to administering road transport, and
- the recovery of expenses incurred in the administration of the Act, and the collection of fees and charges payable under this Act.

In 2013, four separate pieces of road transport law were consolidated into a single Act, the Road Transport Act 2013. This decision delivered a number of benefits for the people of New South Wales, including the reduction of red tape, the removal of inconsistencies and anomalies in the legislation, and the provision of a more agile legislative framework to support the delivery of increased road safety and customer outcomes.

The Act commenced on 1 July 2013 and has been continually reviewed and amended to ensure it has remained fit for purpose and continues to facilitate new transport technology needed to support the New South Wales Government's Future Transport Strategy 2056 and to effectively respond to a dynamic transport environment.

Recent amendments include

- provisions to support on -road trials of automated vehicles in 2017,
- the ability to enforce mobile phone offences through cameras in 2018, and
- in 2019 roadside suspension provisions for low level drug and alcohol offences were introduced along with penalty notices being issued for these offences. The New South Wales digital driver licence was also introduced last year.

The statutory review of the Act did not consider the Road Rules and other regulations made under the Act, as these statutory instruments are subject to separate review mechanisms. The review report made 10 recommendations in relation to the Act. A number of other changes to road transport legislation identified outside of the review process are also included in this bill for efficiency and practicality.

The Act is the primary legislation regulating road transport in New South Wales and the New South Wales community depend on the provisions of the Act to keep our roads safe by ensuring drivers are appropriately licensed, vehicles are registered and an effective sanction regime is in place to maintain safety and traffic management outcomes. Robust compliance and enforcement powers are also provided for under the Act to support the administration of those frameworks.

The community was consulted about the review via the release of a discussion paper in September 2019. More than 40 key stakeholders were also directly notified of the review by Transport for NSW. A total of 12 submissions were received.

Transport for NSW held targeted consultation meetings with key government agencies including Police and other representatives from the Department of Communities and Justice to examine and agree the scope of amendments sought. Where submissions were made on matters that were outside the review's scope, these matters will be considered by Transport for NSW as part of other ongoing regulatory and operational reform processes.

The proposed amendments will reinforce the objectives of the act and contribute to the delivery of the strategic priorities of this Government including enhancing the productivity, liveability and sustainability of our State. This includes *Future Transport 2056*, which sets the 40 year vision, directions and outcomes framework for customer mobility in New South Wales. *Future Transport 2056* will be delivered through a series of supporting plans including the Towards Zero Road Safety Plan 2021 which is focused on reducing the New South Wales road toll and has set an aspirational target of zero fatalities and serious injuries on our roads by 2056, the Connected and Automated Vehicles Plan which provides New South Wales's strategic direction and actions to progress the commercial deployment of connected and automated vehicles, and the NSW Electric and Hybrid Vehicle Plan which reflects New

South Wales's interest in future mobility and technological innovations that will modernise transport for business and community. I now turn to the details of the amendments proposed arising from the recommendations of the review.

Currently section 9 of the Act provides the criteria for determining whether an offence is a first, second or subsequent offence for the purposes of the Act. Section 9 of the Act underpins the operation of the penalty regime that is applied for driver licence disqualification periods, imprisonment and mandatory alcohol interlock orders. On the advice of Police and the Chief Magistrate's Office, an amendment is proposed to remove ambiguity regarding the current operation of this provision and to further clarify how first and second or subsequent offending should be determined to ensure that repeat offenders are sentenced accordingly.

The proposed amendment will clarify that any re -offending period should be measured from the date of the offending conduct rather than the date of conviction which is currently used in determining sentencing. In addition, similar offences to those in New South Wales provided for in other Australian jurisdictions, may also be considered "equivalent offences" when making this determination. The amendment will provide discretionary decision making powers for courts to allow Magistrates to consider whether or not a similar offence in another jurisdiction like driving whilst disqualified should be determined an "equivalent offence".

The bill also provides a series of amendments that will strengthen existing compliance and enforcement provisions to support Transport for NSW regulatory activities. The first of these amendments proposes to increase the statute of limitations for proceedings for limited and specific offences under the Act and regulations, from six months to two years.

Currently, proceedings for a breach of the Act or its regulations must generally be commenced no later than six months after the date on which the alleged offence is committed. Transport for NSW has encountered difficulties in completing investigations for serious and complex matters within a six month time frame, especially for matters related to driver licence fraud and rebirthing or cloning of motor vehicles. There is already an exception for camera detected offences which provide a 12 month period to account for the additional time taken for processes associated with driver nomination.

There are a number of other serious offences where an increase in the statute of limitations is also required to satisfactorily complete an investigation and gather the required evidence to launch a prosecution. These offences include serious driving offences under the Act involving death or injury. Increasing the statute of limitations to two years for these types of offences will align the Act with provisions contained in similar legislation including the Heavy Vehicle National Law, the Point to Point Transport (Vehicles and Hire Vehicles) Act 2016 and the Marine Safety Act 1998.

The next amendment will insert a new provision to expressly authorise Transport for NSW to commence proceedings for certain offences under road transport legislation. Currently, the Act does not expressly provide for a specific party to commence such proceedings. Creating a new provision in the Act will enable Transport for NSW as an entity to commence proceedings for an offence against the Act or statutory rules, rather than having to rely on section 14 of the Criminal Procedure Act 1986. This change will enable Transport for NSW as an entity to prosecute a person in its own right which is consistent with practices used by other government agencies who have similar compliance and enforcement responsibilities.

The bill will also amend the Act to clarify how Transport for NSW manages the application of demerit points to novice drivers. Under the Act, Transport for NSW is required to maintain the demerit points register. This amendment will clarify that demerit points incurred by a novice driver cannot be used in the application of a subsequent administrative licence sanction against that driver following an appeal in the local court. This change will clarify the policy intent to ensure that drivers who choose to appeal a licence sanction in the courts are treated equally, regardless of the appeal result.

It is also proposed to amend section 59 of the Act to clarify that Transport for NSW is to take into account any period of roadside suspension previously served under a police imposed sanction when imposing an administrative licence sanction for an offence. This proposal is consistent with the provisions of section 206B of the Act that requires the courts to consider any period of roadside suspension when determining a disqualification period for an offender.

Section 271 of the Act will also be amended to remove the requirement to publish decisions to waive fees for services in the *Government Gazette*. Currently, any decision made by Transport for NSW to waive fees is published on the websites of Transport for NSW and Service NSW which is typically where customers choose to access information on these matters. This amendment will reduce red tape and provide customers with quick and easy access to important information when decisions are made to relax certain fees, particularly in times of emergency such as bushfires, drought, or other unforeseen circumstances.

To improve customer outcomes and support the priority of "Tell Government Once", it is proposed to amend section 57 of the Act to permit Transport for NSW to release a photograph to other government agencies, with the consent of the customer, and to Fair Trading for the purposes of issuing tattoo parlour licences.

To simplify and modernise the Act, section 22 of the Act will be amended to remove the requirement for a register of Orders made under the Act to be maintained by Transport for NSW. This requirement is redundant as the Orders are also published in the *Government Gazette*. It is also proposed to remove certain provisions under the Act regarding the service of penalty notices as these duplicate provisions in the Fines Act 1996.

I now turn to amendments proposed to the Act that were identified outside the statutory review process but incorporated in this bill for efficiency and timeliness.

The first of these amendments will create a statutory rule making power in the Act to manage offensive imagery or slogans displayed on a vehicle. This will allow Transport for NSW to impose a registration sanction on the vehicle when the offensive material is not removed. This amendment will align New South Wales laws with other jurisdictions who have already taken action to stamp out offensive advertising on motor vehicles.

To improve the integrity of information maintained by Transport for NSW, it is also proposed to create a power to allow Transport for NSW to use information held in these databases to update customer information for the purposes of exercising its functions including its maritime functions.

This change will also deliver customer benefits as it will eliminate the need for a customer to provide the same information to Transport for NSW on multiple occasions.

Section 55 of the Act will also be amended to clarify that a photo image contained in a proof of identity document such as a passport is not a photograph as provided for under part 3.5 of the Act. This will confirm the policy intent that a proof of identity document

that contains a photograph, like a passport, is not inadvertently deemed to be a photograph that is subject to the protocols associated with the protection of stored photographs under part 3.5 of the Act. This amendment will remove any uncertainty about how photo images on proof of identity documents are to be managed by Transport for NSW and Service NSW.

It is proposed to amend the Act to expand the current vehicle sanction scheme to enable police to impound a motor vehicle or confiscate the number plates of a company registered vehicle used to commit certain serious driving offences including high range speeding. This amendment will ensure that people driving company vehicles who commit serious breaches of the traffic laws will be held accountable for using a vehicle to commit reckless driving behaviour.

It is also proposed to amend the Act to increase penalties for companies that fail to nominate or correctly identify drivers for camera detected offences. Statistics provided by Revenue NSW indicate that in the 2019/20 financial year, there were around 7,000 occasions where a company did not nominate the driver responsible for a camera detected offence committed in the company registered vehicle. That means almost 7,000 drivers who committed these offences were not identified and therefore could not be held accountable for their driving behaviour through the application of demerit points or even a licence sanction. This is not acceptable given the serious road safety implications of such behaviour.

As a result, it is proposed to amend the Act to increase the maximum court fine for offences under the Act for a company that fails to nominate or supply information, required to identify a driver who commits a camera-detected offence, from 100 penalty units equal to $11,000 to 200 penalty units equal to $22,000. In addition, the Vehicle Registration regulation will also be amended to allow Transport for NSW to immediately commence registration suspension action against companies that fail to nominate these drivers.

Finally, to improve the ability to identify drivers nominated for camera detected and parking offences, it is also proposed to amend both the Road Transport Act and the Fines Act to mandate the need for the responsible person for a vehicle to provide both the driver's licence number and date of birth of the offender at the time of nomination. The Act currently provides an exemption for a person who does not know and could not with reasonable diligence have ascertained the driver's name and address. These "due diligence" provisions will be expanded to capture circumstances where the driver's licence number and date of birth details cannot reasonably be ascertained.

Over the past 5 years there have been a total of 2,408 casualty crashes involving overseas licence holders including 36 fatalities and 574 serious injuries. The next amendment is proposed to improve the management of overseas drivers in New South Wales by providing police with the power to issue a notice to an overseas driver, withdrawing their visiting driver privileges at the roadside for three months, when detected speeding by more than 30 km/h.

In the case of an overseas driver who has outstanding penalty notices recorded in their name for offences totalling 13 or more demerit points, the Act will be amended to provide that the driving privileges may be withdrawn for period of 14 days. Police will also submit a question of fitness report to Transport for NSW to consider further action if they form a view that this action may be warranted in the interests of public safety.

The Driving Instructors Act 1992 will also be amended to remove the requirement for NSW Police to conduct an interview and provide a report to Transport for NSW. This procedure duplicates the process for a Working with Children Check which is a mandatory requirement under section 10 of the Driving Instructors Act 1992. This change will streamline the process and reduce the administrative burden for NSW Police and for customers applying for a driving instructor licence, while continuing to ensure that appropriate checks are in place as part of the driver instructor licensing process.

Finally, to support this Government's priority of making it easier to do business in New South Wales, an amendment will be made to the Photo Card Act 2005 to allow Transport for NSW to use and release information (including photographs) held in the register if the release of the information is for the purpose of the issue, use, or verification of a digital Photo Card.

In closing , this bill makes a significant number of amendments to road transport legislation that will improve road safety and customer outcomes, strengthen the regulatory capability of Transport for NSW and remove inconsistencies and anomalies to simplify and modernise the Act. I commend the bill to the House.

Second Reading Debate

The Hon. JOHN GRAHAM (15:58:52**):** I lead for the Opposition on the Road Transport Legislation Amendment Bill 2020. The bill proposes amendments to a number of Acts—the Road Transport Act 2013, the Driving Instructors Act 1992, the Photo Card Act 2005 and consequential amendments to the Fines Act 1996—to support improved road safety and customer outcomes, reduce red tape and increase the effectiveness of Transport for NSW as a regulator. I indicate firstly that the Opposition will not be opposing the bill. It will be introducing a single amendment, which was introduced and refused in the Legislative Assembly, but I can report that since then there have been some developments. The bill follows a review of the roads legislation, a report of which was tabled on 13 October 2020. There are additional components of the bill that were not part of that statutory review. The Government has put the case elsewhere and here today that, in the words of the Parliamentary Secretary, they have been included in the interests of streamlining processes and improving road safety.

Some of the amendments that were the result of the statutory review are: to increase from six months to two years the period within which proceedings for certain offences must be commenced in order to allow enough time for comprehensive investigations to take place where need be; to require Transport for NSW, when cancelling or suspending a driver licence for certain speeding offences or alcohol- or other drug-related offences, to take into account any period of suspension that the driver had already served; and to enable Transport for NSW to suspend the registration of a registrable vehicle if the registered operator of the vehicle has committed the offence of failing to nominate the driver of a vehicle who committed a camera-recorded offence, rather than only if it is the registered operator's second or subsequent offence of that kind. I will come back to that provision. The amendments will

also enable Transport for NSW to use and release information contained in the photo card register for purposes related to digital photo cards and other photo card purposes.

Those are all in the statutory review and they have been well consulted on. The Opposition regards them, by and large, as sensible measures. It is supportive of all of those measures in the bill. As I mentioned, though, there are other amendments that have been drafted outside the review and they have been the subject of closer Opposition scrutiny. One of them is to create a statutory rule-making power in the Act to manage offensive or discriminatory imagery or slogans displayed on a vehicle, allowing Transport for NSW to impose a registration sanction on the vehicle when the offensive material is not removed. As I understand it, that essentially arose out of the Wicked Campers discussion, which received publicity both in New South Wales and around the Commonwealth. It has been the subject of discussion at COAG and is subject to a COAG agreement to proceed in exactly this way. When we were briefed by the Minister's office and the agency, they put the case that it is similar to a Queensland provision. The Opposition accepts that it has moved through the decision-making processes of the Commonwealth. It would bring us into line with other jurisdictions that have moved or are moving.

I flag to this House that my colleague Mr Ron Hoenig made some remarks in the other House, which I commend, about the difficulties of legislating in this area and the sorts of judgements that are required by agencies if the Parliament creates a law along the lines of putting the provisions of both "offensive" and "discriminatory" in the bill. The member for Heffron thought that the way it was described left those agencies in a very difficult position to make those judgements and left legislators, having let them loose, in a difficult position to restrain them. The inclusion of the "offensive" aspect of the description makes that even more likely. That is not something that the Parliament should venture upon lightly. What is offensive to one person is not offensive to another. With discriminatory behaviour or slogans, we are clearly on stronger ground. Opposition members will support the measure but we say that it should not be dealt with lightly. We will be monitoring how it develops. It does not fall within the ordinary activity of the regulatory remit of the good women and men of the agencies that will regulate this provision. They need to be given support to do this properly. The Opposition will be watching closely as this unfolds.

Other measures in the bill expand the current vehicle sanction scheme to enable police to impound a motor vehicle and make provisions for what I would describe as high-range offences. The bill amends the Act to increase penalties for companies that fail to nominate or correctly identify drivers for camera-detected offences. I will come back to that provision, which is one that the Opposition strongly supports. The bill mandates the need for a person responsible for a vehicle to provide both the driver licence number and date of birth of the offender at the time of nomination. It allows the Commissioner of Police to suspend a foreign driver licence holder who is caught speeding by more than 30 kilometres per hour or who has been issued with penalty notices for offences for which the total demerit point value is 13 or more. Again, that is worthy of mention.

One of the issues that has been described as a loophole and which the Government appears to be seeking to close—it has our support in doing so—relates to foreign driver licence holder offences. Demerit points are usually recorded against New South Wales driver licences. However, if motorists have an overseas licence, Transport for NSW has to record demerit points against the registered address. The concern is that dangerous drivers stay on the roads and police and Transport for NSW are unable to do their job keeping track of offences which for a registered driver with a New South Wales licence would be tracked and be the subject of immediate action. There has been some publicity around that issue. There has been a community call for the loophole to be closed and the Opposition supports both those calls and that clause.

Finally, I turn to the offences I have highlighted that relate to corporation-nominated offences. Members of the House would know that that has been the subject of Opposition concerns, chiefly in regard to the mobile phone camera program. It is clear that the program is changing behaviour on the roads and that is a good thing. The Opposition supports the program. It is grateful to see that drivers are changing how they deal with their mobile phone on the road as a result of mobile phone detection cameras on the roads. However, if we are to maintain community support for this law, it has to apply to everyone equally. The Opposition's concern is that at the moment that is not the case on the roads in New South Wales because there is a loophole in the law that allows a driver to have a corporation say that it is the nominated offender and that it does not know who was driving the car. It pays five times the fine—

The Hon. Shayne Mallard: A lot of money.

The Hon. JOHN GRAHAM: It is certainly a hefty payment; there is no dispute about that. However, no driver loses demerit points. If that is abused, the risk is that dangerous drivers may be on the road. Is it being abused? Well, the loophole is being widely used. Since 1 March 2020, 69,659 drivers have been fined for using their mobile phone, which has raised $31 million in revenue. What is most concerning to the Opposition is that 5,164 drivers have used the loophole to evade the law and have not lost points. A lot of money has been paid by

those companies. A lot of money has been given to the State of New South Wales from those fines—in fact, $8.9 million since 1 March.

The Hon. Shayne Mallard: It's the same with speeding, though.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): Members will cease interjecting. The Hon. John Graham may proceed.

The Hon. JOHN GRAHAM: I am upset to hear that, Deputy President, because it is a point I was about to turn to.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): The Hon. John Graham is entitled to make the point. If the Hon. Shayne Mallard wishes to make a contribution, he can. The Hon. John Graham has the call.

The Hon. JOHN GRAHAM: To be clear, the loophole is also used for other offences. However, it is being used far more widely in relation to mobile phone camera offences than red-light camera and speed camera offences. The reason is because drivers lose a lot of points for mobile phone camera offences—five points or maybe 10 points in a double demerit period. We know what is going on: People are using the loophole to avoid losing their licence. Ten points are a lot to lose. But the Government and the Opposition are trying to change behaviour. Our point is that there must be one law for everyone. Currently that is not the case because this is being used widely as a loophole, many times more often than the judicious use made of it in relation to red-light cameras and speed cameras. How much more? In July 1,715 drivers used the loophole. That represents 12 per cent of all offences.

There is no way the companies were unable to tell who was driving on every one of those occasions. I do not accept that that is the case. The partial figure for August is 1,132 drivers, or 19 per cent. The figures will change as they move through the fines processing scheme. I do not accept that in all of those instances companies did not know who was driving. Members should not accept my assurance; that was the assurance that the then transport Minister, who is now the Premier, gave in the lower House. She said there is no excuse for a company not knowing who was driving the car. That was the position the Government put on the record when it introduced the provisions. Now we find there is an excuse for more than 5,000 drivers and the Opposition is concerned that this is now being used as a loophole. There are two real risks: It will leave dangerous drivers on the road and it will undermine confidence in what is otherwise a successful program. That is the real problem.

We must change the behaviour. If people think there is one rule for the ordinary commuter and another rule for people who can run it through a company that will pay five times the fine with no loss of points, the public will lose faith and we will not be able to successfully support what is an important road safety measure. At the Committee stage I will make a couple of additional points when I move the Opposition's amendment on that specific issue, which will strengthen reporting around those offences. The Opposition supports the important provisions of the Government bill that strengthen offences. The fines are being doubled. That will help but it will not be enough to stop this behaviour. The provisions must be enforced. The message must go out that what is now being used as a widespread loophole is not acceptable and that the Parliament is prepared to take further action in order to preserve these important measures. I commend the bill to the House.

Ms ABIGAIL BOYD (16:12:51**):** On behalf of The Greens I contribute to debate on the Road Transport Legislation Amendment Bill 2020. The Greens are broadly supportive of the bill's intent and the changes that it makes to the Road Transport Act 2013. I note two things in particular. The first is the introduction of the statutory rule that will allow the registration of any motor vehicle to be suspended or cancelled should the vehicle display offensive or discriminatory material. The Greens have been concerned about that issue for quite some time. Current and former Greens MPs have been campaigning for legislative change. Former upper House MP, now Federal senator, Mehreen Faruqi gave notice of a bill back in 2017 to put such a ban in place.

At that time she was rebuked by the roads Minister, who said that the legislation was unnecessary due to a voluntary agreement that the New South Wales Government had entered into with Wicked Campers. It was clearly shown not to be the case when the company, despite the so-called voluntary agreement, continued to lease vehicles with misogynistic and deeply offensive slogans and imagery throughout the State. Ballina Greens MP Tamara Smith has long campaigned for a legislative fix for the problem. She and her community on the North Coast will be glad to see the New South Wales Coalition Government finally adopt this much-needed change. The second major change that The Greens welcome relates to corporations being unable to identify the drivers responsible for particular offences. The Greens will move two amendments to the bill, one of which relates to that issue. The Greens will support the Opposition's amendment relating to the reporting on the penalty notices for corporations.

The Hon. LOU AMATO (16:15:08**):** I support the Road Transport Legislation Amendment Bill 2020, which introduces a number of amendments to the Road Transport Act 2013 to implement the recommendations of the recent statutory review of that Act undertaken by Transport for NSW on behalf of the Minister. As part of

the review process, submissions were invited via the public release of a discussion paper. More than 40 key stakeholders were notified of the review and targeted consultations were undertaken with government agencies that have an interest or a role to play in the regulation of road transport. Some 12 submissions were received and reviewed by an internal working group of Transport for NSW officers.

Targeted consultation was undertaken with all government agencies that provided a submission to the review to clarify the amendments proposed. A number of submissions were received in respect of matters that were outside the scope of the statutory review, including suggested changes to the regulations and road rules. These matters were referred to the appropriate divisions within Transport for NSW for consideration as part of the usual regulatory and operational reform processes. The bill contains a number of other amendments to the Act and related legislation identified outside the review process. Some of the proposed amendments in the bill have been dealt with by earlier speakers, so my contribution to the debate will be brief.

The Road Transport Act commenced operation in 2013 and consolidated four separate pieces of road transport law into a single Act. The consolidation provided a number of benefits for the people of New South Wales by cutting down the number of statutes and removing anomalies, inconsistencies and complexities in the legislation. Since its commencement the Act has been amended to ensure that it continues to meet the Government's strategic objectives. Those changes have facilitated a raft of measures to improve road safety outcomes for the New South Wales community, including amendments in 2014 to facilitate the introduction of the Heavy Vehicle National Law and amendments in 2015 to implement the mandatory Alcohol Interlock Program. In 2017 the Act was amended to support on-road trials of automated vehicles and to implement reforms to the driver licence disqualification scheme.

In 2018 amendments were made to facilitate the introduction of roadside drug testing, to increase penalties for driving under the influence, to implement the Written-Off Heavy Vehicles Register and to introduce mobile phone camera enforcement. Last year amendments to the Act were made to support the introduction of the NSW Digital Driver Licence, as well as roadside suspension for low-level drug and alcohol offences. The bill contains 10 recommendations arising from the statutory review of the Act. While the review recommended that the Act's objects remain valid and therefore should not be changed, the recommendations proposed are considered necessary to improve road safety outcomes, strengthen compliance and enforcement provisions, improve the customer experience and simplify and modernise the Act.

The bill makes a number of other changes to the Act and related legislation that were identified outside the review process but are nevertheless important in ensuring the Government's continued commitment to road safety and the adoption of technology and innovation to deliver benefits and improve the customer experience for the people of New South Wales. The proposed amendments will amend the Road Transport Act to clarify how first or second and subsequent offending should be determined to ensure that repeat offenders are sentenced accordingly. They will increase the statute of limitations for proceedings for certain serious offences under road transport law from six months to two years to allow Transport for NSW sufficient time to investigate and prosecute these complex road transport matters.

The bill will also empower Transport for NSW to commence proceedings for offences under road transport legislation; clarify how demerit points that have been applied to a novice driver are managed following a successful appeal; require that Transport for NSW take into account a period of roadside licence suspension when imposing an administrative sanction for an offence; remove the requirement for Transport for NSW to publish a notice in the gazette when waiving fees for certain services; permit Transport for NSW to release photo images to other government agencies and to Fair Trading with the consent of the customer for the purposes of issuing tattoo parlour licences; create a power to govern offensive livery or slogans on a vehicle that will allow Transport for NSW to impose registration sanctions where necessary; and authorise police to withdraw visiting driver privileges at the roadside for overseas drivers who are caught speeding by more than 30 kilometres per hour or who have multiple outstanding penalty notices for demerit point offences recorded in their name.

The bill will authorise Transport for NSW to use information stored in its databases to update customer information for the purposes of exercising its functions, including its maritime functions; clarify that proof of identity documents that contain a photo image of a customer are not considered to be a "photograph" for the purposes of the Act; expand the current vehicle sanctions scheme provisions to allow police to impound a motor vehicle or confiscate the number plates of a company-registered vehicle used to commit certain serious driving offences; require a driver to provide details of a person's driver licence and date of birth when nominating that person as being responsible for a camera-detected or parking offence; increase the court-imposed fines that apply to a corporation that fails to nominate or correctly identify a driver responsible for a camera-detected offence; and make other minor amendments to simplify or modernise the Act.

The bill also includes amendments to related legislation, including the removal of the requirement for the NSW Police Force to conduct an interview with a driving instructor applicant under the Driving Instructor Act as

that character check is now covered through changes to the application process that require a Working With Children Check. A change is also being made to the Photo Card Act to allow Transport for NSW to release information for the purpose of the issue, use or verification of a digital photo card. Consequential amendments to the Fines Act 1996 that relate to the issue of penalty notices and the nomination process for camera and parking offences are also being made.

The development of the content of the bill is the result of a collaborative effort between key stakeholder agencies that were consulted before, during and after the review process as well as during the bill drafting process. The amendments improve the existing regulatory framework by streamlining and simplifying requirements to enhance the compliance and enforcement regime and improve the experience of our customers, which will lead to better, safer outcomes for the community of New South Wales. I commend the bill to the House.

Reverend the Hon. FRED NILE (16:23:22**):** On behalf of the Christian Democratic Party, I speak in support of the Road Transport Legislation Amendment Bill 2020. I thank Minister Constance for the thorough way in which he has conducted the review. Section 280 of the Road Transport Act requires the Minister to review the Act to determine whether its policy objectives remain valid and whether the terms remain appropriate for securing those objectives. For those reasons, the bill provides a large number of practical amendments to the Act. For example, the bill will amend the Act to clarify how first, second and subsequent offending should be determined to ensure that repeat offenders are sentenced accordingly. That is a very practical provision. It will also require that Transport for NSW take into account a period of roadside licence suspension when imposing an administrative sanction for an offence. The bill will permit Transport for NSW to release photo images to other government agencies and to Fair Trading with the consent of the customer—that is important—for the purposes of issuing tattoo parlour licences.

The bill provides an important addition to the legislation that will create a power to govern offensive livery or slogans on a vehicle, allowing Transport for NSW to impose registration sanctions where necessary. I know some people get carried away with the slogans they put on their vehicles, which is why I believe that is an important power that will be imposed through the bill. The bill will also authorise the police to withdraw visiting driver privileges at the roadside for overseas drivers who are caught speeding by more than 30 kilometres per hour, or who have multiple outstanding penalty notices for demerit point offences recorded in their name. That is a practical provision of the bill. The bill will expand the current vehicle sanctions scheme provisions to allow the police to impound a motor vehicle or confiscate the number plates of a company-registered vehicle used to commit certain serious driving offences. Some material has been introduced in the debate about the way some companies seek to avoid penalties. The improvement made by the bill will overcome that issue.

The bill will also require a driver to provide details of a person's driver licence and date of birth when nominating another person as being responsible for a camera-detected or parking offence. Again, that will help reduce or even stop companies using that to conceal who the real driver was. The bill will also increase fines imposed by a court that apply to a corporation that either fails to nominate or correctly identify a driver responsible for a camera-detected offence. That provision will, again, bring some discipline into the industry and force companies to be honest about who was driving the vehicle while breaking the law. The bill will amend the Driving Instructors Act 1992 to improve the administration of the driving instructors scheme. It will amend the Photo Card Act 2005 to allow Transport for NSW to release information on the issue, use or verification of a digital photo card. I have already spoken in the House about additional legislation and how that is a positive innovation that the Minister has introduced. I congratulate him on it. I fully support the bill and all the improvements to the legislation.

The Hon. TAYLOR MARTIN (16:28:20**):** I speak in support of the Road Transport Legislation Amendment Bill 2020, which introduces a number of changes to the Road Transport Act arising from the statutory review of the Act, as well as other amendments to the Act and related legislation that have been identified outside of the review process. A report on the statutory review of the Road Transport Act 2013 was tabled in Parliament on 13 October 2020. The review was undertaken by Transport for NSW on behalf of the Ministers and a report prepared in accordance with section 280 of the Act. That section requires the Act to be reviewed to determine whether the policy objectives remain valid and the terms of the Act remain appropriate for securing those objectives.

The report concluded that while the Act is achieving its objectives, a number of amendments could be made to further enhance road safety outcomes, strengthen compliance and enforcement provisions, improve customer experience and simplify and modernise the Act. The bill before this House will give effect to the recommendations contained within the report and to other changes to the Act and related legislation considered necessary to ensure that the Act remains fit for purpose. In the interests of time, I will briefly outline some of the more important changes that the bill makes.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I do not think time is a problem at this stage.

The Hon. TAYLOR MARTIN: In any case, I will continue. It will make changes to the provisions which determine how offences are to be treated as first, second or subsequent offences under the law. These provisions exist to set a framework for the imposition of increased penalties and other requirements, including participation in the mandatory Alcohol Interlock Program, that are applied to repeat driving offenders who commit or are convicted of certain serious offences within a five-year period.

During the review process a number of stakeholders expressed concerns about the complexity of determining penalties that should apply, as the date for measuring the period for re-offending can be difficult to interpret, particularly where the person's prior offence has been dealt with by the issue of a penalty notice as opposed to a conviction recorded by a court. Stakeholders agreed that the provisions could be simplified by measuring the period of re-offending from the date of the offending conduct regardless of how the matter was actually dealt with. This will provide greater clarity for police when charging offenders and for local court magistrates when considering penalties for that particular offence. Mr Deputy President, you will no doubt have great sympathy for that, considering your previous line of work.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): Traffic court.

The Hon. TAYLOR MARTIN: Traffic court lawyer, as we always hear. The change will also remove any incentive for offenders to deliberately delay court appearances through adjournments in an effort to avoid the harsh penalties that can apply for a second conviction within a five-year period. The bill will also provide for equivalent offences committed in another Australian jurisdiction to be considered when dealing with a person who has committed an offence in New South Wales and who has a history of serious offences committed outside the State. The bill also contains a new provision in the Act to extend the time period for which proceedings for certain serious offences under the road transport law may be commenced. Currently proceedings for a breach of the Act or its regulations must generally be commenced no later than six months after the date on which the alleged offence is committed.

There is an exception for camera-detected offences, which provides a 12-month period to account for the additional time required for processes associated with driver nomination, of which we heard earlier in the speech of the Hon. Lou Amato. While the six-month period operates effectively for the investigation of general driving and other offences dealt with by police at the roadside, it has proven challenging for Transport for NSW to fully investigate and prosecute complex road transport matters within that time frame. These matters include driver licence fraud and vehicle re-birthing investigations. There are a number of other serious offences where an increase in the statute of limitations is also required to satisfactorily complete an investigation and gather the required evidence to launch a prosecution. These offences include serious driving offences under the Act involving death or injury. Increasing the statute of limitations to two years for these types of offences will align the Act with provisions contained in similar legislation, including the Heavy Vehicle National Law, the Point to Point Transport (Taxis and Hire Vehicles) Act 2016 and the Marine Safety Act 1998.

Another important amendment that this bill makes aims to improve the management of overseas drivers in New South Wales by providing police with the power to deal with certain serious driving offences at the roadside. Over the past five years there have been a total of 2,408 casualty crashes involving overseas licence holders, which unfortunately include 36 fatalities and 574 serious injuries. This Act will be amended to expand police powers to issue a notice withdrawing driver privileges to an overseas licence holder who is caught speeding by more than 30 kilometres an hour over the limit, or whose record shows that they have multiple outstanding penalty notices issued in their name totalling 13 or more demerit points.

Under current arrangements, an overseas driver issued with an infringement notice might avoid a penalty due to the challenges of locating that driver given that they will, of course, have no permanent residential address in New South Wales to serve a notice to or, alternatively, they will have left the State before any action could be taken. That does happen from time to time in these cases. This Government is committed to improving road safety outcomes for the people of New South Wales, and this amendment will mean that overseas drivers will immediately be held accountable for their actions by having their driving privileges removed when they have repeatedly committed breaches of the road rules in the State.

The bill also expands current police powers to allow the impoundment of a company-registered motor vehicle or the confiscation of number plates issued to a company-registered vehicle that is used in the commission of certain serious driving offences, such as speeding by more than 45 kilometres an hour over the limit or engaging in a police pursuit. Under the current provisions, police are required to report these cases to Transport for NSW, which subsequently issues a warning letter to the company advising that any further offences committed in that vehicle may lead to the vehicle's registration being suspended. The Government's view is that companies must take even greater responsibility for their employees' driving behaviour and ensure that employees obey the road rules while driving company vehicles.

Speaking of corporate responsibilities, the next issue that I will talk about is one that has received recent media attention and involves the practice of some companies failing to provide the identity of drivers who have been caught on camera speeding or illegally using mobile phones in company-registered vehicles. While the majority of companies do the right thing, unfortunately there are some that choose to ignore requests to provide the identity of drivers who are caught committing these serious breaches of the road rules. I quote from an article that appeared in *The Sydney Morning Herald* on 18 August:

> More than eight per cent of the 43,000 penalties detected by the new cameras were linked to businesses that said they could not confirm who was driving.

This means that, as there was no driver identified, no demerit points were applied and any subsequent licence suspension action could not be taken. Drivers who commit camera-detected offences such as speeding, running red lights or illegally using mobile phones need to be held accountable for this dangerous behaviour and not be allowed to avoid the application of demerit points and possible licence suspension simply because they were driving a company vehicle and that company failed to identify the driver at that time. That is why this bill will increase the maximum fine that a court may impose on a company which fails to correctly identify the driver responsible for a camera-detected offence from $11,000 to $22,000. To support this measure, regulatory changes are also being made to allow Transport for NSW to suspend the registration of a company-registered vehicle that fails to nominate the driver as required under the law. These measures are being introduced in the interests of road safety and to send a clear message to companies to think twice before deciding to shield a driver to avoid the application of demerit points and driver licence sanctions.

The final change within the bill that I will speak on is the proposal to deal with the display of offensive or discriminatory material on vehicles in New South Wales. I think many members will know exactly the example we were thinking of when we made this change. The Government has received complaints from the public about offensive slogans and cartoons on interstate registered campervans in particular. Some members in this Chamber may have also read about these vehicles in the media and many will have actually seen them firsthand travelling on our roads, as I have many times up and down the coastline of New South Wales. The campervans at the centre of these complaints are typically hired out to travellers and backpackers at quite a discounted rental price. This bill will create a statutory rule-making power in the Act to govern offensive or discriminatory material displayed on a vehicle.

Reverend the Hon. Fred Nile: Hear, hear!

The Hon. TAYLOR MARTIN: I acknowledge the interjection of support from Reverend the Hon. Fred Nile. This will allow Transport for NSW to impose a registration sanction on the vehicle if the offensive messaging is not removed. The change will see New South Wales align with a number of other jurisdictions in Australia, including Queensland and Tasmania, which have already taken action to stamp out offensive advertising on motor vehicles. A national approach is required to regulate this practice and New South Wales is playing its part to close the loophole that enables these vehicles to simply transfer registration to another jurisdiction to avoid sanction.

The registration sanction would be commenced upon advice from Ad Standards that the registered operator of the vehicle has been directed to remove the offensive advertising but has failed to do so. Ad Standards administers a national system of advertising self-regulation. The self-regulation system recognises that advertisers share a common interest in promoting consumer confidence in and respect for general standards of advertising. As a safeguard, a provision in the regulation will allow for the delay of any sanction action in order to avoid customer impacts while the vehicle is hired out. The amendments in this bill will provide much better outcomes for the people of New South Wales and support a safer, more efficient and more effective road transport system. I commend the bill to the House.

The Hon. BEN FRANKLIN (16:42:19**):** I support the Road Transport Legislation Amendment Bill 2020, which includes a number of amendments to the Road Transport Act resulting from the recent statutory review undertaken by Transport for NSW on behalf of the Minister. The bill also contains other amendments to the Act and related legislation that were raised separately to the review process but, for the purposes of efficiency, have been included in the single bill currently before the House. The statutory review process was undertaken in accordance with section 280 of the Act, which requires that it be reviewed to determine whether the policy objectives of the Act remain valid and whether the terms remain appropriate for securing those objectives. Public and stakeholder consultation was undertaken as part of the review process and all submissions received were reviewed by a working group comprising representatives from within the Transport cluster. Targeted consultation sessions were also held with other key stakeholder agencies from both the Stronger Communities and Customer Service clusters.

Where submissions were made in respect of matters that were outside the scope of the statutory review, these matters were referred to the appropriate areas within Transport for NSW for consideration as part of other

ongoing regulatory and operational reform processes. A report of the outcomes of the review was completed and tabled in Parliament on 13 October this year. While the review report found that the Act's objectives remain valid, it identified a number of changes that can be made to certain provisions of the Act to better support its objectives. These changes will improve road safety outcomes, strengthen compliance and enforcement provisions, improve the customer experience and simplify and modernise the Act. Since the introduction of the Road Transport Act in July 2013 there have been many changes to the Act. These continue with this Government's commitment to road safety and its ability to harness the benefits of technology and innovation to underpin customer service and positive road safety outcomes.

These changes have included important initiatives such as the mandatory Alcohol Interlock Program, the introduction of mobile drug testing, camera enforcement of illegal mobile phone use, the commencement of automated vehicle trials and the recent statewide deployment of the New South Wales digital driver licence, to name just a few. The Government's focus on road safety requires the ongoing review of the legislative framework. That is a key focus area of this bill. It is about making sure that road transport legislation continues to be consistent with road safety objectives, that it is practical and that it can be implemented efficiently. It is about making sure that we have a legislative framework that can be enforced with certainty.

I will briefly talk in more detail about a few of the important changes that this bill makes to continue the Government's commitment to road safety. The first change that the bill makes is to improve the administration of the first, second or subsequent offence penalty regime. This provides for increased penalties to be applied to offenders who repeatedly commit serious traffic offences. During the consultation period with regard to the review, and on the advice of the police and Chief Magistrate's office, an amendment is proposed to remove ambiguity regarding the current operation of this provision and to further clarify how first, second or subsequent offending should be determined to ensure that repeat offenders are sentenced accordingly.

The proposed amendment will clarify that any reoffending period should be measured from the date of the offending conduct and not the date of conviction. In addition, similar offences provided for in other Australian jurisdictions may be considered equivalent offences when making this determination. The amendment will provide discretionary decision-making powers for courts to allow magistrates to determine whether or not a similar offence in another jurisdiction should be considered an equivalent offence. This will ensure that drivers who demonstrate repeated disregard for the law, no matter where they drive in Australia, are appropriately penalised and that these penalties will act as a deterrent for continued poor driving behaviour.

Another important change that the bill makes is to expand the powers of the NSW Police Force to deal with overseas drivers who commit high-level speeding offences or breaches of road traffic laws that attract demerit points. This change is required to improve the management of overseas drivers in New South Wales. Over the past five years there have been more than 2,400 casualty crashes involving overseas licence holders in this State, including 36 fatalities and 574 serious injuries. Unlike their New South Wales counterparts, overseas drivers will not have a permanent residential address in New South Wales or a vehicle registered in their name.

While the New South Wales road laws contain provisions to permit Transport for NSW to withdraw a person's visiting driver privileges when they accrue 13 or more demerit points, this sanction can be challenging to enforce due to difficulties in locating the driver. In many cases the overseas driver may have left the State before penalty notices issued to them are finalised. As a result, that driver cannot be held to account for their poor driving behaviour through the allocation of demerit points. Currently an overseas driver can have their visiting driver privileges withdrawn by police at the roadside if they are caught speeding by more than 45 kilometres per hour, or 30 kilometres per hour if they are the holder of an equivalent learner or provisional licence.

The bill will expand these powers to enable police to issue a notice withdrawing visitor driver privileges at the roadside for any overseas driver apprehended for speeding by more than 30 kilometres per hour, regardless of the type of licence they hold. The bill will also allow police to withdraw visiting driver privileges of an overseas licence holder at the roadside for a period of 14 days if that driver has been issued penalty notices within a three-year period for offences that would incur 13 or more demerit points when recorded on the driver's record.

Under the provision of the law, any driver who is suspended must be notified to Transport for NSW, together with a report from police as to whether a further suspension or cancellation of a driver's authority to drive in New South Wales is warranted or desirable in the interests of public safety. On receipt of the report from the police, Transport for NSW may consider imposing a further sanction for a period of time commensurate with the number of demerit points and the nature of the offences that were committed. There is an expectation that overseas visitors who choose to drive while in New South Wales should comply with the road rules, just as any New South Wales licence holder is expected to. While I am sure that the majority of visiting drivers to our State are doing the right thing, it is necessary to introduce the proposed measures in the interests of maintaining road safety for all.

The next amendment that I draw to the attention of members relates to nominations for camera-detected offences. Members may recall recent articles in the media about motorists not being held accountable by the Government for driving offences detected by cameras because offenders were driving company vehicles and those companies were failing to nominate the offending drivers, which is required under law. The law currently provides substantial penalties for any company that fails to nominate a driver that has committed a camera-detected offence. Those penalties include a corporate multiplier that results in an increased fine that is five times the amount that would apply to an individual. When the company correctly nominates the driver, the fine in the company name is then withdrawn and a new fine in the lesser amount is issued to the nominated driver, who then has the usual options available to them to finalise the matter.

Companies that choose not to comply will be liable for the fine issued for the camera offence in the higher amount and they will incur an additional penalty for the offence of failing to nominate a driver. While those measures have had success in encouraging greater compliance, a number of companies are still prepared to shield drivers and opt to pay those additional fines. Statistics from Revenue NSW show that within the 2019-20 financial year there were around 7,000 instances in which a company did not nominate the driver responsible for a camera-detected offence committed in a company-registered vehicle. That means in around 7,000 instances drivers who committed speeding, red-light or other camera offences were not identified and therefore were not held accountable through the application of demerit points or a licence sanction. That is just not fair.

To further deter companies from that type of behaviour, the bill seeks to make amendments to increase the maximum fine that a court may impose for a company that fails to nominate or correctly identify a driver responsible for a camera offence from $11,000 to $22,000, which is a doubling of the fine. The increased penalty for corporations introduces further incentive for a corporation to identify the offending driver. I point out to honourable members that if the company does the right thing and nominates the responsible person, as is legally required, it does not have to pay any fines. To supplement the increased fines for companies that fail to identify offending drivers, amendments will also be made to the regulatory provisions that allow Transport for NSW to suspend the registration of a company vehicle for failing to nominate drivers responsible for camera offences.

Currently Transport for NSW will issue a warning to the company on a second offence and will proceed to suspension action on a third occasion. Under the new arrangement companies that are sent penalty notices for camera offences committed in their vehicle will be warned that not only will they face substantial fines for failure to nominate a driver, but suspension action against the company's vehicle registration may also be taken. In other words, repeated offences for failing to nominate will no longer be tolerated by the Government, and suspension action on the vehicle's registration may be commenced on the first offence when nomination is not completed and the driver's details are not supplied.

The last amendment that I speak to in the Chamber today is the proposal to extend the time limit for proceedings to be commenced for certain offences under the road transport legislation from six months to two years to allow Transport for NSW sufficient time to gather evidence and to investigate complex matters. Currently proceedings for a breach of the Act or its regulations must generally be commenced no later than six months after the date on which the alleged offence is committed. Transport for NSW has encountered difficulties completing investigations for serious and complex matters within a six-month time frame, especially for matters related to driver licence fraud and the rebirthing or cloning of motor vehicles. There is already an exception for camera-detected offences which provides a 12-month period to account for the additional time taken for processes associated with driver nomination.

There are a number of other serious offences where an increase in the statute of limitations is also required to satisfactorily complete an investigation and to gather the required evidence to launch a prosecution. Those offences include serious driving offences under the Act involving death or injury. Increasing the statute of limitations to two years for those types of offences will align the Act with provisions contained in similar legislation, including the Heavy Vehicle National Law, the Point to Point Transport (Taxis and Hire Vehicles) Act 2016 and the Marine Safety Act 1998. The amendments that are proposed by the bill will not impact in any way on the vast majority of our motorists who, all members know, are law-abiding citizens. The amendments in the bill improve and clarify the legislation to make sure that existing road safety initiatives continue to have effect and can be practically enforced. With those few words I am very pleased to lend my support to the bill.

The Hon. SCOTT FARLOW (16:56:52**):** On behalf of the Hon. Don Harwin: In reply: All good things must come to an end, including debate on the Road Transport Legislation Amendment Bill 2020. I thank the members who enthusiastically contributed to debate on the bill, including the Hon. John Graham for the Opposition, Ms Abigail Boyd for The Greens, the Hon. Lou Amato, the Hon. Taylor Martin, the Hon. Ben Franklin and Reverend the Hon. Fred Nile, who noted that the bill makes amendments to the Road Transport Act 2013 as a result of the statutory review process, which was particularly thorough. The review process was

undertaken to improve the operation of the Act and road safety outcomes, strengthen the existing compliance and enforcement provisions and enhance the customer experience in New South Wales.

The bill will help to clarify certain functions and operations under the Act and the application and modernisation of the Act's provisions. The bill will allow additional changes to the Act and related legislation. It will permit Transport for NSW to apply a registration sanction if discriminatory and offensive advertising is not removed from a vehicle, which was of particular concern to the Hon. Taylor Martin; authorise Transport for NSW to use information held in its databases to update customer information for the purposes of exercising its functions, including its maritime functions; ensure that proof of identity documents containing a photo image of an individual are not considered a photograph under the Act; and allow police to impound a motor vehicle or confiscate the number plates of a company-registered vehicle used in the commission of certain serious driving offences.

Other changes to the Act and related legislation under the bill include: enabling police to issue a roadside notice of suspension to overseas drivers who are caught speeding by more than 30 kilometres an hour; increasing the court-imposed penalty for a corporation that fails to nominate or correctly identify a driver responsible for a camera-detected offence, which many honourable members were particularly concerned about in their contributions to debate; mandating that driver licence details and date of birth must be supplied when nominating a person as being responsible for a camera-detected or parking offence; removing the requirement for New South Wales police to conduct an interview with a driving instructor applicant, given that that is covered by the Working with Children Check; and allowing Transport for NSW to release information for the issue, use or verification of a digital photo card.

I consider that the amendments in this bill will ensure that the Act continues to be efficient and effective, transparent and reflective of customer expectations and will strike the right balance between strengthening the compliance and enforcement provisions and enhancing road safety and customer outcomes for the people of New South Wales. 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 TEMPORARY CHAIR (The Hon. Shayne Mallard): There being no objection, the Committee will deal with the bill as a whole. I have two sets of amendments in front of me: The Greens amendments on sheet c2020-187B and Opposition amendments on sheet c2020-184G. The Committee will proceed with The Greens amendments.

Mr DAVID SHOEBRIDGE (17:01:48**):** I move The Greens amendment No. 1 on sheet c2020-187B:

No. 1 **Defence of medicinal use**

Page 4, Schedule 1. Insert after line 41—

[16A] Section 111 Presence of certain drugs (other than alcohol) in oral fluid, blood or urine

Insert after section 111(2)—

(2A) **Defence for offence relating to presence of delta–9–tetrahydrocannabinol in person's oral fluid, blood or urine**

It is a defence to a prosecution for an offence against subsection (1) if the defendant proves to the court's satisfaction that, at the time the defendant engaged in the conduct that is alleged to have contravened the subsection, the presence in the defendant's oral fluid, blood or urine of delta-9-tetrahydrocannabinol was caused by the consumption of a substance for medicinal purposes.

Note. Section 111(2A) is not a defence to a prosecution for an offence against section 112(1).

This amendment seeks to include a defence to section 111 of the Road Transport Act in relation to the offence that thousands of drivers have been convicted of: driving with the presence of certain drugs in oral fluid, blood or urine. The proposed amended defence is in the following terms:

> It is a defence to a prosecution for an offence against subsection (1) if the defendant proves to the court's satisfaction that, at the time the defendant engaged in the conduct that is alleged to have contravened the subsection, the presence in the defendant's oral fluid, blood or urine of delta-9-tetrahydrocannabinol was caused by the consumption of a substance for medicinal purposes.

This matter has caused significant concern across the community. There are currently two offences in the Road Transport Act in relation to driving with drugs in the system. Technically there are three because there are also the well-known provisions in relation to driving with a prescribed content of alcohol. There are clearly defined limits based upon a driver's experience as well as the well-proven levels of alcohol known to have an impairing

effect on somebody's driving. For a very novice driver or a young driver, the evidence would suggest that there is no safe level of alcohol. For a driver who has had some years of experience, the evidence would suggest a very low level alcohol of 0.02 should be the maximum. For a driver of more experience, the evidence would suggest a slightly higher alcohol level of 0.05 is acceptable.

When it comes to drugs other than alcohol, the two relevant provisions are section 111 and section 112 of the Act. Of course, section 112 is a provision that applies to all drugs. It says, as the law should clearly say, that anyone who is driving while impaired by a drug is committing a very serious offence that would lead to the loss of their licence. That is a provision The Greens support. We believe that impairment should be the test for whether or not a driver should be removed from the privileges of having a licence. If they are driving with any level of drugs that impairs them, whether the drug is legal or illegal, or if they are impaired in their driving, they should be removed from the road. There should be testing for that. The concern The Greens have had for some time is in relation to section 111 of the Road Transport Act.

Section 111, as initially legislated, provides an offence to drive with the mere presence of any one of three illegal drugs: ecstasy, cannabis or amphetamines. The slightest trace of any of those drugs in the system whilst driving is what constitutes an offence. The concern for The Greens has always been in relation to the offence for driving with a slight trace element of cannabis in somebody's system because the sensitivity of the test, which picks up the smallest trace elements of cannabis, has been repeatedly used to find drivers in breach of section 111 and to remove their licences. This often sees them economically and socially isolated as a result. Of course, this has the greatest impact on regional New South Wales.

The Bureau of Crime Statistics and Research [BOCSAR] did a study some two years ago about where this offence is most often prosecuted. The areas in the State most impacted by prosecutions and driver licence losses under section 111 are the North Coast of the State, Lismore and the Northern Rivers regions, and south-west Sydney. These are the areas being hardest hit by this section. There are many hundreds—indeed, thousands—of cases where a driver has lost their driver licence not because they were impaired or because they were a danger but because they had the smallest, tiniest trace element of cannabis in their system. They may have had a joint a week ago, a fortnight ago or days before and then they are picked up in a roadside drug test and their licence is taken away. There are ongoing concerns about the sensitivity and false positives of some of those roadside drug tests. I will not go into those concerns in this contribution but I point to the bizarre system we have in New South Wales. It is replicated in other States; it is not just in New South Wales. Victoria has the same system.

Police at a roadside drug test will pull drivers over and test them using the oral test. They may test a driver who has the slightest trace element of cannabis in their system. That driver may have had a joint a week ago. There could be no question or argument that they were not impaired, but the trace element of cannabis is picked up and they are automatically suspended and lose their licence. There is the first oral test and then there is a second test undertaken with another machine, a Dräger machine. If the second test confirms the mere presence of cannabis, there is an automatic loss of licence. The law says that once that offence is prosecuted, unless the driver can persuade a magistrate to give them a section 10, there is an automatic three-month loss of licence. If it happens a second time there is an automatic six-month loss of licence. Meanwhile, at that same drug-driving stop, the next driver who comes through may have an appallingly dangerous level of prescription drugs in their system—

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I am confused, Mr David Shoebridge. Are you moving amendment No. 1 about the consumption of a substance for medicinal purposes? Is that the defence?

Mr DAVID SHOEBRIDGE: Correct.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): I do not know that the member is speaking to the specific amendment.

Mr DAVID SHOEBRIDGE: I am, but I will draw back to the amendment with greater rapidity. The next driver may have a very high content of benzodiazepines in their system—which all the road trauma studies show is one of the leading causes of road trauma and death in drug-impacted driving—and the driver will not be tested for that. Their impairment will not be picked up by that drug test and they will be waved through by the police. So we have this bizarre situation where the slightest trace of cannabis may see someone losing their licence but the police are not testing for, and the law does not encourage them to test for, that class of prescription drugs—benzodiazepines—which we know is a major cause of road trauma in the State.

But it gets even worse. We have now put in place in this State a system for medicinal cannabis and there are many people—an increasing number of people—who are relying upon medicinal cannabis to deal with chronic pain and with very, very significant health impacts that they have. If any of those people who are assisted by medicinal cannabis go past a roadside drug test and are found with the slightest trace of tetrahydrocannabinol [THC] in their system and there is no suggestion that it would be at a level that would impair their driving, they

too will lose their licence. These are people who often have a desperate need for a licence to get to medical attention, to maintain their connections with family or to maintain their connections in the community, and they automatically lose their licence—there is absolutely no defence. This will, for the first time, put a defence in the law for that class of driver.

I conclude by putting on the record some observations from an experienced magistrate, David Heilpern, who has recently resigned his position on the bench. One of the primary reasons he resigned from his position on the bench was that he had seen firsthand, with the defendants who came before him, the unfairness in the way in which this roadside drug testing had been operating. Magistrate Heilpern was quoted in an ABC article saying that whilst it is clear that we have an impairment-based test for alcohol, with drugs such as cannabis there is not such a clear link between a positive test—particularly on the mere "presence" testing—and adverse driving, given that minute levels of the drug can be detected. He said:

> An enormous number, the vast majority of people who are brought before the courts on this charge, are not affected [by the drug]. It's a historical or relatively benign impact on their driving ability, days, or even weeks after their use. When they introduced random breath testing, the road toll decreased massively. When they introduced seatbelt laws, there was a reduction in the road toll. I have seen nothing to show that there is any reduction in the road toll as a result of thousands and thousands of people who are appearing before courts for historic use of cannabis.

From his experience of how this works in practice, he said:

> People would lose their licence, therefore they would lose their job. Therefore, they could well lose their house. Their relationships were affected. People became very much more isolated. Every week, I would have people in tears in court saying, "Please don't take my licence from me. I need it, I'm a single mum, I've got kids" or "I live out of town and I work in town". These consequences are really serious.

This amendment will not fix the overall unfairness of the system; it will not get us to what The Greens believe we should have, which is a rational, evidence-based level of drugs in someone's system across the board—legal or illegal—where we know that at a certain level it will be impairing people's driving. We test for that, we ruthlessly police that, and we keep our roads safe. That is where The Greens believe the law should be. But, in the meantime, we need to provide a defence for that growing number of people in our community who are using cannabis for medicinal purposes and who are effectively prohibited from driving on the roads because of the way in which section 111 of the Road Transport Act works. This will provide a defence, but I stress that it will not provide a defence for a charge under section 112.

If a driver is using medicinal cannabis at a level that is impairing their driving, that will still be unlawful in the State. The amendment will mean that those people who are using medicinal cannabis and just have a trace element of it can continue to access their jobs, their family and health care. In much of this State, that requires a driver licence. At the moment those people are effectively banned from driving. We need to fix this unfairness. I commend the amendment to the Committee.

The Hon. SCOTT FARLOW (17:13:57**):** I speak to the proposal from The Greens for an amendment to section 111 of the Road Transport Act 2013 to insert a defence for a prosecution for the offence of driving with the "presence" of tetrahydrocannabinol [THC] in the blood, urine or oral fluid of a driver, if the driver can prove to a court that at the time they were driving with THC present in their oral fluid, blood or urine the presence was caused by the consumption of a substance for medicinal purposes. The Greens are advocating that this amendment is not a defence to driving while "impaired" by THC and that it only applies to the strict liability offence under section 111 of the Road Traffic Act of driving with the mere "presence" of THC.

THC is the key active component of cannabis which produces effects on a user and is targeted under roadside testing. Under the Road Transport Act 2013 it is an offence for a driver to have THC in their oral fluid, blood or urine. THC affects cognitive and motor skills necessary for safe driving such as attention, judgement, memory, vision and coordination. The Government rejects the proposed amendment. In doing so we note that the Australian Capital Territory—which, after the weekend, is still a Greens-Labor coalition Government—legalised medicinal cannabis in January 2020, but it has not amended its road transport law to allow medicinal reasons as a defence. Indeed, the Australian Capital Territory Government's website justice.act.gov.au advises that with regards to the legalisation of medicinal cannabis and road safety risks "there is no safe amount, and each person is affected differently by cannabis use".

Exposure to cannabis can increase the crash risk of drivers by an estimated 40 per cent. New South Wales crash data indicate that since 2014 there has been a 7 per cent increase in the number of fatalities and serious crashes directly attributed to the presence of an illicit drug, and a 3 per cent increase for the same period of time in the number of crashes directly attributed to the presence of THC. Consultations for the Road Safety Plan 2021 indicated that 90 per cent of community representation considered alcohol and drug testing important for road safety. There is no reliable way to distinguish whether the source of THC is illicit or medicinal, or in combination, at the roadside. Roadside screening devices cannot distinguish between therapeutic and illicit sources of THC or

quantify the amount of drug in a sample. That is why we have in place robust drug-driving policy that clearly reflects the unacceptability of driving after drug use and the highly visible and mobile drug testing enforcement which deters drug-driving, regardless of the reason for the presence of the drug.

Around half of all positive mobile drug test results in 2019 showed the presence of THC. Any change to the current position regarding cannabis in the drug-driving regime may undermine the effectiveness of enforcement. Change is not supported at this time as there is a clear road safety need to continue to deter driving after psychoactive drug use, regardless of whether the substance was taken for therapeutic or other reasons. A Government interagency group has been engaged in the ongoing drug-driving policy review, as well as to monitor the international research and development. In light of the clinical trial currently underway to evaluate the safety and effectiveness of cannabis in providing relief from the symptoms of serious conditions, the Centre for Road Safety will engage closely with NSW Health on an ongoing basis. The Government opposes the amendment.

The Hon. JOHN GRAHAM (17:17:20**):** I thank Mr David Shoebridge for moving this amendment and for the strong position he has put in debate on this issue. I know it is of real concern to many citizens of New South Wales. The Opposition is not in a position to support the amendment. We have been following the position in Victoria, where this matter has been the subject of significant discussion. Where the Victorian discussion has probably got up more steam than has been in the case in New South Wales is, in part, because it has gone through the Victorian parliamentary committee process. Perhaps this is the sort of complex area where there are mixed views in the community on these questions that will benefit from the workings of the committee process of this House. It may be a way to sift through what have been two very strongly contrasting positions that have been put to us by the mover of the amendment and by the Government.

I welcome the commitments the Government has made to keep looking at this area and the ongoing work that the Centre for Road Safety is doing. The member gave me a copy of the amendment as soon as it was available, but, obviously, our shadow Cabinet has not been able to consider it. For those reasons the Opposition will not support the amendment, but we recognise that this is a very serious issue and that it is of serious concern to the citizens of New South Wales, a number of whom are deeply affected by these sorts of issues. We recognise the position the Government has put today in the debate.

Reverend the Hon. FRED NILE (17:19:20**):** As members would anticipate, the Christian Democratic Party strongly opposes the amendment and is pleased that the Opposition is opposing it as well. We must have consistent laws in New South Wales, which we have had. We must maintain them in the interest of road safety and the lives of people in our community, especially the young people. We must deter them from smoking pot and driving—combining the two together is the problem. The amendment, if passed, would water down the strong position that the State has taken and endanger the lives of young people. The Christian Democratic Party opposes the amendment. It is not surprising that The Greens have moved it; we anticipate that they would go further if they had the chance.

Mr DAVID SHOEBRIDGE (17:20:28**):** I thank the Parliamentary Secretary and the Opposition for their contributions. They have engaged with the issues. It is a useful contribution from the Government to note that there is ongoing work between NSW Health and Transport for NSW in the drug-driving space, and that there is indeed an international review being undertaken. That is a positive development because the international review will be able to look at some of the international examples that are impairment-based. The UK has an impairment-based model, not a mere presence model, and that follows the very detailed work of the Wolf report. Some European nations have a very clear impairment-based model, where they have clearly defined concentrations of drugs, both legal and illegal, that are found to impair a person's driving. I put forward Norway as one of the obvious examples in that regard.

It is unfortunate that we do not have the Opposition's support for the amendment at this stage, but I accept the advance that it acknowledges the seriousness of the issue. I note that it has been a somewhat busy week in politics in New South Wales. Whilst I would have liked to have had the amendment drafted earlier, I have had a distracted week and I accept that it has not got to the Opposition in time to go to shadow Cabinet. Given the seriousness of the matter, I accept that that is a structural issue in dealing with it today. We have thousands and thousands of drivers who are being punished for a victimless crime where they are not a danger to others. The trace elements of cannabis in their system are not impairing their driving and they are often being severely punished with the loss of their licence, their connections to family and their jobs.

We have a collective obligation to sort that out. I accept that we are not going to have the numbers to sort it tonight. Indeed, the amendment does not take us entirely where we must get, which is to the impairment-based system. But I think it is useful that we ventilate those concerns and have an engaged debate upon it. The Opposition's suggestion of committing to establishing a formal parliamentary process where we review the issue—whether it is through the law and justice committee or some other one—is a positive contribution we have had

today. I commend the amendment in its terms to the House. I hope in the very near future to have the numbers to fix the issue.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Mr David Shoebridge has moved The Greens amendment No. 1 on sheet c2020-187B. The question is that the amendment be agreed to.

The Committee divided.

Ayes 5
Noes 33
Majority.....28

AYES

Boyd (teller)	Hurst	Shoebridge (teller)
Faehrmann	Pearson	

NOES

Ajaka	Field	Mookhey
Amato	Franklin	Moriarty
Banasiak	Graham	Moselmane
Borsak	Harwin	Nile
Buttigieg	Houssos	Primrose
Cusack	Jackson	Roberts
D'Adam	Khan	Searle
Donnelly	Maclaren-Jones (teller)	Sharpe
Fang	Martin	Taylor
Farlow	Mason-Cox	Veitch
Farraway (teller)	Mitchell	Ward

Amendment negatived.

Ms ABIGAIL BOYD (17:33:37**):** By leave: I move The Greens amendments Nos 2 and 3 on sheet c2020-187B in globo:

No. 2 **Statutory declaration**

Page 5, Schedule 1. Insert after line 27—

[25A] Section 188(1A)

Insert after section 188(1)—

(1A) For the purposes of subsection (1), if a person is a corporation, the person must—

(a) nominate an officer of the corporation to undertake to ascertain the nomination details of the person who was in charge of the vehicle at the time the offence occurred, and

(b) require the nominated officer to complete a statutory declaration as to the efforts undertaken to ascertain the nomination details, and

(c) provide the authorised officer or court, as the case may be, with the statutory declaration of the nominated officer.

No. 3 **Statutory declaration**

Page 5, Schedule 1. Insert after line 30—

[26A] Section 190 Use of statutory declarations as evidence

Insert "or (1A)" after "188(1)" in section 190(3).

While the bill in its current state takes the necessary steps to ensure that corporations are more adequately penalised for driving offences committed by unidentifiable drivers of their registered vehicles, it does not make the required changes to force them to take the steps to identify those drivers correctly.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Order! There is too much chatter in the Chamber while the member is speaking.

Ms ABIGAIL BOYD: Over 7,000 incidents occurred in New South Wales in the 2019-20 financial year where a corporation did not identify a driver of one of its vehicles for a driving offence. It is clear that the problem

must be addressed. Amendment No. 2 outlines clearly the steps that corporations will be required to take in the event that one of its registered vehicles is involved in a driving offence where the identity of the driver cannot be established. The amendment provides that a corporation must nominate an officer to undertake an investigation into who was assigned the vehicle at the time of the incident. It requires that officer to complete a statutory declaration as to the efforts undertaken to ascertain the nomination details and to provide that declaration to the relevant body or court. Those changes, along with the penalty increases in the bill for a corporation that does not disclose the identity of a driver involved in a driving offence while driving one of its vehicles, will work to reduce offences on our roads and to begin to unwind the culture that enables people to avoid responsibility and accountability for their actions by hiding behind corporate entities.

The Hon. SCOTT FARLOW (17:35:34**):** Thank you—

The Hon. Mark Pearson: "The Government supports … "

The Hon. SCOTT FARLOW: The Government does support—surprise, surprise, there you go!

The Hon. Mark Pearson: I'm a very psychic person.

The Hon. SCOTT FARLOW: You are indeed. The Government is pleased to support The Greens amendments. Amendment No. 2 inserts a new provision into the Road Transport Act 2013 to provide that a corporation that is sent a penalty notice or court attendance notice for a camera-recorded offence must nominate an officer of the corporation to undertake to ascertain who was in charge of the vehicle at the time of the offence, and provide a statutory declaration to Revenue NSW or the court, as the case may be, explaining what reasonable steps they took to ascertain who the driver was.

Amendment No. 3 makes a consequential amendment to section 190 of the Act to insert a reference to the new subsection 188 (1A) so that Revenue NSW or the court may have regard to a statutory declaration that is provided by the authorised officer of the corporation when determining whether the person did not know and could not with reasonable diligence have ascertained the name and address of the person in charge of a vehicle. Failure to provide a statutory declaration in those circumstances would mean that the corporation has failed to provide a nomination as required under the Act and, therefore, would be subject to the penalties that may be imposed for an offence under section 188 (1) of the Act.

The additional measures introduced by the amendments address the issue of corporations failing to comply with their obligations under the law to nominate drivers who commit camera-recorded offences in a company vehicle. That problem arises only with corporations because where the registered operator is a real person, such as for privately registered vehicles, generally there is no problem in assigning responsibility for the offence, including demerit points, to the individual who is recorded as the registered operator of the vehicle. However, where the registered operator is a company, responsibility for the offence cannot be assigned to a real person unless the company actually nominates someone. That has been proven to provide scope for a company to shield the offender from the allocation of demerit points and the possible loss of licence.

During the second reading debate on the bill, members quoted statistics with respect to the size of the problem. With respect, and for the assurance of the House, those statistics may not be accurate because there is a time lag in the nomination of individuals. On average, it takes three months for the figures to adjust. For example, in March 399 mobile phone penalties were given to corporations. In April there were 402. However, in September there were 1,498. That shows that there is quite a variance and that an adjustment takes place. Of course, it is still an issue that the Government seeks to address in the bill, and it is addressed further by the amendments.

Much work is being done to introduce measures to encourage a company to nominate the offending driver. Those measures include increasing the maximum court fine for a company that fails to nominate or correctly identify an offender for a camera-recorded offence from $11,000 to $22,000. Drivers who commit camera-recorded offences while driving company-registered vehicles should not be able to escape punishment. The Government is pleased to support The Greens amendments because they complement the measures proposed in the bill.

The Hon. JOHN GRAHAM (17:38:46**):** The Opposition will support The Greens amendments. We think the statutory declaration is a very good idea. I congratulate the member on proposing it as an amendment to the bill. As I have said, the Opposition has real concerns about the administration of the program and what it might mean for public confidence in the system of camera offences in the State of New South Wales. Our view is that the three things will work together. We have supported the increase in penalties in the bill. The Greens amendments are excellent. The Opposition will move an amendment shortly that also tightens up reporting around exactly how that is being enforced. Together those amendments should make a difference.

I acknowledge the Parliamentary Secretary's comment about how the numbers track—what Revenue NSW would refer to as the fine's life cycle. That is true, although the Opposition has been observing how those numbers have moved over time. There is a concern that they are still higher for mobile phone offences than for red light or speed cameras. I acknowledge that some of the figures that I referred to in August—partial returns in July—may come down. But looking to the earlier months there is a problem because the rates are, on average, still much higher than they have been for other offences. People are evading the law and there are dangerous drivers on our roads who should not be as a result of what is going on. The Opposition supports the amendments and will move a further amendment.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Ms Abigail Boyd has moved The Greens amendments Nos 2 and 3 on sheet c2020-187B. The question is that the amendments be agreed to.

Amendments agreed to.

The Hon. JOHN GRAHAM (17:40:58**):** I move Opposition amendment No. 1 on sheet c2020-184G:

No. 1 **Reports about offences committed by corporations**

Page 9, Schedule 1. Insert after line 18—

[36A] Section 279A

Insert after section 279—

279A Reports on liability of corporations for camera recorded offences

(1) Revenue NSW is to prepare a monthly report that contains the following information for the month—

(a) the number of penalty notices issued to corporations for camera recorded offences, categorised by each particular offence,

(b) the number of offences against section 188(1) alleged to have been committed by a corporation, whether dealt with by penalty notice or court attendance notice,

(c) the number of times the registration of a registrable vehicle was suspended because the registered operator of the vehicle was a corporation that committed an offence under section 188(1).

(2) As soon as reasonably practicable after preparing a report, Revenue NSW is to make the report available to the public on a NSW Government website.

(3) In this section—

camera recorded offence has the same meaning as in Part 7.3, Division 2.

The purpose of the amendment is to make clear how corporation-nominated driving offences are being enforced. We would like it to be clear how many there are and, when action is taken, to ensure that they are not being used inappropriately. That is important because at the moment it is not clear to the Opposition how often they are being enforced. We want that information to be reported publicly. The amendment was moved in another form in the other place. It was opposed by the Government and was not successful. I welcome the discussions that the Opposition has had with the Minister and his office to get the amendment into a form that the Government can live with. The result is an amendment that provides that Revenue NSW will publish the number of penalties and offences in relation to that area of the law each month via the Government website, which is a good step. Together with the other measures that are being introduced, it should see the evasion of the law through the use of the loophole decline over time, which is good for public confidence in what is a successful road safety measure.

The Hon. SCOTT FARLOW (17:42:30**):** The Government supports the Opposition amendment. The amendment proposes to insert new section 279A into the Road Transport Act, which will require a monthly report on enforcement of camera-recorded offences against registered operators that are corporations to be published on a New South Wales Government website. The report will include information on the number of penalty notices issued to corporations categorised by the type of camera-recorded offence. Camera-recorded offences are defined under division 2 part 7.3 of the Act and include offences such as speeding, disobeying a traffic light, illegal use of a mobile phone or driving in a public transport lane. The report will also include the number of offences committed by a corporation under section 188 (1) of the Act when a driver was not nominated and the corporation was either issued a penalty notice or a court attendance notice in respect of the alleged offence. The report will include the number of times the registration of a company-registered vehicle was suspended because the offending driver was not nominated.

Currently, Transport for NSW has a discretionary power under the regulations to suspend the registration of a company vehicle if it appears that the registered operator of the vehicle, being a corporation, has committed a second or subsequent offence of failing to nominate the driver responsible for a camera-recorded offence under

section 188 (1) of the Act. To support the measures currently being introduced by the bill in relation to camera offences committed by drivers in company-registered vehicles, it is proposed to also amend the regulations to allow Transport for NSW to consider imposing a registration suspension on a first offence. As is current practice, Transport for NSW will first send corporations a notice to show cause to provide ample opportunity for reasons to be put forward as to why registration suspension action should not proceed. Decisions by Transport for NSW to impose a registration suspension in those circumstances will also be applicable to a Local Court. As the Minister stated in the other place, the Government wants to bring as much accountability to corporations to try to resolve the lack of nomination of drivers that currently occurs. The Government supports the amendment.

Ms ABIGAIL BOYD (17:44:48**):** On behalf of The Greens I speak in support of the amendment. I agree wholeheartedly with the Hon. John Graham that the three new measures—the increased penalties, the register and the requirement to investigate and get a statutory declaration—take us a long way towards addressing those issues. We support the amendment.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The Hon. John Graham has moved Opposition amendment No. 1 on sheet c2020-184G. The question is that the amendment be agreed to.

Amendment agreed to.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): The question is that the bill as amended be agreed to.

Motion agreed to.

The Hon. SCOTT FARLOW: I move:

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

Motion agreed to.

Adoption of Report

The Hon. SCOTT FARLOW: On behalf of the Hon. Don Harwin: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. SCOTT FARLOW: On behalf of the Hon. Don Harwin: I move:

That this bill be now read a third time.

Motion agreed to.

Ministerial Statement

STUDENT GENDER IDENTITY

The Hon. SARAH MITCHELL (Minister for Education and Early Childhood Learning) (17:46:45**):** Under Standing Order 48 I make a brief ministerial statement. Earlier today in answers to questions from the Hon. Mark Latham about students' gender identity I was advised in error by the NSW Education Standards Authority [NESA] that the students' professional development course that he was referring to is no longer endorsed by NESA. It has since informed me this afternoon that that course is under review with a determination to be made shortly.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. DON HARWIN: I move:

That Government business orders of the day Nos 3 to 5 be postponed until a later hour.

Motion agreed to.

Bills

LIQUOR AMENDMENT (24-HOUR ECONOMY) BILL 2020

Second Reading Debate

Debate resumed from 15 October 2020.

The Hon. CATHERINE CUSACK (17:48:21**):** On behalf of the Hon. Damien Tudehope: In reply: I thank honourable members for their contributions to the debate on the Liquor Amendment (24-hour Economy) Bill 2020 and for the cooperative work done across parties to progress the bill in the Chamber. It is a testament to what this place can achieve when we work together and I appreciate that. As we have heard, the bill contains important reforms to help create a vibrant, inclusive, safe and strong 24-hour economy. The bill will amend the Liquor Act 2007 to support the implementation of the second stage of the Government's response to the Parliament's Joint Select Committee on Sydney's Night Time Economy. The bill builds on the first stage of the Government's 24-hour economy reforms, which commenced on 14 January 2020.

These changes included the removal of the lockout and drinks restrictions in the Sydney CBD precinct, an increase in small bar patron capacity to 120, and extending takeaway alcohol sales times across New South Wales. The bill complements the Government's recently released 24-hour Economy Strategy for Greater Sydney. The strategy takes a comprehensive approach to encourage a diverse and vibrant night-time economy. It outlines 39 action items across five strategic pillars to reduce red tape, improve mobility across the city and make it an easier place to do business and to go out at night. Together with the strategy, the bill will provide important foundations to support and invigorate the 24-hour economy. We are a Government that listens to the community and industry. The drafting of this bill was informed by extensive community, industry and Government consultation. The exposure bill was released over an eight-week period in May and June of this year. I thank all those who submitted to the consultation.

The Government formed an industry advisory group to help create the 24-hour Economy Strategy. I take this opportunity to also thank all the participants in that group for their work. We are living in unprecedented times. The COVID-19 pandemic has hit hard. It has had a devastating effect on the hospitality, arts and entertainment sectors in particular. Boosting the State's 24-hour economy has always been a priority for this Government and is now more important than ever. The Government wants to help businesses thrive and get back on their feet as restrictions ease. The reforms are proposed to be phased in from December 2020 onwards. They will play a critical role in supporting the recovery of New South Wales nightlife as COVID-19 restrictions are eased. The bill builds on measures already being undertaken by the Government to support industry through these challenging times. Licensees are being provided relief through waived annual liquor licence fees and application fees.

Liquor & Gaming NSW is taking a pragmatic approach to liquor law enforcement while patron numbers are limited under the public health orders. For example, premises such as small bars, restaurants and cafes continue to be able to offer a takeaway alcohol or home delivery service. The Government is also supporting a trial in Newcastle this year to relax a range of restrictions imposed on lower risk venues, such as small bars and restaurants. The Government established the outdoor dining task force to bring together New South Wales Government agencies and council representatives to slash red tape and support industry's recovery. The Government has worked quickly and effectively to develop solutions ahead of summer to activate outdoor hospitality spaces. We are making approvals for alfresco dining and drinking easier and faster to get. What was previously a three-month process involving multiple agencies has become a single application that takes a week. Expanded liquor licence boundaries will be approved in as little as three days—a process that previously took up to 51 days. These new measures have been place in The Rocks since last Friday and will roll out in the city from 1 November for a 12-month pilot in time for the warmer weather.

These new outdoor dining measures aim to keep our communities safe, support local business and boost the economy by drawing people back into the city. This Government has flagged in our 24-hour Economy Strategy that we will be providing more support for pop-up bars and events in outdoor spaces across the State. We want to continue to simplify requirements and improve affordability for creating pop-up activations and cultural events, and to work with councils to make it easier for organisers to activate available retail, commercial and public spaces. Alongside these innovative measures the bill implements a range of reforms to realise the Government's bold visions for a vibrant and safe economy as we transition out of the effects of the pandemic over coming months and years. In particular, the bill includes reforms to remove red tape and reduce regulatory overlap. The bill will permit family-oriented activities in small bars and streamline approval processes to make it easier and faster for these small businesses to start up, trade and diversify their services. It will support small bars to provide diverse offerings throughout the day and night for the community, improving their viability, with appropriate measures to mitigate any risks.

The bill supports more live music and entertainment at licensed premises by removing overly onerous and outdated conditions. But we also recognise the importance of community input regarding the amenity of the surrounds. The bill introduces a new streamlined integrated incentives and sanctions system. It rewards well-run venues and supports patron safety. This new demerits system is an example of the Government's risk-based approach to liquor laws. The new system incentivises good behaviour at licensed premises while at the same time sanctioning operators that do the wrong thing. The Government strongly supports more business growth, diversity

and vibrancy in the 24-hour economy. The bill introduces a new framework for the declaration of cumulative impact areas to manage the density and impact of licensed premises in high concentration areas. In the first instance this will provide an alternative approach to the liquor licence freeze in the Sydney CBD and Kings Cross. While the freeze was appropriate for its time, we now need a more sophisticated and nuanced approach to manage density in the precincts.

The new framework will maintain community safety, ensuring we do not see a return to historical events of violence. It will provide certainty for industry, community and Government about how density issues in the precincts will be managed. The bill makes it clear that proposals for new and dedicated spaces used primarily for live music, live performances or creative and cultural uses will not be limited by this framework in any way. We are proud that this bill introduces an enhanced regulatory framework for same-day alcohol delivery. It will be the first of its kind in Australia. It responds to the ongoing growth of this sector. It aims to address the risks of minors or intoxicated people accessing alcohol through these services. Standards for same-day delivery providers and staff will be lifted, so they are more comparable to those that apply to bottle shops.

I take this opportunity to talk about some of the important governance arrangements this Government is putting in place to support the 24-hour economy. There is a new role for a 24-hour Economy Commissioner envisaged in the Government's 24-hour Economy Strategy for Greater Sydney. The commissioner will spearhead multi-stakeholder efforts within and outside of the New South Wales Government to implement the 24-hour Economy Strategy. The commissioner will be supported in that role by a consultative committee. The committee will include senior representatives from New South Wales Government, industry and councils. In addition, the 24-hour Economy Strategy's industry advisory group will continue to meet as representatives of industry. Councils representation will be through the Night Time Economy Councils' Committee. Councils will determine with the New South Wales Government whether another joint body is preferable.

The intended role of the consultative committee is to advise the commissioner on the implementation of the strategy and practical applications of Government legislation. This is about ensuring that industry and councils are taking the actions they are responsible for under the strategy. It is about looking for synergies across and outside of New South Wales that will help us expedite the delivery of the strategy or that present opportunities for cooperation, information sharing and program development. It is about supporting data collection and impact evaluation. It will advise the Government on the whole-of-industry impacts of regulatory and legislative change. I anticipate that five interagency working groups will work with the consultative committee across areas, including place making and industry activation, mobility, a 24-hour Sydney brand and diversification, community and business activation and safety and wellbeing. I understand that funding for the commissioner and the secretariat is being considered as part of the upcoming State budget and the consultative committee will be formally established as soon as possible but at least by February 2021.

Finally, I will briefly comment on last week's debate. While we may all live to regret the public outing of our personal music tastes, what that discussion really highlighted was how important the issues in the bill are to members of this place. Over the past week there has been a great deal of work on both sides to develop a sensible and productive set of amendments to the bill. I am confident that we have got the balance right between supporting live music and managing community impacts of noise. To this end I want to once again acknowledge the Hon. John Graham's work on the bill. In conclusion, the bill amends the liquor legislation to support the creation of a vibrant, inclusive, safe and strong 24-hour economy. It further improves the regulation of the liquor industry.

The bill balances the needs of industry and the community, maintaining safety without imposing unnecessary regulatory burden. The measures in the bill form a set of customer-centred, risk-based liquor reforms. They build on the fine work already being progressed by this Government. They provide important foundations to underpin the comprehensive work charted in the Government's 24-hour Economy Strategy for Greater Sydney. The bill supports business certainty and viability in the post COVID-19 environment while promoting effective measures to minimise risks of alcohol-related violence and harm to the community. This bill will support a vibrant, inclusive, safe and strong 24-hour economy for residents and visitors of all ages. I commend the bill to the House.

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

Motion agreed to.

Instruction to Committee of the Whole

The Hon. JOHN GRAHAM (18:00:30**):** I move, according to sessional order:

That it be an instruction to the Committee of the Whole that they have power to consider amendments to the:

(a) Environment Planning and Assessment Act 1979, Environment Planning and Assessment Regulation 2000, State Environmental Planning Policy (Exempt and Complying Development Codes) 2008, and Standard Instrument (Local Environmental Plans) Order 2006 relating to the development of land for arts and cultural activity, and

(b) Local Government Act 1993 relating to the establishment of special entertainment precincts.

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

Motion agreed to.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): I will now leave the Chair. The House will resume at 7.30 p.m.

The Hon. CATHERINE CUSACK (19:30:58**):** I move, according to sessional order:

That it be an instruction to the Committee of the Whole that they have power to consider amendments to the Roads Act 1993 relating to the use of roads for food or drink premises.

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

Motion agreed to.

In Committee

The CHAIR (The Hon. Trevor Khan): There being no objection, the Committee will deal with the bill as a whole. I have before me a number of amendments. They are Government amendments appearing on sheets c2020-174E, c2020-199A, c2020-191G, c2020-190E; Opposition amendments appearing on sheets c2020-195A, c2020-200A, c2020-173L, c2020-172A, c2020-170A, c2020-178E, c2020-197, c2020-196C; and The Greens amendments appearing on sheets c2020-145K, c2020-166A, c2020-161 and c2020-159E. The running sheet will be distributed to assist members. Subject to the multiple directions that I will receive, we will try to get through this together. I invite the Hon. John Graham, who is in charge of part of the proceedings, to move amendment No. 1 on sheet c2020-170A.

The Hon. JOHN GRAHAM (19:35:09**):** By leave: I move Opposition amendments Nos 1 to 3 on sheet c2020-170A in globo:

No. 1 **Name of Act**

Page 2, clause 1, line 3. Omit "24-hour". Insert instead "Night-time".

No. 2 **Consequential amendment**

Page 20, Schedule 1.1[11] (proposed Schedule 1, Part 16), line 2. Omit "**24-hour**". Insert instead "**Night-time**".

No. 3 **Consequential amendment**

Page 20, Schedule 1.1[11] (proposed Schedule 1, clause 62), line 5. Omit "*24-hour*". Insert instead "*Night-time*".

I will make a couple of observations about the process to speed us through the night, given that there is a large number of amendments. I hope that the good dialogue between the Government, Opposition and crossbench on the issues will allow us to move through the amendments in a faster manner than might otherwise be possible. That reflects the quality of the dialogue across the Chamber not just in the recent week, but for a couple of years. I hope that some of the discussions, consensus and committee recommendations will now be found in the amendments and, by the end of the Committee stage, in the bill. I thank the various Ministers' offices. I will not name them all because I will definitely lose track of them, but I thank Minister Victor Dominello's staff in particular. They have led the discussions and they have allowed members to reach the point that we are at tonight.

Having said that, I move three simple amendments, which seek to change the name of the bill as I flagged in my contribution to debate on the bill. This is billed as the Liquor Amendment (24-hour Economy) Bill. Labor seeks to change it to the Liquor Amendment (Night-time Economy) Bill. The Opposition's objection is that the bill does not allow for a 24-hour economy, though that is the Government's aspiration and strategy, which is much better than it was to start with. I am hopeful about where the Committee might head this evening. That amendment is a truth measure from the perspective of Labor. If the Government was moving to a 24-hour economy with the bill, then Opposition members would be happy for it to be named that way, but without those provisions to back it up we think this more modest claim better suits the bill.

The CHAIR (The Hon. Trevor Khan): I have been told that some of the amendments are being redrafted. I make it clear now that unless there is agreement from members who are at the table with regard to those late amendments, I will not allow them, because we will get ourselves into an absolute muddle. It is unfair to redraft amendments at this stage. I make the observation to all concerned that if the parties are not ready to proceed on the amendments that are there, the Committee stage will be even harder to do on the run. I am not giving away the normal position, which is that amendments should be on the table at the start of the Committee stage.

The Hon. CATHERINE CUSACK (19:38:31**):** The Government does not support the amendment that proposes a change to the name of the bill. While the bill's proposed reforms will play a crucial role in supporting Sydney's night-time economy, it should not be seen in isolation from the Government's recently released 24-hour Economy Strategy. The strategy is a plan to activate a vibrant, diverse, inclusive and safe 24-hour economy in Sydney that will make it a global beacon, and a cultural and entertainment amenity. The economic uplift potential of the night-time economy is about more than alcohol alone. The bill is one component of the broader strategy, which is holistic in its approach to Sydney's 24-hour economy. The bill's name is in line with the 24-hour Economy Strategy and the 24-hour economy commissioner who will be tasked with implementing the strategy.

Ms CATE FAEHRMANN (19:39:25**):** The Greens support the amendment. When members look at the bill before the Committee, it does not really have much to do with the 24-hour economy. The Government may have a 24-hour Economy Strategy, but the bill is not that entire strategy implemented in legislation. We support that the bill is absolutely all about the night-time economy, but we are not seeing anything in the bill to allow bars to trade at 5 a.m., 6 a.m. or 7 a.m. That is potentially a good thing; I am not suggesting that has to be the case. But that is why we support naming the bill as—

The Hon. Matthew Mason-Cox: Come on, Cate, we know your night-life.

Ms CATE FAEHRMANN: Well, maybe if it were—

The CHAIR (The Hon. Trevor Khan): I ask the member to direct her remarks through the Chair.

Ms CATE FAEHRMANN: The Greens support the amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. John Graham has moved Opposition amendments Nos 1 to 3 appearing on sheet c2020-170A. The question is that the amendments be agreed to.

Amendments agreed to.

The Hon. JOHN GRAHAM (19:40:56**):** I move Opposition amendment No. 1 on sheet c2020-173L:

No. 1 **Review**

Page 20, Schedule 1.2. Insert after line 28—

[1A] Clause 8A

Insert after clause 8—

8A Review

(1) The Minister must conduct a review of the effectiveness of the reduction of fees under clauses 10(2)(c), 12(3A)(c), 13(3) and 14(3A) and the extension of trading hours for dedicated live music and performance venues, including—

(a) whether the reduction in fees and extension of trading hours has led to an increase in live music performances or other arts and cultural events on licensed premises, and

(b) the impact the reduction in fees and extension of trading hours has had on employment at licensed premises and in the live music performance industry and arts and cultural sectors.

(2) The Minister must, by 31 March 2025, give a report about the review to the Presiding Officer of each House of Parliament.

(3) A copy of a report given to the Presiding Officer of a House of Parliament under subclause (2) must be laid before the House within 5 sitting days of the House after it is received by the Presiding Officer.

(4) This clause is repealed on 30 April 2025.

I am hopeful that the amendment will be agreed to. It will put in place a review to be conducted by the Minister. That review would examine how the measures that I am very hopeful we will introduce later in the Committee stage—that is, reductions in fees and extension in trading hours for music venues—will work over time and report back to the Parliament. Should those measures be adopted—and I am hopeful they will be—then this review will be very important to see what is happening. Mr Chair, you observed in an earlier debate that we set the law but that such things do change over a period of time. We are introducing some of the incentives that you spoke about during another debate in this Chamber.

The CHAIR (The Hon. Trevor Khan): Indeed I did.

The Hon. JOHN GRAHAM: I am hopeful of the effect they might have on the ground. I think it is essential that we examine that closely.

The Hon. CATHERINE CUSACK (19:42:19**):** The Government does not oppose the amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. John Graham has moved Opposition amendment No. 1 appearing on sheet c2020-173L. The question is that the amendment be agreed to.

Amendment agreed to.

The Hon. JOHN GRAHAM (19:42:40**):** By leave: I move Opposition amendments Nos 2 and 3 appearing on sheet c2020-173L in globo:

No. 2 **Base fee element**

Page 20, Schedule 1.2[2] (proposed clause 10(2)(b)), line 39. Omit "10%.". Insert instead—

10%, or

(c) for dedicated live music and performance venues—by 80%.

(3) However, subclause (2)(c) does not apply if, in the Secretary's opinion, the licensed premises do not have a market orientation towards live performances, the arts or cultural events and endeavours.

(4) Subclause (2)(c) ceases to have effect on 31 December 2024.

(5) Subclauses (2)(c), (3) and (4) and this subclause are repealed on 30 April 2025.

No. 3 **Trading hours risk loading element**

Page 21, Schedule 1.2, line 39. Omit "10%.". Insert instead—

10%, or

(c) for dedicated live music and performance venues—by 80%.

[9A] Clause 12(6)–(8)

Insert after clause 12(5)—

(6) However, subclause (2)(c) does not apply if, in the Secretary's opinion, the licensed premises do not have a market orientation towards live performances, the arts or cultural events and endeavours.

(7) Subclause (3A)(c) ceases to have effect on 31 December 2024.

(8) Subclauses (3A)(c), (6) and (7) and this subclause are repealed on 30 April 2025.

The amendments are important changes. They will give a benefit to music venues. They will reduce the base fee element and also the trading hours risk-loading element of the fees those venues pay if they put music on—if they employ people, if they have a warm, live human playing some sort of music. That is a very good thing. This is a concrete incentive. We hope it makes a difference over time. I commend the amendments to the Committee.

The Hon. CATHERINE CUSACK (19:43:41**):** The Government does not oppose these amendments.

Ms CATE FAEHRMANN (19:43:46**):** The Greens wholeheartedly support the amendments. Anything that encourages live music and enables venues that support it to do so more cheaply is a very good thing, particularly at this time. That is why we support the amendments, and we look forward to seeing the outcome of incentivising venues in such a way.

The CHAIR (The Hon. Trevor Khan): The Hon. John Graham has moved Opposition amendments Nos 2 and 3 appearing on sheet c2020-173L. The question is that the amendments be agreed to.

Amendments agreed to.

The Hon. JOHN GRAHAM (19:45:22**):** By leave: I move Opposition amendments Nos 4 to 6 on sheet c2020-173L in globo:

No. 4 **Definition of dedicated live music and performance venue**

Page 26, Schedule 2.2[1] (proposed clause 123), lines 17–22. Omit all words on those lines.

No. 5 **Definitions**

Page 34, Schedule 4.1[1]. Insert after line 5—

dedicated live music and performance venue—see section 3A.

No. 6 **Definition of dedicated live music and performance venue**

Page 34, Schedule 4.1. Insert after line 6—

[1A] Section 3A

Insert after section 3—

3A Meaning of dedicated live music and performance venue

For section 12A, ***dedicated live music and performance venue*** means public entertainment premises to which an on-premises licence relates, other than the following—

(a) a cinema,

(b) a karaoke bar,

(c) a facility that is regularly used for adult entertainment of a sexual nature.

These are definitional issues. For context, there has been quite useful discussion between the Opposition and Government, including with Liquor & Gaming NSW at the table. The Opposition had amendments that would have seen a definition of "music venue" that it was more comfortable with inserted in the bill. We have agreed to accept a very narrow definition in the short term but the agency has given assurances that over the course of six months through the Liquor & Gaming process it will work to develop a much broader and more representative way in which venues that play music can identify themselves. That could be a game changer by recognising and rewarding those venues as proposed in the bill and reducing fees. In the short term the Opposition has agreed that it will accept a very narrow definition for six months but acknowledges that hope is on the way. Following that process, a wider range of venues will be caught in the definition and, therefore, the benefits will apply to that wider group.

The Hon. CATHERINE CUSACK (19:47:05**):** The Government thanks the Opposition for its positive approach and does not oppose the amendments.

Ms CATE FAEHRMANN (19:47:12**):** The Greens support the Opposition amendments.

The CHAIR (The Hon. Trevor Khan): The Hon. John Graham has moved Opposition amendments Nos 4 to 6 on sheet c2020-173L. The question is that the amendments be agreed to.

Amendments agreed to.

The CHAIR (The Hon. Trevor Khan): The Committee will deal with the Government amendments appearing on sheet c2020-191G.

The Hon. CATHERINE CUSACK (19:47:55**):** By leave: I move Government amendments Nos 2 to 7 on sheet c2020-191G in globo:

No. 2 **Cumulative impact assessments**

Page 26, Schedule 2.2[1], line 3. Omit all words on that line. Insert instead—

Omit the clause.

[1A] Clauses 123A and 123B

Insert after clause 123—

No. 3 **Cumulative impact assessments**

Page 26, Schedule 2.2[1], line 4. Omit "123". Insert instead "123A".

No. 4 **Cumulative impact assessments**

Page 26, Schedule 2.2[1], line 23. Omit "123A". Insert instead "123B".

No. 5 **Sale of liquor through internet or other media**

Page 27, Schedule 3.1[5], line 29. Omit "114Q". Insert instead "114P".

No. 6 **Sale of liquor through internet or other media**

Page 27, Schedule 3.1[6], line 36. Omit "114Q". Insert instead "114P".

No. 7 **Cut-off time for deliveries**

Page 29, Schedule 3.1[7], proposed section 114L, line 28. Omit "5 am". Insert instead "9 am".

Changing the start time from 5.00 a.m. to 9.00 a.m. for same-day liquor deliveries will help minimise the risk of alcohol-related harm in the early morning. I give the example where people who have been drinking during the night and wish to order more alcohol in the early morning in order to continue drinking. Public health stakeholders have expressed their support for a later start time for same-day deliveries. They believe that a 5.00 a.m. start time is far too early and poses significant risks to the wellbeing of the broader community. Although the standard trading hours for bottle shops commences at 5.00 a.m., very few bottle shops open at that time.

The Government is amending the bill to further enhance training for people making same-day alcohol deliveries, which reflects discussions with other members. Under the amendments more clarity is provided. The department secretary will be responsible for the development and approval of training requirements and standard course material which will cover the minimum requirements specified in the legislation. The regulations now also provide that a person must complete a knowledge test and register completion on an online system that is approved by the secretary. This ensures that the standard of training is consistent among all providers and that deliveries are only undertaken by people who demonstrate competency in their training course, which will include topics on harm minimisation techniques.

A broad regulation-making power is also provided that will give us flexibility to prescribe requirements to support the training framework over the next 12 months as the training system matures. The Government wants to ensure that all delivery providers and their agents are properly trained to do their job in a safe manner. The amendments to the training requirements will go a long way in supporting industry to have the knowledge and skills it requires to minimise the associated risk with alcohol-related harms.

The Hon. JOHN GRAHAM (19:51:59**):** I indicate that the Opposition does not oppose Government amendments Nos 2 to 6 and strongly supports Government amendment No. 7. In fact, the Parliamentary Secretary has spoken well about amendment No. 7. It is very important. It moves the start time for these businesses, as we seek to regulate them, from 5.00 a.m. to 9.00 a.m. I thank the many groups who spoke to us about this set of concerns. This one leapt out to the Opposition. I thank my colleague Sophie Cotsis who identified this as something that the Opposition would seek to pursue in discussions directly with the Government. That has now resulted in a Government amendment to that effect. We strongly support that measure.

Ms CATE FAEHRMANN (19:52:52**):** The Greens also support the amendments, particularly in relation to the responsible service of alcohol requirements. When we saw that the bill mentioned 5.00 a.m. delivery, considering it was about regulating online delivery and ideally trying to minimise harm as well, it did jump out at us. We support these amendments.

The CHAIR (The Hon. Trevor Khan): The Hon. Catherine Cusack has moved Government amendments Nos 2 to 7 on sheet c2020-191G. The question is that the amendments be agreed to.

Amendments agreed to.

The Hon. JOHN GRAHAM (19:53:57**):** By leave: I move Opposition amendments Nos 1 and 2 on sheet c2020-200A in globo:

No. 1 **Delivery to intoxicated person**

Page 29, Schedule 3.1 [7], proposed section 114J, line 2. Omit "same day". Insert instead "liquor".

No. 2 **Delivery to intoxicated person**

Page 29, Schedule 3.1 [7], proposed section 114J. Insert after line 4—

(2) In this section—

liquor delivery means—

(a) a same day delivery, or

(b) another delivery of packaged liquor, under a commercial arrangement, to a person in New South Wales after it is purchased by retail, irrespective of the State or Territory in which the sale is made.

We are seeking to toughen up the provisions around delivery to an intoxicated person. It was an area of concern to the Opposition when it was brought to our attention by a range of the groups that I referred to. I specifically mention the Foundation for Alcohol Research and Education [FARE], which has engaged constructively. FARE put a strong position. The Opposition has not agreed with everything it has said, but we agreed that it should be an offence to deliver to an intoxicated person.

When we spoke to industry, their view was that it is the existing practice and that they had no objection. That is why we bring these amendments to the table: It supports good players in the industry. It is already part of the current practice on the ground and it is strongly supported by a wide range of health and community groups. The Opposition recognises that it does bring some complexity into the bill because we are moving out of the same-day framework. Liquor & Gaming has been persuasive that it does start to cause problems. We have sought to regulate that issue in other places, but in this place we think it is the practice and we should support that approach.

The Hon. CATHERINE CUSACK (19:55:34**):** The Government opposes the amendments. We acknowledge that in some circumstances postal services and couriers may not be aware that the package they are

delivering contains alcohol and may not have checked the ID of the receiver who takes delivery of the package. In those circumstances, the amendments provide a defence to delivery persons against the offence. But it is unclear what the problem is that the amendments seeks to address. The Government's bill targets a known problem; it is aimed at stopping people who are intoxicated from continuing a drinking session using fast, same-day delivery services.

While the bill requires same-day delivery drivers to undertake training, there is no corresponding requirement for courier drivers to undertake the same training. It is also the case that delivery drivers may not even know that they are delivering alcohol. I note that there has been no consultation with the affected businesses about expanding the same-day delivery rules in this way. The Government maintains that the separate amendment, which ensures the detailed review of non-same-day delivery practices after two years, is a proportionate and appropriate way to deal with this issue.

Ms CATE FAEHRMANN (19:56:52**):** The Greens have also been grappling with the issue and have had discussions with the Opposition, FARE, the Independent Liquor & Gaming Authority and the Minister's office about it. We, therefore, support the compromise that has been reached. It is important that with the increasing online delivery of alcohol we put in as many measures as we can tonight to reduce harm. This is yet another measure and I believe that the amendments have definitely struck the right balance.

The CHAIR (The Hon. Trevor Khan): The Hon. John Graham has moved Opposition amendments Nos 1 and 2 on sheet c2020-200A. The question is that the amendments be agreed to.

Amendments agreed to.

The CHAIR (The Hon. Trevor Khan): We will move on to what seem to be similar amendments: Government amendments Nos 8 to 11 on sheet c2020-191G and Opposition amendments Nos 2 to 4 and 7 on sheet c2020-197. My running sheet indicates that they are the same amendments.

The Hon. JOHN GRAHAM: I think we have already dealt with Government amendment No. 7 and the Opposition amendments would then lapse. I do not intend to move my amendments.

The CHAIR (The Hon. Trevor Khan): You do not intend to move your amendments?

The Hon. JOHN GRAHAM: No.

The CHAIR (The Hon. Trevor Khan): We will go to Government amendments Nos 8 to 11 on sheet c2020-191G.

The Hon. CATHERINE CUSACK (19:59:13**):** By leave: I move Government amendments Nos 8 to 11 on sheet c2020-191G in globo:

No. 8 **Training of persons making same day deliveries**

Page 31, Schedule 3.1[7], proposed section 114P. Insert after line 25—

(2A) For the purposes of subsection (1), training to ensure liquor delivered by same day delivery providers, and employees and agents, is supplied responsibly must include information that is part of a training program that—

(a) is developed and approved by the Secretary and published on a publicly accessible Government website, and

(b) complies with any minimum requirements for the training prescribed by the regulations under subsection (3)(a).

No. 9 **Training of persons making same day deliveries**

Page 31, Schedule 3.1[7], proposed section 114P. Insert after line 29—

(a1) requirements about testing knowledge of information that is part of the training, and

No. 10 **Training of persons making same day deliveries**

Page 31, Schedule 3.1[7], proposed section 114P, lines 31 and 32. Omit ", including information that may be used by other persons to conduct the training".

No. 11 **Training of persons making same day deliveries**

Page 33, Schedule 3.2[1], proposed clause 107G. Insert after line 23—

(2) For the purposes of section 114P(a1), the training must require a same day delivery provider, employee or agent to—

(a) complete a test, approved by the Secretary, that demonstrates the provider's, employee's or agent's knowledge of the information that is part of the training, and

(b) register the provider's, employee's or agent's completion of the training and test on an online system approved by the Secretary.

I ask honourable members to refer to my earlier comments in relation to the amendments on sheet c2020-191G.

The Hon. JOHN GRAHAM (19:59:39**):** I welcome the Parliamentary Secretary's comments on the amendments. The Opposition has moved amendments in similar terms. Again, these have come from discussions between the Government and the Opposition. The amendments strengthen training on the ground and we think that is very important. They bring the responsible service of alcohol [RSA] measures more in line with what is the practice in venues and we believe those are important protections. Importantly, though, the amendments will leave some significant flexibility for industry to innovate and train on top of the base level of protections that will be developed by Liquor & Gaming NSW. We think that is a sensible approach. They are strengthening the RSA provisions in the bill. The Opposition supports the amendments.

Ms CATE FAEHRMANN (20:00:26**):** The Greens also support the amendments. We did grapple with potential safety concerns for drivers doing online same day alcohol deliveries. An example would be when a driver arrives at a party where everyone might be intoxicated or where somebody might be violent, and because they have RSA training they have to say no to that group or party that is expecting to get their alcohol delivered. I think it is an issue that has not been dealt with in the bill.

It is one thing for a driver to have RSA, but it is usually undertaken at venues with security and other people around. It is a significant issue that we spoke to the Minister about. In fact, he acknowledged that it is an issue that has not been dealt with and that it is very difficult to address. The Greens agree with RSA, but it only goes so far. It is a safety issue when drivers with RSA training have to refuse a party or a guy on the other side of a door who desperately wants his of bottles of Bundaberg Rum. It would be good to see if the training could be addressed at some point.

The CHAIR (The Hon. Trevor Khan): The Hon. Catherine Cusack has moved Government amendments Nos 8 to 11 on sheet c2020-191G. The question is that the amendments be agreed to.

Amendments agreed to.

The Hon. JOHN GRAHAM (20:02:40**):** I move Opposition amendment No. 6 on sheet c2020-197:

No. 6 **Sales data**

Page 32, Schedule 3.1[8]. Insert after line 22—

(f4) matters relating to the recording and reporting of data about alcohol sales or deliveries by same day delivery providers, including, for example, requirements relating to—

(i) the type of records to be kept, and

(ii) the frequency with which providers must provide reports,

The amendment provides for a review of regulation of liquor deliveries. Again, it has come out of the cross-parliamentary discussion. It requires the Minister to review exactly how the provisions of the bill will work once the policies are in place. I highlight a couple of considerations because one of those is particularly important to the Opposition. The review will look at emerging trends and technologies relevant to liquor deliveries that are not same day deliveries; any additional harm minimisation measures that may be appropriate for the liquor deliveries; and the use of direct and social media marketing and the collection of consumer data to target vulnerable communities.

We sought to see if there was some way to regulate marketing but we were unable to find a way. We are grateful that they have found their way into the review. Online delivery of alcohol is a growing part of the market. It does combine with direct and online marketing in ways that are difficult to predict over time. It is not going to be a problem for the vast majority of people, but it could be a very big problem for a small number of members of the community. We are particularly keen to see the results of that when the review is conducted.

The Hon. CATHERINE CUSACK (20:04:11**):** The Government supports the amendment.

Ms CATE FAEHRMANN (20:04:14**):** The Greens support the amendment, particularly given that there was a lot to grapple with. Clearly it is a highly evolving and rapidly changing market. One of the things that is particularly beneficial at this point is being able to review things such as whether additional evidence of age requirements are needed for liquor deliveries that are not same-day deliveries. I will address that when I move my amendment shortly. The Greens have been grappling with that in particular. This amendment is a very good amendment that is absolutely needed. The Greens support the amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. John Graham has moved Opposition amendment No. 6 appearing on sheet c2020-197. The question is that the amendment be agreed to.

Amendment agreed to.

The CHAIR (The Hon. Trevor Khan): My running sheet refers to amendment No. 7 on sheet c2020-197. We have dealt with that, have we not? We have disposed of it.

The Hon. John Graham: No, we have not. Amendment No. 7 relates to sales data. I am about to move it.

The CHAIR (The Hon. Trevor Khan): Is that amendment No. 7 on sheet c2020-197? I do not think so.

Ms Cate Faehrmann: Oh, "Training of persons making same day deliveries".

The Hon. John Graham: Okay, I was very hopeful.

The CHAIR (The Hon. Trevor Khan): You dealt with sales data. Amendment No. 7 on sheet c2020-197 is headed "Training of persons making same day deliveries". That was one that was—

The Hon. John Graham: We have dealt with that matter, but we have not dealt with this amendment, in my view.

Ms Cate Faehrmann: The one on sheet c2020-197 is about sales data—Opposition amendment No. 7.

The CHAIR (The Hon. Trevor Khan): It seems to me that that is surplusage now because Government amendment No. 11 on sheet c2020-191G went through.

The Hon. John Graham: I do not believe that is the case. There has been no amendment moved in relation to sales data yet, I think.

The CHAIR (The Hon. Trevor Khan): We will look into it.

The Hon. John Graham: Okay.

The CHAIR (The Hon. Trevor Khan): I am sure the Clerk can work out why I am stupid. We move on to Government amendments on sheet c2020-199A about the objects of the Act. I remind members that the Committee has a lot of time. Members know that I rush people. However, if members need a moment they can take it.

The Hon. CATHERINE CUSACK (20:07:48**):** I move Government amendment No. 1 on sheet c2020-199A:

No. 1 **Objects of Act**

Page 34, Schedule 4.1. Insert after line 3—

[1AA] Section 3 Objects of Act

Insert ", and the operation of licensed premises," after "consumption of liquor" in section 3(2)(c).

[1AB] Section 3(2)(c)

Omit "life.". Insert instead—

life,

(d) the need to support employment and other opportunities in the—

(i) live music industry, and

(ii) arts, tourism, community and cultural sectors.

This amendment provides an alternative to the Opposition's amendment No. 7 on sheet c2020-173L. There is no doubt that liquor laws impact on live music and other cultural activities. As such, they should be an important consideration within the Liquor Act 2007, which is already the case. The objectives of the Liquor Act state in unambiguous terms that the Act is "to contribute to the responsible development of related industries such as the live music, entertainment, tourism and hospitality industries". Further the NSW Independent Liquor & Gaming Authority's published guidelines on social impacts specify that "increased opportunities for live music and other artistic pursuits" are one of the wideranging factors it considers in assessing the social impacts of licensing applications.

Many of the amendments being considered tonight represent a shift in the way that live entertainment on licensed premises is regulated. Many of those amendments are supported. However, the Government does not see a need to insert blunt requirements that favour live music and entertainment over other considerations. Notwithstanding that, the Government has proposed that additional wording be placed in the Liquor Act's objectives. Section 3 (2) of the Act outlines what must be considered by a person exercising a function under the Act.

The amendment adds sub-paragraph (d) to section 3 (2) mandating that persons exercising functions under the Act must also give due regard to employment or other opportunities in the live music industry and the arts, tourism, community and cultural sectors. The additional words inserted in section 3 clarify that due regard must not only be given to the community impact of the sale and supply of liquor, it must also be given to the community impact of the operation of a licensed premises. In making these changes, the essential balance of the Act is maintained. Live music and related employment opportunities are important but they should not trump consideration of the community impact of a licensed venue. In summary, the Government's amendment is based on the simple view that the Liquor Act should give weight to a range of interests and acknowledges the desire for it to be more explicit in its support for live music and other entertainment.

The Hon. JOHN GRAHAM (20:10:40**):** The Opposition supports Government amendment No. 1 on sheet c2020-199A. We supported the original change to the objects of the Liquor Act 2007. This deepens that amendment. As the Parliamentary Secretary has flagged, the Opposition has some additional amendments that we will move but we strongly support this amendment proposed by the Government.

Ms CATE FAEHRMANN (20:11:14**):** The Greens wholeheartedly support this amendment. It is fantastic to see proposed changes to the objects of the Liquor Act that would support employment and other opportunities in the live music industry and the arts, tourism, community and cultural sectors.

The CHAIR (The Hon. Trevor Khan): The Hon. Catherine Cusack has moved Government amendment No.1 on sheet c2020-199A. The question is that the amendment be agreed to.

Amendment agreed to.

The Hon. JOHN GRAHAM (20:12:06): I move Opposition amendment No.1 on sheet c2020-178E:

No. 1 **Extended trading hours for dedicated live music and performance venues**

Page 34. Insert after line 10—

[3A] Section 12A

Insert after section 12—

12A Extended hours for dedicated live music and performance venues

(1) This section applies to dedicated live music and performance venues located in—

(a) the area for which the City of Sydney is constituted, or

(b) a special entertainment precinct.

(2) The trading period for licensed premises to which this section applies is extended by 30 minutes after the time that would otherwise apply to the premises under—

(a) section 12, or

(b) an extended trading authorisation that applies to the premises.

(3) The extension under subsection (2) is subject to the condition that, on any night of the week on which the licensed premises trade for the additional 30 minutes, a live music performance or other arts and cultural event of at least 45 minutes duration must be held or provided after 8 pm on the premises.

(4) To avoid any doubt, to the extent of any inconsistency between this section and a relevant condition that applies to the licensed premises, this section prevails.

(5) In this section—

dedicated live music and performance venue has the meaning prescribed by the regulations.

relevant condition means a condition of a type referred to in section 116I(2)(c) and (2)(d).

special entertainment precinct has the same meaning as in the *Local Government Act 1993*, section 202.

This is an important amendment which reintroduces a good idea from the Government that was lost at the start of the year, that is, an extra half hour of trading for music venues. That initially applied to venues in the CBD but in proposing this amendment the measure is extended to the City of Sydney area. The City of Sydney already has amended its development control plan to allow for this sort of incentive. As it did so, this provision was being removed from the licensing law. This incentive is needed in both systems so that they can function together in harmony. This amendment puts the extended hours in place in the City of Sydney area and allows any council to declare a special entertainment precinct in order to take advantage of this measure. It sends a message from the licensing system that if venues employ people and present entertainment in the evening there will be a reward. The Oppositions thinks it will have a significant effect. This was a good measure that the Government previously had in place and the Opposition wants to see it back in the system.

The Hon. CATHERINE CUSACK (20:13:19**):** I thank the Hon. John Graham for acknowledging the source of this amendment. The Government is happy to support it.

Ms CATE FAEHRMANN (20:13:27**):** The Greens support this amendment. It is an amendment that many venues will appreciate and one that may lead to a lot more live music. My adviser and I were commenting earlier that if venues stay open for an extra half hour, hold a cultural event for an additional 45 minutes or present an additional 30 minutes of music, we might see some interesting live music performances after eight o'clock. It will be interesting to see how that plays out in practice.

The CHAIR (The Hon. Trevor Khan): The Hon. John Graham has moved Opposition amendment No. 1 on sheet c2020-178E. The question is that the amendment be agreed to.

Amendment agreed to.

The CHAIR (The Hon. Trevor Khan): We will go to amendment No. 5 on sheet c2020-197.

The Hon. JOHN GRAHAM (20:15:04**):** I move Opposition amendment No. 5 on sheet c2020-197:

No. 5 **Review of regulation of liquor deliveries**

Page 32, Schedule 3.1 [7], proposed section 114R, lines 3–13. Omit all words on those lines. Insert instead—

114R Review of regulation of liquor deliveries

(1) The Minister is to review the operation of this Act in relation to the following—

(a) same day deliveries,

(b) other liquor deliveries,

(c) the requirement to provide evidence of age and identity for same day deliveries and other liquor deliveries.

(2) The review under subsection (1) (a) must include consideration of whether—

(a) the policy objectives of the Act in relation to same day deliveries, including rapid delivery, remain valid, and

(b) the terms of this Division remain appropriate for securing the objectives.

(3) The review under subsection (1) (b) must include consideration of—

(a) emerging trends and technologies relevant to liquor deliveries that are not same day deliveries, and

(b) any additional harm minimisation measures that may be appropriate for the liquor deliveries, and

(c) the use of direct and social media marketing and the collection of consumer data to target vulnerable communities.

(4) The review under subsection (1) (c) must include consideration of whether additional evidence of age requirements are needed for liquor deliveries that are not same day deliveries.

(5) A review under this section is to be undertaken as soon as practicable after—

(a) for a review under subsection (1) (a) and (b)—2 years after the commencement of this section, and

(b) for a review under subsection (1) (c)—1 year after the commencement of this section.

(6) A report on the outcome of a review under this section is to be tabled in each House of Parliament within—

(a) for a review under subsection (1) (a) and (b)—6 months after the end of the period of 2 years, and

(b) for a review under subsection (1) (c)—6 months after the end of the period of 1 year.

The Hon. CATHERINE CUSACK (20:15:36**):** The Government does not oppose the amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. John Graham has moved Opposition amendment No. 5 on sheet c2020-197. The question is that the amendment be agreed to.

Amendment agreed to.

The CHAIR (The Hon. Trevor Khan): I am advised that, contrary to what I thought, Opposition amendment No. 7 also needs to be moved.

The Hon. John Graham: That is Opposition amendment No. 7 relating to training?

The CHAIR (The Hon. Trevor Khan): It seems to be, "Training of persons making same day deliveries", which is why I am concerned.

The Hon. JOHN GRAHAM (20:16:31**):** I indicate that we will not move Opposition amendment No. 7 on sheet c2020-197, given the Government has moved a similar amendment.

The CHAIR (The Hon. Trevor Khan): We will go back to the running sheet.

Ms CATE FAEHRMANN (20:17:00**):** I move The Greens amendment No. 1 on sheet c2020-159E:

No. 1 **Small bars**

Page 34. Insert after line 22—

[5A] Section 20A Authorisation conferred by small bar licence

Omit "retail on the licensed premises for consumption on, the licensed premises only."

Insert instead—

retail on the licensed premises—

(a) for consumption on the premises, or

(b) as house-made cocktails in sealed containers for consumption away from the premises.

(2) In this section—

house-made cocktails, in relation to licensed premises —

(a) means alcoholic beverages that are mixed on the licensed premises, but

(b) does not include cocktails that are pre -mixed away from the licensed premises for the licensee to sell by retail.

This amendment would enable small bars to continue to sell takeaway cocktails beyond the COVID grace period within which they are currently doing so. During the period when venues could only offer takeaway, those that were able to stay open were given a grace period from some of the restrictions on their licence. We saw some local restaurants, for example, able to sell wine with takeaways, and we also saw a fantastic initiative by many small bar venues to sell mixed cocktails in sealed packages.

I do not think I need to tell members that small bars are doing it particularly tough in relation to the one person per square metre rule, as well as everything else. The amendment is encouraged by the Independent Bars Association, so I urge members in this place to support it. Small bars will not be doing anything different to what is happening now. By all accounts, they are saying that it has been successful for them and could even in some ways mean a better public health outcome. For example, when people are leaving a bar they could take a mixed cocktail home, instead of going to the local bottle shop and buying an entire bottle of vodka. I commend the amendment to the Committee.

The Hon. CATHERINE CUSACK (20:19:16**):** The Government does not support amendments to make takeaway liquor arrangements permanent for small bars. COVID-19 has presented us with unprecedented challenges. Temporary measures have been put in place to help licensees including small bars where they were unable to open their doors. We must recognise that takeaway liquor outlets face high annual fees and new applicants are subject to high levels of scrutiny. This is not the case for small bars that, under this bill, will be able to trade as soon as they have a development consent. Allowing takeaway from small bars was always intended to be an emergency measure and this remains the Government's position.

The Hon. JOHN GRAHAM (20:19:58**):** The Opposition is supportive of this measure. We understand the Government's desire to keep some sort of regularity in the regulatory system. I am not sure that is the Treasurer's view on this one. He has been out spruiking this as becoming a permanent measure for a range of venues. So there is some enthusiasm for these sorts of measures, including within the ranks of the Government. The Opposition understands where the Government is coming from. On balance at this moment the Opposition supports the measure.

The CHAIR (The Hon. Trevor Khan): Ms Cate Faehrmann has moved The Greens amendment No. 1 on sheet c2020-159E. The question is that the amendment be agreed to.

Amendment agreed to.

Ms CATE FAEHRMANN (20:20:56**):** I move The Greens amendment No. 2 on sheet c2020-159E:

No. 2 **Small bars**

Page 34. Insert after line 29—

[7A] Section 20B(3) and (4)

Omit the subsections.

[7B] Section 20C Small bar licence—miscellaneous conditions

Insert after section 20C(2)—

(2A) To avoid doubt, subsection (2)—

(a) does not prevent a small bar being closed to the general public because it has been booked for a private function including, for example, a wedding or party, but does not allow it to be closed to the general public for use as a members-only premises or club, or for other exclusive use on a recurrent basis.

Again this is in relation to small bars. Small bars are low-impact and low-risk hospitality venues. At this point in time they are particularly struggling because many of them are small. Many of them are under 200 square metres. As I said, the one person per square metre rule is particularly impacting on small bars. Their capacities have been reduced by 50 per cent to 75 per cent. This amendment will allow small bars to be closed to the public for the purpose of a function. At the moment this is not available to small bars, which might come as a surprise to some members. Pubs, clubs and sometimes restaurants can close certain rooms, have functions and make some money that way. Small bars at this point in time cannot do that. With this amendment the tricky thing we were working with was how to avoid small bars saying they were closed for a function, but essentially acting as an exclusive club, if you like. I think this amendment deals with that where, firstly, it omits subsections 20B (3) and (4). Instead we have put:

To avoid doubt, [it] …

(a) does not prevent a small bar being closed to the general public because it has been booked for a private function [et cetera] … but does not allow it to be closed to the general public for use as a members-only premises or club, or for other exclusive use ...

So I think that addresses it. I understand we have had some good consultations with the Government and the Opposition about this and I am hoping this will get support in the Chamber today.

The Hon. CATHERINE CUSACK (20:23:21**):** The amendment would allow small bars to close for functions such as weddings. In the Government's view this amendment requires further consideration as it impacts on other aspects of the Liquor Act. In particular, the legislative requirements for small bars in respect of private functions is the same as for other licence classes. To the extent that there is a legislative problem, we should develop a full and not a partial response. In opposing this amendment I am happy to make an undertaking for the matter to be reviewed and incorporated into the legislation at a future date.

The Hon. JOHN GRAHAM (20:23:57**):** I was intending to ask if items [7A] and [7B] could be put separately. I am not sure if I ask that of you now or later.

The CHAIR (The Hon. Trevor Khan): You can ask it of me now.

The Hon. JOHN GRAHAM: The reason I do that is the Opposition supports item [7B], which the members have just spoken about. I understand why the Government is objecting, because there is a strong culture within the Liquor Act to say we should not be creating private clubs and there should be a public interest. They literally should be public houses in some way. We have strongly advocated for the idea that there may be some closures but public interest has got to be protected in the second part of that amendment. We are prepared to support it on that basis.

We do not support item [7A], which allows trading on a range of days that these small bars would otherwise be closed on, such as Christmas Day and Good Friday. The Opposition is for a 24-hour economy. We are not for a 365-day-a-year economy. Sometimes people have got to go home, see their family, not engage in commerce and actually calm down. That is why we take this position. I understand why the small bars might feel that other licensed premises might have free run relative to them. That is the balance we seek to strike in taking those positions.

The CHAIR (The Hon. Trevor Khan): I will put what is identified as amendment No. 2 item [7A] to the Committee and then I will put amendment No. 2 item [7B]. I have divided I think, as the Hon. John Graham has sought, the two parts of amendment No. 2. Does everyone understand where we are going?

Ms Cate Faehrmann: The Greens amendment No. 1 on sheet c2020-161, which is next on the running sheet, deals with the trading hours. I understand this amendment will get support, so am I able to move this one and omit the words "Omit the subsections."?

The CHAIR (The Hon. Trevor Khan): I will check with the Clerk. The Hon. Cate Faehrmann can move that amendment.

Ms CATE FAEHRMANN (20:27:03**):** I move The Greens amendment No. 1 on sheet c2020-161:

No.1 **Trading hours for small bars**

Page 34, Schedule 4.1. Insert after line 29—

[7A] Section 20B (3) and (4)

Omit the subsections. Insert instead —

(3) Despite subsection (1), the times when liquor may be sold for consumption on the licensed premises for a small bar on a restricted trading day are —

(a) between midnight and 5 am, if authorised by an extended trading authorisation, and

(b) between noon and 10 pm.

This amendment deals with trading hours for small bars. It essentially brings small bars into line with pubs. For many reasons, I think small bars should be able to trade between the hours of midnight and 5.00 a.m. if authorised between noon and 10.00 p.m. by an extended trading authorisation. Again, I do not see why small bars should have that restriction placed upon them. During a lot of these public holidays and restricted trading hours, I think a lot of people, particularly in the inner city, actually like going out and potentially celebrating a day with friends. Many of them do not go to church or observe the reasons why these public holidays are there in the first place. We have to recognise that a huge contingent of people go to these small bars. That is why The Greens are moving this. I commend the amendment to the Committee and I hope everybody supports it.

The CHAIR (The Hon. Trevor Khan): I suggest that perhaps what could be done is that you seek leave to delete item [7A] from amendment No. 2.

Ms CATE FAEHRMANN: Yes. I seek leave to delete item [7A] from The Greens amendment No. 2 on sheet c2020-159E.

Leave granted.

Ms Cate Faehrmann: I have moved the one in relation to trading hours now.

The CHAIR (The Hon. Trevor Khan): You have got two on the table: amendment No. 2, which was amended with leave, relating to small bars; and amendment No. 1 on sheet c2020-161, relating to trading hours.

Ms Cate Faehrmann: I want them put separately.

The CHAIR (The Hon. Trevor Khan): Yes. Does the Hon. Catherine Cusack wish to speak to amendment No. 1 on c2020-161?

The Hon. Catherine Cusack: No.

The CHAIR (The Hon. Trevor Khan): The Hon. John Graham?

The Hon. JOHN GRAHAM (20:30:35**):** In the discussions between the Opposition, The Greens and the Government, the Opposition has indicated it will not support the amendment relating to trading hours for the reasons that I have outlined. However, I understand the Government will support The Greens amendment No. 1 on sheet c2020-161. On that basis, I expect it will be successful.

The Hon. CATHERINE CUSACK (20:31:00**):** The Government supports this amendment.

The CHAIR (The Hon. Trevor Khan): I will put them separately. Ms Cate Faehrmann has moved The Greens amendment No. 2 as amended on sheet c2020-159E. The question is that the amendment be agreed to.

Amendment as amended agreed to.

The CHAIR (The Hon. Trevor Khan): Ms Cate Faehrmann has moved The Greens amendment No. 1 on sheet c2020-161. The question is that the amendment be agreed to.

Amendment agreed to.

The CHAIR (The Hon. Trevor Khan): I will move to Government amendment Nos 1 and 2 on sheet c2020-190E.

The Hon. CATHERINE CUSACK (20:32:18**):** By leave: I move Government amendments Nos 1 and 2 on sheet c2020-190E in globo.

No. 1 **Primary purpose test**

Page 34, Schedule 4.1. Insert before line 30—

[7A] Section 22 Primary purpose test

Insert after section 22(2)—

(2A) To remove any doubt, subsection (2) applies in relation to—

(a) an on-premises licence that specifies the kind of business or activity carried out on the licensed premises, and

(b) an on-premises licence that specifies the kind of licensed premises to which the licence relates.

No. 2 **On-premises licences**

Page 34, Schedule 4.1. Insert before line 30—

[7B] Section 23 On-premises licence must specify business/activity or kind of licensed premises

Insert after section 23(6)—

(7) The regulations may provide for requirements in relation to the business or activity carried out on licensed premises that are a licensed restaurant.

There are two further amendments on sheet c2020-190E that seek to help address venue morphing, particularly by restaurants, recognising the Opposition's proposal to automatically lift conditions preventing dance floors through amendments to the bill. Should Parliament agree that those conditions be removed, the Government wants to ensure that there are ways to address situations where, for example, a restaurant regularly pushes away their dining tables to create a dance floor. The restaurants in those cases cross a line if they cease to operate as specified in their licence type and essentially run like a nightclub or a dance party venue with a more pronounced impact on the local community. Related compliance and amenity issues with some restaurants have led to complaints.

The amendments to the primary purpose test to create a new regulation-making power will help prevent those situations from arising. The amendments fix a known issue regarding the primary purpose test for restaurants and reflect the intent of the test that a restaurant cannot morph into a high-risk premises later at night when it does not have the appropriate licence type and has not gone through the right application and community consultation process.

The Hon. JOHN GRAHAM (20:34:18**):** The Opposition is less concerned about people pushing a table aside and dancing. It sounds like that may not always be a problem. The Opposition does not oppose these amendments because we recognise that these give Liquor & Gaming the powers to do the job, given that a number of entertainment conditions will be removed later in this bill. That is the appropriate balance. The regulator has to be able to do its job and crack down on bad venues, but it should do it by regulating risk and not the other sort of conditions that the Opposition has been highly critical of.

Ms CATE FAEHRMANN (20:34:55**):** The Greens do not oppose these amendments. However, right now I would give anything for a restaurant to clear the chairs and to be able to dance on a dance floor.

The CHAIR (The Hon. Trevor Khan): As would I.

The Hon. Bronnie Taylor: Oh, the vision!

The CHAIR (The Hon. Trevor Khan): You ain't seen nothing, Bronnie! The Hon. Catherine Cusack has moved Government amendments Nos 1 and 2 on sheet c2020-190E. The question is that the amendments be agreed to.

Amendments agreed to.

Ms CATE FAEHRMANN (20:35:53**):** By leave: I move The Greens amendments Nos 1 to 7 on sheet c2020-166A in globo:

No. 1 **Kings Cross precinct**

Page 34, Schedule 4.1. Insert after line 6—

[1A] Section 4(1)

Omit the definition of ***Kings Cross precinct***.

[1B] Section 4A Meaning of "Kings Cross precinct"

Omit the section.

No. 2 **Kings Cross precinct**

Page 35, Schedule 4.1. Insert after line 16—

[12A] Section 49 Extended trading authorisation —general provisions

Omit section 49(3)(b).

No. 3 **Kings Cross precinct**

Page 36, Schedule 4.1. Insert after line 23—

[17A] Section 116C Prescribed precincts

Omit "Except in the case of the Kings Cross precinct, an" from section 116C(4).

Insert instead "An".

No. 4 **Kings Cross precinct**

Page 41, Schedule 4.1. Insert after line /1—

[27A] Schedule 2 Kings Cross precinct

Omit the Schedule.

No. 5 **Kings Cross precinct**

Page 46, Schedule 4.2. Insert after line 25—

[16A] Clause 89 "Lock outs" for subject premises in Kings Cross precinct

Omit the clause.

[16B] Clause 90 Liquor sales cessation period

Omit paragraph (a) of the definition of ***liquor sales cessation period*** in clause 90(1).

[16C] Clause 91 Glasses prohibited during general late trading period

Omit clause 91(1)(a).

[16D] Clause 91(1)(b)

Omit "other than the King Cross precinct".

[16E] Clause 92 Certain drinks and other types of liquor sales prohibited during general late trading period

Omit clause 92(2) and (3).

[16F] Clause 94 Requirement for RSA marshals during supervised trading period

Omit "other than the Kings Cross precinct" from clause 94(1)(a).

[16G] Clause 94(1)(b)

Omit the paragraph.

[16H] Clause 95 CCTV systems to be maintained on subject premises in Kings Cross precinct

Omit the clause.

[16I] Clause 99 Prohibition on entering subject premises after drinking in alcohol -free zone or alcohol prohibited area

Omit "other than the Kings Cross precinct" from clause 99(1).

[16J] Clause 102 Exemptions from "lock out" and liquor sales cessation restrictions for live entertainment venues in the Kings Cross precinct

Omit the clause.

[16K] clause 107 Licensee bans

Omit clause 107(3).

No. 6 **Kings Cross precinct**

Page 46, Schedule 4.2. Insert after line 33—

[17A] Clause 123 Temporary freeze on licences and other authorisations in prescribed precincts

Omit clause 123(4).

No. 7 **Kings Cross precinct**

Page 47, Schedule 4.2. Insert before line 8—

[21A] Schedule 2 Prescribed precincts

Omit Part 1.

[21B] Schedule 4 Licensed premises subject to "lock out" or liquor sales cessation restrictions

Omit Part 1.

After COVID has decimated so many businesses and brought much of our already struggling night-time economy almost to a standstill, there is simply no justification for continuing to penalise bars, nightclubs—which hopefully will be able to operate in a COVID-safe way at some stage during this pandemic—and live music venues in Kings Cross. The inquiry by the Joint Select Committee on Sydney's Night Time Economy, of which I was a member, heard compelling evidence from many stakeholders that Kings Cross is no longer a destination precinct for revellers and has completely changed in its demographic. It has moved towards gentrification and a very brisk business mix. But we do not need to rely upon the evidence by witnesses during that inquiry. Anyone who has been to Kings Cross over the past few years will know just how much the Cross has changed—and that was before COVID hit in 2020.

We need a seismic shift in the regulatory environment that has essentially strangled Sydneysiders' hopes of experiencing a diverse mix of creative bars, restaurants, nightclubs and other venues of different sizes and different offerings. This bill with amendments starts that shift. However, I cannot understand why hospitality operators in Kings Cross are still being penalised. It is a shame that we are not using this opportunity with this bill—a bill that is attempting to reinvigorate Sydney's night-time economy—to level the playing field for Kings Cross businesses too. That is all that this amendment asks for. The new cumulative impact assessment framework established by this bill will apply to the Sydney CBD and Kings Cross precincts. I note that the bill also establishes a process for these cumulative impact assessments that includes formal consultation, publication and review requirements.

The cumulative impact assessment framework that the bill establishes already allows for community consultation. With that framework and with the new demerit system in place, there is simply no reason for the lockout laws to continue, particularly during a pandemic when many jobs have been lost and businesses closed. Where is the Government's review into Kings Cross? Why was it not undertaken in time to include Kings Cross in the bill? The report into Sydney's night-time economy was handed down on 30 September last year and the Government's response was published in November last year. Recommendation 36 of the report states:

> That any removal of the 2014 laws be reviewed within twelve months, with particular focus on alcohol-related violence, alcohol-related accidents, and the night time economy. This, and any subsequent reviews, should be reported publicly.

I am sure members would understand that since that time COVID has impacted the statistics on alcohol-related violence and everything else across the board. Recommendation 37 states:

> Should the NSW Government retain the 2014 law conditions in the Kings Cross precinct, a review of these conditions should be completed within 12 months taking into account diversity of venues and saturation of high impact venues.

Kings Cross should not have the continuing burden of stringent regulation at this point in time over and above any other location in New South Wales, especially in light of COVID and especially when businesses are struggling to stay afloat. The bill before us, which the Government calls the Liquor Amendment (24-hour Economy) Bill, does not apply to Kings Cross. At this point in time I urge the Government, if it cannot support the amendment—and I do not have much hope that it will get through this place tonight—to address the concerns that people have around the review. This is the moment to get rid of the lockout laws. When is that going to happen? Of course it will not happen before summer. There are only two more parliamentary sitting weeks this year.

It is such a shame that the opportunity was not used to remove the Kings Cross lockout laws once and for all, which is what The Greens amendment seeks to do. I commend the amendment to the House. I urge Government and Labor members to support the amendment and to support the businesses in the Cross that are doing it tough. They just want to employ people and operate as they used to, while still being COVID safe. They are much more safe because of all of the measures that are in place in the bill.

The Hon. CATHERINE CUSACK (20:42:28**):** The Government does not support the removal of the Kings Cross lockout laws and related restrictions. That was a clear recommendation of the committee on Sydney's night-time economy. The Government supported the recommendation that any removal of the lockout laws would be accompanied by a thorough review, which the member has referred to. The Government is still doing that review and it is still within the 12-month period. The review will be due for completion in January 2021 and it will carefully assess the impact of removal of the lockout laws. The amendment is premature. This is not the bill in which to legislate on that matter.

The Hon. JOHN GRAHAM (20:43:14**):** I have spoken to a number of businesses that are regulated by the Act in Kings Cross and they are keen to move to the step that Ms Cate Faehrmann has recommended. Labor is very keen to see that review. January 2021 cannot come soon enough. The Opposition will not support the amendment until the review is in place. That was the agreed approach, which was supported by the committee, and Labor will stick to that agreement with the community of Kings Cross. Many people have put an opposing

view, and members would know that I am no fan of the lockouts. I do not support the lockout as a tool for regulation. I raised that in my inaugural speech in the Chamber. It is an inefficient way to regulate issues at night. However, it is in place in Kings Cross. We need to move to a better way of regulating the night-time in Kings Cross. I really want to see the work that the Committee for Sydney is doing in Kings Cross. What it is trying to do is work with the community and these businesses to develop a new vision of what Kings Cross might be. I think that is the thing that might get us through some of the difficulties there.

No-one wants it to go back to what it was; everyone wants it to move forward. But in order to do that there has got to be an agreed vision of what Kings Cross might become. There are some exciting ideas about it recapturing its past as a theatre district, and the venues and the community there are very supportive of that approach. That is what we would like to see, but two things need to fall into place: that review by Government and this work by the Committee for Sydney with the community and the businesses. That is the moment where we might be able to change the direction of things. The Opposition will not support this amendment. However, we look forward to those important pieces of work in the near future.

The CHAIR (The Hon. Trevor Khan): Ms Cate Faehrmann has moved The Greens amendments Nos 1 to 7 appearing on sheet c2020-166A. The question is that the amendments be agreed to.

The Committee divided.

Ayes 5
Noes 28
Majority.....23

AYES

Borsak	Faehrmann	Shoebridge (teller)
Boyd (teller)	Hurst	

NOES

Ajaka	Franklin	Mookhey
Amato	Graham	Moriarty
Buttigieg	Houssos	Moselmane
Cusack	Jackson	Nile
D'Adam	Maclaren-Jones (teller)	Primrose
Donnelly	Mallard	Searle
Fang	Martin	Taylor
Farlow	Mason-Cox	Veitch
Farraway (teller)	Mitchell	Ward
Field		

Amendments negatived.

The Hon. JOHN GRAHAM (20:56:00**):** I move Opposition amendment No. 7 on sheet c2020-173L:

No. 7 **Live music**

Page 35, Schedule 4.1. Insert after line 6—

[10A] Section 45 Decision of Authority in relation to licence applications Insert after section 45(6)—

(7) In deciding whether or not to grant a licence, the Authority must consider whether, if the licence were granted, it would provide employment in, or other opportunities for, any of the following—

(a) the live music industry,

(b) the arts sector,

(c) the tourism sector,

(d) the community or cultural sector.

[10B] Section 48 Community impact

Omit "application." from section 48(1)(b). Insert instead—

application, and

(c) whether the granting of the application would provide employment in, or other opportunities for, any of the following—

(i) the live music industry,

(ii) the arts sector,

(iii) the tourism sector,

(iv) community or cultural sector.

The Parliamentary Secretary has already referred to those amendments. They are in addition to the position that the Government has already put. We believe that the amendments drive employment, particularly in those important sectors, further into the Act. I commend the amendment to the Committee.

Ms CATE FAEHRMANN (20:56:31): The Greens support the amendment.

The Hon. CATHERINE CUSACK (20:57:30): The Government opposes the amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. John Graham has moved Opposition amendment No. 7 on sheet c2020-173L. The question is that the amendment be agreed to.

Amendment agreed to.

The Hon. JOHN GRAHAM (20:58:05): I move Opposition amendment No. 8 on sheet C2020-173L:

No. 8 **Complaints**

Page 36, Schedule 4.1[7], lines 22 and 23. Omit all words on those lines. Insert instead—

(6) This section does not apply to a complaint if—

(a) it is a complaint of a type prescribed by the regulations, and

(b) the local consent authority for the licensed premises has—

(i) a local plan to deal with complaints of that type, and

(ii) has, by written notice given to the Secretary, notified the Secretary that it will be dealing with complaints of that type.

This is an important amendment. It deals with the section of the bill that sees Liquor & Gaming NSW move out of regulating noise complaints. The Opposition says that is acceptable in some circumstances. We reject the fact that seven agencies regulate noise in New South Wales. It should only happen where a local council has got a plan to deal with it and where it agrees to it. It will work there, but we worry that it will not work elsewhere. I commend the amendment to the House.

The Hon. CATHERINE CUSACK (20:58:45): The Government does not oppose the amendment.

Ms CATE FAEHRMANN (20:58:56): The Greens support the amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. John Graham has moved Opposition amendment No. 8 on sheet c2020-173L. The question is that the amendment be agreed to.

Amendment agreed to.

The Hon. JOHN GRAHAM (20:59:24**):** I move Opposition amendment No. 8 on sheet c2020-197:

No. 8 **Liquor deliveries from licensed premises**

Page 36, Schedule 4.1. Insert after line 23—

[17A] Section 117 Offences relating to sale or supply of liquor to minors

Insert after section 117(5A)—

(5B) Despite subsection (4), a licensee or another person who is delivering packaged liquor on behalf of a licensee or other person that has sold the liquor by retail, irrespective of the State or Territory in which the sale is made, must not supply the packaged liquor to a minor.

Maximum penalty—100 penalty units or 12 months imprisonment or both.

(5C) It is a defence to a prosecution under subsection (5B) if it is proved that—

(a) the person to whom the liquor was sold or supplied was of or above the age of 14 years, and

(b) before the liquor was sold or supplied to the person the defendant was provided with an evidence of age document

(i) that may reasonably be accepted as applying to the person, and

(ii) proving that the person was of or above the age of 18 years.

(5D) It is also a defence to a prosecution under subsection (5B) for the person who delivered the liquor if it is proved that at the time of the alleged offence the person did not know, and could not reasonably be expected to have known, that the person was delivering liquor.

Example. A courier delivers a package on behalf of an interstate retailer and is unaware the delivery includes liquor.

The amendment goes to toughening up the offences relating to the sale or supply of liquor to minors. I thank the Government for its assistance in this amendment in particular. The Opposition was very frustrated in that, in our view, one of the gaps in the bill is that there is not really a requirement for checking ID beyond same day delivery. We understand how difficult it is to regulate in this space but we see it as out of step with community expectations. I have tried to talk to my colleagues—and it is the same for my fellow shadow Minister in the other place, Sophie Cotsis—but they do not accept that that could be the case in the way we regulate these online sales.

We urge the Government to look at the issue seriously. It has been the subject of quite intensive discussions between the Opposition, the crossbench and the Government to see if there is a way to do that. We have reluctantly accepted that it is very difficult to draft something in a form that we could move in this bill without unintended consequences, but that is not without a whole lot of trying. The Minister has indicated that he will bring forward a review in just 12 months. Our message to the Government and also to the good players in the industry is that we would like some way to reassure the community, MPs and parents that those measures are in place. Good providers are doing it, but it is also true that the law should support those good providers by ensuring that 5 per cent or 10 per cent of the industry is not getting away with bad practices. That supports a case for regulating further in this space. We do not do so today on those other matters, but it is my expectation that it will be the subject of close review and attention from this place. We move the amendment, which toughens the penalties, and I commend it to the House.

The Hon. CATHERINE CUSACK (21:01:46**):** The Government supports the amendment.

Ms CATE FAEHRMANN (21:01:50**):** The Greens support the amendment and note that there are quite strong defences to a prosecution under the proposed section. We also grappled with how to ensure that the ongoing and increasing online sale of alcohol is able to be done while meeting the objects of the Act in relation to harm reduction. This is an important amendment, which we support.

The CHAIR (The Hon. Trevor Khan): The Hon. John Graham has moved Opposition amendment No. 8 on sheet c2020-197. The question is that the amendment be agreed to.

Amendment agreed to.

The Hon. JOHN GRAHAM (21:03:01**):** I move Opposition amendment No. 9 on sheet c2020-173L:

No. 9 **High risk venues**

Page 36, Schedule 4.1. Insert before line 24—

[17A] Section 116B Interpretation

Insert after section 116B(4)—

(4A) However, the Secretary, when designating premises as a high risk venue, must not take into account the presence of a dance floor or area ordinarily used by patrons for dancing.

This is one of my favourite amendments and I commend it to the House. It was the subject of the parliamentary inquiry. I can see some of my friends here who were on that inquiry and who were equally horrified when it became clear that some of the things being regulated heavily in New South Wales were mirror balls and dance floors. In the Opposition's view, that is not appropriate. Members might have heard me re-tell some of the same jokes—that has been the accusation.

The jokes can stop tonight with this measure where the secretary, when designating premises as a high-risk venue, must not take into account the presence of a dance floor. Just because there is a dance floor does not make it a high-risk venue or a bad venue. We have no problem with cracking down on bad venues, but the mere presence of a dance floor is not a high risk. I am hopeful the amendment will be agreed to by the House. In taking this action we send a very big message to New South Wales, and also outside New South Wales, because those conditions are notorious. Starting to strike out those conditions with the amendment will do the State a great favour.

The Hon. CATHERINE CUSACK (21:04:20**):** The Government is happy to support the amendment—the John Travolta amendment.

Ms CATE FAEHRMANN (21:04:25**):** The Greens are happy to support the amendment too. Mirror balls and dance floors are clearly not high risk. If it enables venues to put more dance floors and mirror balls in, let us

make that happen. The Greens wholeheartedly support the amendment and we look forward to more mirror balls and dance floors.

The CHAIR (The Hon. Trevor Khan): The Hon. John Graham has moved Opposition amendment No. 9 on sheet c2020-173L. The question is that the amendment be agreed to.

Amendment agreed to.

The Hon. JOHN GRAHAM (21:05:20**):** I will not be moving Opposition amendment No. 10 on sheet c2020-173L. The Government and the Opposition have been in discussions about the amendment. We think it is a sensible measure, but the Government has strongly put the view that the 24-hour economy consultative committee is being set up at the moment. We want to support that committee; it will perform some of the functions that we examined in the amendment. We have put a number of views to the Government about it. We would like to see it properly resourced and supported, and we want it in place soon—preferably by Christmas. I move Opposition amendment No. 11 on sheet c2020-173L:

No. 11 **New development consent process**

Page 39, Schedule 4.1. Insert after line 13—

[26A] Section 163

Insert after section 162—

163 Reporting on licensing and planning alignment

(1) The Parliament considers it a priority to—

(a) streamline the process for obtaining development consents under the *Environmental Planning and Assessment Act 1979* and licences under this Act for proposed licensed premises, including providing a single, integrated application process under the *Environmental Planning and Assessment Act 1979 and this Act* for licensed premises, and

(b) develop further licensing incentives to encourage licensed premises to program live entertainment including—

(i) events at which one or more persons are engaged to play or perform live or pre-recorded music, and

(ii) performances at which the performers, or some of the performers, are present in person.

(2) The Minister must, jointly with the Minister responsible for administering the *Environmental Planning and Assessment Act 1979*, establish a process to address Parliament's priority as set out in subsection (1)(a).

(3) The Minister must also develop incentives, to address Parliament's priority as set out in subsection (1)(b), including, for example, additional extended trading hours or reduced fees.

(4) The Minister must, within 6 months after the commencement of this section, give a report to the Presiding Officer of each House of Parliament about the Minister's progress in addressing each of the priorities set out in subsection (1).

(5) A copy of a report given to the Presiding Officer of a House of Parliament under subsection (4) must be laid before the House within 5 sitting days of the House after it is received by the Presiding Officer.

This is a fantastic amendment.

The Hon. Catherine Cusack: Did you write it yourself?

The Hon. JOHN GRAHAM: I will not claim that. The amendment talks about licensing and planning alignment. The Minister has made some enthusiastic comments on the topic, and the amendment seeks to hold him to them. It calls for a single integrated application process to be developed between licensing and planning. The Minister says he is keen to do that. The amendment calls for a report to the Parliament within six months on how the development of the application process is going. If we get it right, a venue that is setting up will remove months from its timeline. We know that it is possible. We took that position to the election. The Minister is now in favour of it. We want to know how he will be going with it six months from today.

The Hon. CATHERINE CUSACK (21:07:13**):** The Government supports the amendment.

Ms CATE FAEHRMANN (21:07:20**):** The Greens also support the amendment. One of the recommendations from the inquiry into the music and arts economy was to look at streamlining processes. While the bill certainly goes some way to addressing restrictions that are in place and the flexibility of venues, at a briefing organised by the Hon. John Graham the music industry told us that unless we address the barriers that are contained within the Environmental Planning and Assessment Act 1979 it is still going to be grappling with a lot

of its current frustrations. I think that making sure the Minister has to report back is a good compromise. We look forward to that. The Greens support the amendment.

The CHAIR (The Hon. Trevor Khan): The Hon. John Graham has moved Opposition amendment No. 11 on sheet c2020-173L. The question is that the amendment be agreed to.

Amendment agreed to.

The Hon. JOHN GRAHAM (21:09:42**):** I move Opposition amendment No. 12 on sheet c2020-173L:

No. 12 **Special COVID-19 pandemic provisions**

Page 39, Schedule 4.1. Insert before line 14—

[26B] Part 12

Insert after Part 11—

Part 12 Special provisions relating to COVID-19 pandemic

163 Purpose

The purpose of this Part is to introduce temporary measures during the period of the COVID-19 pandemic to allow local councils to encourage the use of outdoor space for outdoor dining and performance to assist with social distancing measures.

164 Definitions

In this Part—

area, for a local council, means the area for which the local council is constituted.

classified road has the same meaning as in the *Roads Act 1993*.

footway has the same meaning as in the *Roads Act 1993*.

local council means a council under the *Local Government Act 1993*.

prescribed period means the period—

(a) starting on the commencement of this section, and

(b) ending on the day that is 12 months after the commencement.

public open space has the same meaning as in the *Roads Act 1993*.

roads authority has the same meaning as in the *Roads Act 1993*.

165 Local councils to have temporary powers to encourage use of outdoor space

(1) During the prescribed period—

(a) a local council may decide, by notice published on its website—

(i) to temporarily allow the use of a footway or public open space associated with any of the following to be used as an outdoor dining area, extension of foyer space or a performance space—

(A) licensed premises or other lawful food and drink premises,

(B) entertainment, arts or cultural venue, or

(ii) to temporarily allow parking spaces within the local council's area to be used as an outdoor dining area, extension of foyer space or performance space, or

(iii) to temporarily close a road, for which it is the roads authority, for use as an outdoor dining area, extension of foyer space or performance space, or

(iv) to temporarily close a classified road, with the concurrence of Transport for NSW, for use as an outdoor dining area, extension of foyer space or performance space, or

(v) to temporarily vary a development consent or a development consent condition to allow outdoor performance, and

(b) if the council allows use of pathways, public open space, roads or other premises for a purpose mentioned in paragraph (a), the use is taken to be exempt development specified for the purposes of State *Environmental Planning Policy (Exempt and Complying Development Codes) 2008*.

(2) A local council may make a decision referred to in subsection (1) only if the council has—

(a) given the Minister at least 7 days notice that the council wants to trial outdoor dining and performance to assist with social distancing measures and invited the Minister to respond to the proposal, and

(b) given 7 days notice of its intention to make the decision—

(i) by publishing a notice about the proposed decision on the council's website, and

(ii) to the following persons—

(A) if the proposed decision relates to licensed premises—the Authority and the Commissioner of Police,

(B) if the proposed decision relates to a road for which the council is the roads authority—the Commissioner of Police and Transport for NSW,

(C) if the proposed decision relates to a classified road—the Commissioner of Police and Transport for NSW, and Transport for NSW has agreed to the road closure.

(3) A decision referred to in subsection (1)—

(a) has effect subject to a provision of an Act, regulation or other instrument that provides for noise attenuation for licensed premises or other premises, and

(b) has effect for the purposes of sections 126 and 127 of the *Roads Act 1993* as if it were an approval granted under section 125 of that Act, and

(c) has effect despite any provision of the *Roads Act 1993*, the *Transport Administration Act 1988* or another Act, or a regulation or instrument made under an Act, that requires local councils to submit traffic management plans or consult with local traffic committees.

166 Repeal of Part

This Part is repealed at the beginning of the day that is 12 months after the day it commences.

This is another wideranging amendment. It deals with something that the Minister and the Government have spoken about frequently. In fact, the media stunts, media events and public announcements in this area have been prolific. The Opposition wants to see it sped up. This is not only about outdoor dining, but it is also about outdoor performance. I know the Treasurer and the Minister have been keen on that, but at the moment only 17 venues across New South Wales have been approved for it. More will be approved when the City of Sydney comes online. I think that will happen on 1 November but that is simply not fast enough.

The Government is implementing an economic stimulus measure for the Sydney CBD. The Opposition supports that, but we want a health measure in place for the State of New South Wales. It is as important in Wagga Wagga as it is in The Rocks. We must extend these measures from The Rocks right across the State. It is important in the suburbs where people live and work. It is important in the towns where it could form part of how we deal with the pandemic. The measures in Opposition amendment No. 12 will be in place for 12 months only. They dramatically strengthen councils' ability to allow dining, drinking and performance to spread out onto footways and potentially into parking areas. It allows councils to work with their local communities to close roads. Those are excellent measures that complement what the Government has done already. The Opposition's overall message is that the Government should move faster. The Opposition wanted this in place before daylight saving began. We do not want it implemented only in The Rocks. It is a health measure that must be implemented right across New South Wales.

The Hon. CATHERINE CUSACK (21:11:45**):** The Government prefers its amendment relating to approvals for outdoor dining to the amendment proposed by the Opposition. The Government has established an outdoor dining task force and is working with councils and the Office of Local Government to make it easier for businesses to obtain approval to commence and expand outdoor dining. Granting a temporary power to councils is unnecessary because we already have a solution that has been used successfully through an update to the State environmental planning policy in The Rocks and in the City of Sydney. The outdoor dining task force is already look at replicating that approach in other local government areas.

Ms CATE FAEHRMANN (21:12:25**):** The Greens support the Opposition amendment. The Parliamentary Secretary said that what is happening in The Rocks would be applied potentially to other local government areas. The purpose of the amendment is to give immediate certainty to all local councils that want to provide their businesses with the option of moving to outdoor dining. Given that it is now 22 October, councils need to make those decisions now. That is why it is important that this particular amendment is supported. It will send a message to local councils and businesses that they can get prepared to plan for and to experience some great outdoor dining this summer.

The CHAIR (The Hon. Trevor Khan): The Hon. John Graham has moved Opposition amendment No. 12 on sheet c2020-173L. The question is that the amendment be agreed to.

Amendment agreed to.

The Hon. JOHN GRAHAM (21:14:05**):** By leave: I move Opposition amendments Nos 1 to 3 on sheet c2020-196C in globo:

No. 1 **Live entertainment conditions**

Page 40, Schedule 4.1[27], proposed clause 70, line 26. Omit all words on that line. Insert instead—

licensed premises,

(d) a condition that restricts the performance of original music,

(e) a condition that restricts a stage for live performers from facing a particular direction,

(f) a condition that restricts decorations, including, for example, mirror balls, or lighting used by musicians,

(g) a condition that prohibits live music, live entertainment or the amplification of a musical instrument at all times or across the entire licensed premises,

(h) a condition that prohibits or restricts the presence or use of a dance floor or another area ordinarily used for dancing.

No. 2 **Entertainment conditions**

Page 40, Schedule 4.1[27], proposed clause 71. Insert after line 40—

(2A) From the commencement of this clause, a live entertainment condition may not be imposed on a licence.

(2B) However, subclause (2A) does not apply to a live entertainment condition relating to adult entertainment of a sexual nature.

No. 3 **Entertainment conditions**

Page 41, Schedule 4.1[27], proposed clause 71. Insert after line 4—

live entertainment condition means a condition referred to in clause 70(1). These amendments to the Liquor Amendment (24-hour Economy) Bill 2020 go to the heart of a bill that the House debated previously. They mirror the provisions of that bill in a form that I hope the Government will accept. It has been the subject of close discussion with the Government since that debate.

There was a lot of agreement throughout the Chamber on the direction. We have been looking for the appropriate way to drive that into regulation, and we hope that those amendments do that. Those measures will ensure that there are no restrictions on live entertainment, such as the banning of original music. It means that not only will a Cold Chisel cover band be able to play at the South Dubbo Tavern but also Jimmy Barnes and Cold Chisel will be free to let loose, and that would be a good thing. A condition that restricts a stage from facing a particular direction will no longer be part of the regulatory system. That means that country musicians who are on a truck in 45 degrees Celsius heat during the Tamworth Country Music Festival can come into the cool, have a drink and play in the bar facing a direction other than south.

The amendment will remove other conditions. I never thought that I would see this in a New South Wales Act of Parliament, but the amendment will remove restrictions on mirror balls and lighting used by musicians. To be clear: It will not be illegal to hang a mirror ball in a venue in New South Wales. We never should have had to legislate for that. The amendments will remove conditions that prohibit the amplification of musical instruments at live entertainment venues. It is fine to regulate noise, but we should not use those conditions to do it. We have already made it clear elsewhere in the bill, but dance floors will not be prohibited. All of those conditions horrified members, but we have looked for a way to sweep them out of the law in New South Wales to send a clear signal to the live entertainment industry. We hope that the bill will do that tonight.

The Hon. CATHERINE CUSACK (21:16:49**):** I thank the Hon. John Graham. The Government supports the amendments.

Ms CATE FAEHRMANN (21:16:54**):** New South Wales will go crazy. I cannot believe it has taken so long for the Parliament to have a debate about removing those ridiculous conditions. Bring on everything that those amendments relate to. Hopefully the bill can be proclaimed within a few days.

The CHAIR (The Hon. Trevor Khan): The Hon. John Graham has moved Opposition amendments Nos 1 to 3 on sheet c2020-196C. The question is that the amendments be agreed to.

Amendments agreed to.

The Hon. CATHERINE CUSACK (21:18:31): By leave: I move Government amendments Nos 3 to 5 c2020-190E in globo:

No. 3 **Live entertainment—noise conditions**

Page 40, Schedule 4.1[27], proposed clause 70. Insert after line 28—

(2A) However, despite subclause (2), the Secretary may impose a condition relating to noise abatement on a licence if—

(a) the Secretary receives a written complaint from—

(i) an occupier of neighbouring premises of the licensed premises, or

(ii) the local consent authority for the licensed premises, or

(iii) the Commissioner of Police, and

(b) the Secretary is satisfied the quiet and good order of the neighbourhood of the licensed premises are being unduly disturbed as a result of the conditions mentioned in subclause (1) ceasing to have effect.

(2B) Section 80 does not apply to a complaint referred to in subclause (2A)(a).

No. 4 **Live entertainment—noise conditions**

Page 40, Schedule 4.1[27], proposed clause 70. Insert after line 32—

(4) In this clause—

neighbouring premises has the meaning given by the regulations.

No. 5 **Live entertainment—noise conditions**

Page 43, Schedule 4.2. Insert after line 32—

[5A] Clause 44A

Insert after clause 44—

44A Neighbouring premises for live entertainment—Schedule 1 to the Act

For the purposes of the definition of ***neighbouring premises*** in clause 70(4) of Schedule 1 to the Act, neighbouring premises has the same meaning as in clause 20(1) of this Regulation. The Government supports the lifting of restrictions on live music and entertainment, which are outdated and onerous, throughout the bill. We have also flagged that we support an approach so that the community can be involved and neighbouring residents and businesses can have their say. The Government is proposing to amend the bill to provide an approach that will allow the secretary to impose alternative conditions to manage noise if the quiet and good order of the neighbourhood is unduly disturbed as a direct result of conditions being automatically removed.

That will mean that the secretary or a Liquor & Gaming NSW delegate can readily impose an alternative, more contemporary noise condition to manage the immediate noise impacts. They can impose those conditions if there is a written complaint from the local council or local police from someone living next to a licensed premises and the secretary is satisfied that the quiet and good order of the neighbourhood of licensed premises are being unduly disturbed as a result of the change to automatically remove licence conditions. No-one wants to live next to a loud venue without any available channel for complaints.

As such, the power to impose noise abatement in response to those complaints would be retained to ensure that community interests are balanced in light of other reforms that promote live music and entertainment. The amendments are important for the community and complement other amendments relating to live music and entertainment for us today. They provide a critical backstop to help limit undue and unintended impacts on businesses and residents across New South Wales following the automatic lifting of those restrictions.

The Hon. JOHN GRAHAM (21:21:14**):** The Opposition does not oppose the amendments. We recognise that in sweeping away the entertainment restrictions, the regulators at Liquor & Gaming must be able to do their job. Part of their job is ensuring that people can get a good night's sleep. The amendments provide measures that allow them to do that by appropriately regulating noise—not music, mirror balls or other things that we have said should not be regulated. They must be able to regulate noise and the amendments allow them to do so.

Ms CATE FAEHRMANN (21:21:48**):** The Greens also support the amendments. However, we are concerned that noise complaints have been used for some time to unduly close venues and restrict the way in which they operate. There were even stories from small bars and different venues that reopened after COVID restrictions lifted about people living near those venues who were disturbed by a bit of noise. Really, this should be about jobs and businesses trying to stay open. While we support the amendments, we hope they will not be

used in the way that noise complaints have been used in the past. We understand that they are necessary, particularly with the previous amendments that were passed removing conditions around music. A lot of noise coming from some venues is extremely problematic for residents and we acknowledge that.

The CHAIR (The Hon. Trevor Khan): The Hon. Catherine Cusack has moved Government amendments Nos 3 to 5 on sheet c2020-190E. The question is that the amendments be agreed to.

Amendments agreed to.

The Hon. JOHN GRAHAM (21:24:48**):** By leave: I move Opposition amendments Nos 13 and 14 on sheet c2020-173L in globo:

No. 13 **Meaning of sound and noise**

Page 41, Schedule 4.2. Insert before line 6—

[1A] Clause 3 Definitions

Insert after clause 3(1)—

(1A) For the purposes of this Regulation, references to sound and noise are taken to have the same meaning.

No. 14 **Sound emissions**

Page 47, Schedule 4.2[20] (proposed section 130A), lines 1 and 3. Omit "noise" wherever occurring. Insert instead "sound".

These amendments change some of the references in the bill from "noise" to "sound". The Government has done this elsewhere so this is the emerging approach in references by the Government to the night-time economy. The reason for this amendment is that venues, musicians and the entertainment sector hate what they do being described as "noise". They prefer it be referred to as "sound". The Government has taken that approach in various areas and the Opposition seeks to pick it up in this bill. The Government raised a concern that it did not want this amendment to change the legal meanings within the bill. That is a very valid point. For that reason, references to "sound" and "noise" are taken to have the same meaning in these amendments.

The Hon. CATHERINE CUSACK (21:26:16**):** The Government does not oppose the amendments. The Government thinks it is unnecessary to equate the definition of "noise" and "sound" for the purpose of the regulation. We expect that these amendments will have little practical impact. As already stated, the liquor bill is complex as it is and we should not add further complexity without good reason.

Ms CATE FAEHRMANN (21:26:36**):** The Greens support these very sensible amendments.

The CHAIR (The Hon. Trevor Khan): The Hon. John Graham has moved Opposition amendments Nos 13 and 14 on sheet c2020-173L. The question is that the amendments be agreed to.

Amendments agreed to.

The CHAIR (The Hon. Trevor Khan): We now move to the final amendments on sheet c2020-173L, that being Opposition amendments Nos 15 and 16. I think members are in agreement that Opposition amendment No. 16 on sheet c2020-173L is in the same terms as Government amendment No. 2 on sheet c2020-174E. Therefore, if the Opposition amendment is agreed to, the Government amendment will not be put.

The Hon. JOHN GRAHAM (21:28:28**):** By leave: I move Opposition amendments Nos 15 and 16 on sheet c2020-173L in globo:

No. 15 **Special entertainment precincts**

Page 47, Schedule 4. Insert after line 9—

4.2D Local Government Act 1993 No 30

[1] Chapter 8, Part 3

Insert after section 201—

Part 3 Special entertainment precincts

202 Special entertainment precinct

(1) This section is about establishing a special entertainment precinct.

(2) A ***special entertainment precinct*** is an area in which—

(a) amplified music that is played in the area is regulated by or under a law other than the *Liquor Act 2007*, and

(b) requirements about noise attenuation apply to certain types of development in the area, and

(c) dedicated live music and performance venues are authorised to trade for an additional 30 minutes under the *Liquor Act 2007*, section 12A.

(3) A council may establish a special entertainment precinct in its area by amending its local environmental plan to identify the special entertainment precinct.

(4) A special entertainment precinct may consist of—

(a) a single premises, or

(b) a precinct, streetscape or otherwise defined locality in the council's area.

(5) If a council establishes a special entertainment precinct, the council must—

(a) prepare a plan for regulating noise from amplified music from premises in the special entertainment precinct and publish it on the council's website, and

(b) notify the following persons about the special entertainment precinct including, for example, by notice published on its website or a notation on planning certificates for land in the precinct—

(i) residents living in the area,

(ii) persons moving into the area.

(6) In this section—

dedicated live music and performances venue has the same meaning as in the Liquor Act 2007.

planning certificate means a certificate under section 10.7 of the Environmental Planning and Assessment Act 1979.

203 Minister's guidelines

(1) The Minister may, by notice published on the Department's website, issue, adopt or vary guidelines about—

(a) the establishment of special entertainment precincts, and

(b) the operation, revocation or suspension of special entertainment precincts.

(2) A council must act in accordance with a guideline under subsection (1) in exercising its functions under this Part.

No. 16 **Long title**

Omit "and to make miscellaneous amendments to the Act and regulation".

Insert "to make miscellaneous amendments to that Act and regulation; and for other purposes".

I want to speak to amendment No. 15 in particular because it is an important concept going forward. This is central to the Opposition's view about how the planning and liquor systems should work together to support local communities. This amendment will introduce special entertainment precincts in areas where councils will take charge of their own noise regulation. The councils will notify residents appropriately, stating, "If you are moving into this area it might be a little bit noisier but it will be a good place to live." Also these are areas where licensing provisions and benefits will apply to music and entertainment venues. So the 90 minutes extra trade will apply, if councils set them up in their local area. That will set up a framework where places like Newcastle and Wollongong and towns like Wagga Wagga which have an emerging music tradition and fantastic festivals might carve out part of their area for a special entertainment precinct.

On the North Coast one can imagine this really starting to take place. But in our view this is one of the ways we can drive the system. This is about local communities and councils saying that they want a special entertainment precinct to happen in a certain local area and the licensing system supporting that. It is about the noise systems to support that happening there. Over time the Opposition would like to see these strengthened and more benefits added to these so that they are attractive for local communities. I welcome the discussions we have had with the Government. This introduces the concept into the planning law, but does it in harmony with the licensing law of the State. We think this got massive potential. We welcome the chance to move it in this debate and look forward to seeing how this develops over time.

The Hon. CATHERINE CUSACK (21:30:23**):** The Government does not oppose these amendments.

Ms CATE FAEHRMANN (21:30:29**):** The Greens support these amendments. Establishing or enabling local councils to establish a special entertainment precinct within their local environment plans is eminently sensible. We have to wonder in some ways why this was not included in the bill in the first place. I take this opportunity to thank the Hon. John Graham for his efforts to improve the bill. I thank him for giving a lot of time not only to consulting with industry but also to getting support from the Government and including us in those consultations and discussions. The Greens absolutely support this amendment and look forward to some councils

hopefully establishing special entertainment precincts soon. Given the amount of travel that people are undertaking all around the State, this can only be a good thing at this point in time.

The CHAIR (The Hon. Trevor Khan): The Hon. John Graham has moved Opposition amendments Nos 15 and 16 on sheet c2020-173L. The question is that the amendments be agreed to.

Amendments agreed to.

The Hon. CATHERINE CUSACK (21:32:06**):** I move Government amendment No. 1 on sheet c2020-174E:

No. 1 **Outdoor dining**

Page 48. Insert after line 33—

Schedule 6 Amendment of Roads Act 1993 No 33

[1] Part 9, Division 1

Omit the heading. Insert instead—

Division 1 Use of roads for food or drink premises

[2] Section 125

Omit the section. Insert instead—

125 Approval to use road for food or drink premises

(1) A roads authority may grant an approval that allows a person who operates food or drink premises adjacent to a public road to use part of the public road for the purposes of the food or drink premises.

(2) However, a roads authority may not grant an approval in relation to the use of a classified road without the agreement of Transport for NSW.

(3) A roads authority may grant an approval on the conditions, including conditions about payments in the nature of rent, decided by the roads authority.

(4) A roads authority may grant an approval for the term decided by the roads authority, but not more than—

(a) for an approval for the use of a footway of a public road—7 years, or

(b) for an approval for the use of any other part of a public road—12 months.

(5) A roads authority may terminate, or temporarily suspend, an approval granted by the roads authority under this section—

(a) immediately, if in the roads authority's opinion, it is necessary for safety reasons, or

(b) otherwise—if the roads authority has given the holder of the approval at least 7 days written notice.

(6) Unless sooner terminated, an approval lapses on the earlier of the following—

(a) the end of its term,

(b) if the part of the public road the subject of the approval ceases to be used for the purposes of food or drink premises, when the use for that purpose ceases.

[3] Section 126 Authority to erect structures

Omit section 126(1). Insert instead—

(1) A roads authority that grants an approval under section 125 may—

(a) authorise the holder of the approval to erect, place or maintain structures, furniture or other things in, on or over any part of the road the subject of the approval, or

(b) at the request and cost of the holder of the approval, erect, place or maintain structures, furniture or other things in, on or over any part of the road the subject of the approval.

[4] Section 126(2)

Omit "council". Insert instead "roads authority".

[5] Section 126(2)

Omit "footway". Insert instead "public road".

[6] Section 127 Effect of approval

Omit "footway for the purposes of a restaurant" from section 127(a).

Insert instead "public road for the purposes of food or drink premises".

[7] Section 127(b)

Omit the paragraph. Insert instead—

(b) the erection, placement or maintenance of structures, furniture or other things on the public road authorised by the roads authority under section 126(1),

[8] Section 248 Evidentiary certificates

Omit "of a footway" from section 248(1)(e). Insert instead "of a public road".

[9] Section 248(1)(e)

Omit "for a footway restaurant".

Insert instead "for food or drink premises under section 125".

[10] Schedule 2 Savings, transitional and other provisions Insert after clause 80—

Part 8 Provision consequent on enactment of Liquor Amendment (24-hour Economy) Act 2020

81 Approvals under section 125

(1) An approval under section 125 that was in force immediately before the commencement continues in force after the commencement, on the same conditions and for the same term, as if it had been granted after the commencement.

(2) An application for an approval under section 125 made, but not decided, before the commencement is to be decided under section 125 as if the amendment Act had not commenced.

(3) In this clause—

amendment Act means the *Liquor Amendment (24-hour Economy) Act 2020*.

commencement means the commencement of this clause.

[11] Dictionary

Omit the definitions of ***footway restaurant*** and ***restaurant***.

Insert instead in alphabetical order—

food or drink premises has the same meaning as it has in the Standard Instrument set out in the *Standard Instrument (Local Environmental Plans) Order 2006*.

Note. Under the *Standard Instrument (Local Environmental Plans) Order 2006* ***food and drink premises*** means premises that are used for the preparation and retail sale of food or drink (or both) for immediate consumption on or off the premises, and includes any of the following—

(a) a restaurant or cafe,

(b) take away food and drink premises,

(c) a pub,

(d) a small bar.

This amendment to section 125 of the Roads Act 1993 will provide a clearer and more flexible mechanism for the use of public road areas for outdoor dining and service of beverages. The current outdoor dining provisions in the Roads Act allow councils to grant approvals to restaurants for use of footway areas only on public roads. The definition of a restaurant in the Act is also restrictive and does not include takeaway facilities. The amendments will enable the roads authority to grant approval for the use of the public road beyond the footway area for food and drink premises. The new definition of food and drink premises includes restaurants, cafes, takeaway premises, pubs and smalls bars. Roads authorities will have absolute discretion to determine approvals and set appropriate conditions, including safety and traffic management requirements. While an approval can be granted for a set term, a roads authority will also be able to step in to terminate or suspend an approval should it be necessary to do so, for example, for safety reasons.

The Hon. JOHN GRAHAM (21:33:28**):** The Opposition will be supporting this amendment. We moved a similar amendment for COVID-19 provisions earlier in the debate. I support the direction the Government is going here. We would be concerned if the overlapping provisions of these amendments caused any restriction on the approach we were seeking to drive in the earlier amendment, but the terms in which the Government has

presented this amendment to us makes us think it is well intentioned, heading in the same direction and gives us some hope that communities around the State may well see this activity in their neighbourhoods sooner rather than later. Provided all those things are true, we are happy to support this amendment.

Ms CATE FAEHRMANN (21:34:36**):** The Greens also support this amendment. It is yet another one that has come about as a result of pressure to amend the original bill before us. Over the past few weeks the Government has talked very proudly about its 24-hour Economy Strategy and has made some good announcements in terms of rooftop dining and allowing dining and other entertainment to take place outdoors. Given we have only two more weeks of sittings this year, this really was the opportunity to bring it forward to create certainty for industry and businesses. That is what this amendment does and it is great that the Government has brought it forward. We wholeheartedly support this amendment.

The CHAIR (The Hon. Trevor Khan): I take this opportunity to thank all members at the table for the cooperative way in which we have got through tonight. I am truly grateful. I thank all members in the Chamber for the manner in which they have conducted themselves as well. I also thank the advisers, who have made what has been a very confusing night a lot easier.

The Hon. John Graham: Hear, hear!

Ms Cate Faehrmann: Hear, hear!

The CHAIR (The Hon. Trevor Khan): The Hon. Catherine Cusack has moved Government amendment No. 1 on sheet c2020-174E. The question is that the amendment be agreed to.

Amendment agreed to.

The Hon. CATHERINE CUSACK: I move:

That the Chair do now leave the chair, report progress and seek leave to sit again on the next sitting day.

Motion agreed to.

Adoption of Report

The Hon. CATHERINE CUSACK: On behalf of the Hon. Damien Tudehope: I move:

That the report be adopted.

Motion agreed to.

ROAD TRANSPORT 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

PROCEDURE COMMITTEE

Reports

The PRESIDENT: I table the report entitled *E-Petitions in the Legislative Council*, dated October 2020, together with related papers.

The Hon. DAMIEN TUDEHOPE: I move:

That the report be printed.

Motion agreed to.

Adjournment Debate

ADJOURNMENT

The Hon. DAMIEN TUDEHOPE: I move:

That this House do now adjourn.

BLUE MOUNTAINS CITY COUNCIL

The Hon. ADAM SEARLE (21:38:36**):** The last time I gave an adjournment speech was on 25 August 2020 when I spoke about the Ombudsman's report on the SafeWork investigation into Blue Mountains City Council and its handling of asbestos. I made the point that the report outlined:

> SafeWork's investigations were being undertaken in a climate of unrelenting media, public, ministerial and executive pressure … including Ministerial demands (by two Ministers).

I quote further from the report:

> The then Minister for Local Government and the then Minister for Better Regulation maintained close and direct involvement in the events culminating in a public inquiry into BMCC, which is still ongoing.

Quite clearly the involvement of the two Ministers caused SafeWork to act partially, unlawfully and unreasonably to the point where the Ombudsman made unprecedented recommendations. I will talk to the first two recommendations. The first was that SafeWork apologise to the Blue Mountains City Council for the way that it conducted its activities and acknowledge the detrimental impact on council, staff and ratepayers for its actions. I note that happened a few weeks ago, on 15 September. But, as the mayor of the Blue Mountains indicated, the notice that went up on the SafeWork website was deficient in that it did not conform to what had been required by the Ombudsman.

Subsequent to that Rose Webb, Deputy Secretary of the Better Regulation Division in the Department of Customer Service, wrote to the mayor. She said in her letter that the activities of SafeWork during its investigation into the Blue Mountains City Council's handling of asbestos failed "to meet the standard expected of a best practice regulator" and that the SafeWork regulator acknowledged and greatly regretted "the detrimental impact this had on the council, its staff and ratepayers". The second recommendation was that SafeWork should make an ex gratia payment to the Blue Mountains City Council to defray the costs and the impacts to ratepayers for the unnecessary expenses that the council had been put to because of the unreasonable and unlawful activities of SafeWork. It is good to note that in this week's *Blue Mountains Gazette*, 21 October, it has been announced that Ms Webb on behalf of SafeWork has invited council to submit an invoice for the costs of testing at the Wentworth Falls Preschool and the Lawson carpark.

It is very, very good that that development has now occurred. I am reliably informed that those expenses will run into seven figures. As I indicated earlier in my comment quoting from the SafeWork report, those activities actually led not just to this unlawful regulation by SafeWork but also culminated in a public inquiry being launched by former Minister for Local Government Gabrielle Upton into the council in relation to these matters. The expenses that the council had been put to in meeting the unreasonable and unlawful demands of SafeWork will pale into insignificance compared to the expenses that the council will have been put to from this long-running public inquiry being conducted by Mr Beasley, SC, which has already produced a number of interim reports all favourable to the council.

That inquiry is still ongoing but the council and its ratepayers are being pressed very hard—at incredible expense—all again stemming from these actions that the Ombudsman found to be unreasonable and unlawful. It is worth reflecting on a number of the findings made by the Ombudsman. One prohibition notice was not lawfully issued because the inspector did not have the reasonable belief required by the legislation. He had no power to issue the notice and in fact issued the notice under the direction of his director. An improvement notice was also not lawfully issued because the inspector did not have a reasonable belief, and again issued the notice at the direction of his director.

An improvement notice was also not lawfully issued because again the inspector did not have a reasonable belief as required by the legislation. Two prohibition notices were unreasonably issued because the inspector felt obliged to issue the notices because of views expressed by his executive director. And the defalcations continue: Time after time, inspectors issued notices because they were told or directed to by a superior or they had to do it because they felt that they had no choice. That, of course, leads to recommendation number five, which is to make more clear the current legal position that an inspector may not be directed to exercise a compliance power. That is the existing law but clearly it did not work. When will the Government act?

ENERGY POLICY

The Hon. ROD ROBERTS (21:43:53**):** A few weeks ago I spoke in this Chamber about the Californian energy crisis during their recent heatwave. The most pioneering state in America when it comes to greening the grid could not keep the lights on. Renewables failed and they had to rely on gas-fired power plants. Even that was not enough. The experiments in overseas jurisdictions tell us that we need a mix of energy sources that includes coal, gas and nuclear to keep the system operating and to guarantee energy security for the people of New South Wales. I will leave California and its failed experiment in renewables and travel to the other side of the world to the United Kingdom to look at its current situation.

Ten years ago in the United Kingdom about 40 per cent of its electricity came from coal. Just 3 per cent came from wind and solar. In 2020 renewables are responsible for 37 per cent of the electricity supply to the network, versus 35 per cent for fossil fuels. Nuclear power accounts for about 18 per cent and electricity imported from Europe accounts for the remaining 10 per cent. Online environmental journal *Carbon Brief* states:

With gas also in decline, there's a real chance renewables will overtake fossil fuels in 2020 as a whole.

The journal also predicts the United Kingdom's three remaining coal plants will be shut down within five years. That is all well and good in theory, but it is just another green dream that did not play out. I alert members to a significant sequence of events in the United Kingdom in relation to its electricity woes. On Wednesday 10 June this year the BBC reported—in fact, it did not just report, it spruiked—that the United Kingdom had gone two months without burning coal to generate power. Indeed, that is a goal that we all strive to achieve one day. However, on Thursday 13 August, in the middle of the United Kingdom's record-breaking heatwave that brought wind turbines to a standstill and caused gas-fired power stations to struggle, guess what happened? That is right, the National Grid fired up one of the shutdown coal-fired power stations—coal-fired baseload power to the rescue.

The Ratcliffe-on-Soar power station in Nottinghamshire began generating electricity to meet the peak in electricity demand. Just like California, the United Kingdom was not able to rely on renewables. Wind turbines slowed because the wind was not blowing and gas-fired power stations struggled. Britain's wind farms generated 30 per cent of its electricity needs in the first quarter of 2020, but that fell to a low of just 4 per cent on Wednesday 12 August. Just when the people of the United Kingdom needed electricity the most, wind was missing in action. All of this occurred during London's longest stretch of high temperatures in almost 60 years. That is something Australians and the people of New South Wales can relate to. The Parliament must plan for that in its short- and long-term future. The big question is what the United Kingdom Government will do after 2025 with its ban on coal-fired power stations, when all plants are due to shut down.

As for New South Wales, under the current Renewable Energy Target scheme mandated by the Commonwealth Government, 20 per cent of Australia's electricity supply is to come from renewable sources by 2020. Having watched the failed energy experiments in both the United Kingdom and the United States, is New South Wales committed to securing coal, gas and nuclear as part of its energy mix going forward? If not, why not? We simply cannot afford to jeopardise energy supply for New South Wales. I remind my fellow members of our responsibilities. The consequences are far reaching and long term for productivity and for the economy. People say, "Let's take the politics out of the debate." But we have a political responsibility to reach consensus on certain issues.

The Democratic Party has endorsed nuclear power in its platform before the upcoming election and nuclear power enjoys majority support among Republicans, so nuclear power enjoys bipartisan support in the United States. A recession such as the one we find ourselves in now means high unemployment, so people need low-cost electricity. It is not only a commercial issue, it is also a significant social issue. During an energy crisis, will New South Wales look like a Third World country? What will happen to our schools, hospitals and businesses? Will they be shut for long periods of time? We should not blindly follow others down the path of renewables only. It has failed in the United States and the United Kingdom at the most crucial time. We need a commitment from all members of the Chamber to secure an energy mix that guarantees continuous baseload power. We cannot afford to experiment.

PROBLEM GAMBLING

The Hon. SHAYNE MALLARD (21:48:46**):** Gambling harm is a scourge on our society that continues to affect individuals and families deeply. Problem gambling has been put into the too-hard basket by politicians on both sides for too long. While many politicians question how to address the issue, individuals and families continue to suffer the consequences of gambling-related harm. I make particular reference to the harm of gaming machines, of which use has continued to increase, particularly after the COVID lockdowns. The NSW Gambling Survey 2019 found that 1 per cent of the general adult population are classified as problem gamblers, 2.8 per cent are considered to be at moderate risk and 6.6 per cent are low risk. Since the last survey conducted on New South Wales problem gamblers in 2011, there has been an increase in the proportion of problem gamblers from 1.2 per cent to 1.9 per cent.

Those percentages seem low, but let us look at the raw numbers. It accounts for approximately 56,000 people within the New South Wales adult population who are experiencing severe gambling-related harm, otherwise known as problem gamblers. That figure is seriously concerning. However, it is not just the person with the gambling problem who is affected but also the people around them. Research indicates that each problem gambler can affect up to six people around them. Approximately 500,000 people in New South Wales are experiencing or are at risk of gambling-related harm. In 2017-18 total gaming expenditure in New South Wales was $8.6 billion. Gaming machines in hotels and clubs contributed 74 per cent, or $6.4 billion, of that total. As at 20 September 2020 there were 2,410 venues—clubs and hotels—holding 94,090 gaming machine entitlements in New South Wales.

In addition, The Star casino is authorised to operate up to 1,500 gaming machines. Research commissioned for the New South Wales Responsible Gambling Fund found that currently the minimum responsible gambling

requirements, even when applied appropriately, are not enough to prevent gambling harm effectively. Particularly, the evidence suggests that the informed choice model is failing to have a significant effect on minimising gambling harm, as venues have no regulatory obligation to intervene with patrons who are exhibiting problematic behaviours unless the patron asks for help. Additionally, the research indicates problems with the current self-exclusion schemes. Such schemes must be backed by effective ways to detect breaches, have greater reach and a better mix of positive and negative incentives to change behaviours in both individuals and venues.

In this context, I commend Minister Dominello and Liquor & Gaming NSW for their proposals to reform gambling harm in the Gaming Machines Amendment (Gambling Harm Minimisation) Bill 2020 draft legislation and discussion paper, which is on exhibition and has been subject to some media comment. The Government is seeking feedback on the draft bill until 30 October. People can read it and submit their feedback on the Department of Customer Service website. The proposal is to update the Gaming Machines Act 2001 to improve how hotels and registered clubs minimise gambling harm and provide support to gaming-machine players. I turn now to proposed reforms as outlined in the draft bill.

To better enable venues to proactively engage and assist people who are experiencing or are at risk of gambling harm, the proposed changes focus on active intervention and enhanced harm minimisation training requirements; variable self-exclusion periods; changes to referrals for gambling counselling services; third-party and venue-initiated exclusions; a single statewide online exclusion register; and whistleblower protections. New South Wales is trailing the rest of the nation when it comes to implementing further harm minimisation schemes. Many jurisdictions, particularly Victoria and Queensland, are moving to a broader harm minimisation approach that addresses gambling harm across the spectrum of gamblers through proactive intervention.

Harmful gambling affects many more people than merely the problem gambler. The continued proliferation of gambling machines has created great societal harm. For too long the issue has been put in the too-hard basket. There is a serious need to address it to protect families across New South Wales. As legislators, we need to do better. I strongly endorse the comments about harmful gambling by the Minister for Customer Service, the Hon. Victor Dominello, and I strongly endorse the discussion paper and draft bill. I encourage members to have a look at them.

SYDNEY COASTAL WALKS

The Hon. JOHN GRAHAM (21:52:57**):** Over the recent break I had the great benefit of doing some more of the Bondi to Manly Walk. It is quite incredible. We dragged at least one of our kids along.

Mr David Shoebridge: It's a bit hard to find the signposts.

The Hon. JOHN GRAHAM: Mr David Shoebridge thinks the signposting should be better, and I agree with him. The walk is now an 80-kilometre harbourfront walking track. It is a series of existing paths between Bondi and Manly Beach that have been merged into one path. Six councils have worked together to make it happen. The New South Wales Government has been part of that, as has the community. People could do the walk in three days, though many people take longer. I pay tribute to John Faulkner and Lachlan Harris, two of the people in that community support group, who have really championed the project. A remarkable thing about the walk is that it is rich in Indigenous sites and culture, as members can imagine, around those harbour areas. There are places like Grotto Point and Reef Beach that have been important for tens of thousands of years. There are also over 350 distinctive Aboriginal whale symbol signs that mark out the path. As my colleague said, there should be more.

I am reminded as I walk around that path of the work of the first Labor lands Minister in the Parliament, Niels Nielsen. When the McGowen Government was formed on 21 October 1910, he fought for much of the harbour land. He was a passionate advocate for the public to have access to Crown lands and fought hard against the alienation of Crown land across the State. He was responsible for many of the places we know and love today, like Taronga Zoo Sydney and Nielsen Park, which was obviously named after him. Of course, it was not always smooth sailing. In the end his tough position on this issue saw two Government members split from the Government in a censure resolution in July 2011. In the end, that caused the Government significant pain.

Today I was excited to see the McKell Institute had published its paper entitled *Activating the Harbour City—The case for an Opera House to Parramatta pathway*. The discussion paper outlines a proposal to deliver Sydneysiders 80 kilometres of continuous foreshore access from the iconic Sydney Opera House to the rapidly expanding geographic centre of Sydney: the Parramatta CBD. The project is aimed at creating jobs and being a massive tourism attraction. It is exactly the right time to be pitching these big ideas. I congratulate the McKell Institute and Sam Crosby on putting the idea to the public. The proposal would deliver 80 kilometres of continuous foreshore access from the Opera House, the Bays Precinct, including Blackwattle Bay, the new Sydney Fish Market, White Bay Power station and Canada Bay to Parramatta River

It is estimated that nearly 3,200 jobs would be created over the lifetime of the project. The McKell Institute says the pathway could be a new recreational space for more than 90,000 residents living in the 18 adjacent suburbs, which is good for community health. More than ever, as we have headed outdoors during the current pandemic, we value those outdoor spaces. This is exactly the right time to be launching this idea. It would build on the fact that Sydney is such a big tourism destination already but we want tourists to see some of the special spaces in Sydney that locals know about and love. With these sorts of experiences, people not only would come to visit, they also would come back to enjoy time and again. That is key to why this is so important and I congratulate the McKell Institute.

It is suggested that the project is done in phases and that ideally it be jointly funded by the State Government and local governments. I was very excited to see this issue put on the agenda. It raised the prospect for me that we might bring a bit of Niels Nielsen to Parramatta—a bit of the spirit of the man who fought hard as the first Labor lands Minister. We know how heavy the contests can be about valuable public land can be, especially harbour land in Sydney, but we have preserved a lot of it for the public. It is a fantastic tradition of the Parliament. I would like to see that tradition continue. This is a great idea and a great way to do it.

NSW POLICE FORCE

INDIA HUMAN RIGHTS FORUM

Mr DAVID SHOEBRIDGE (21:58:05**):** I have spoken at length in the Chamber about the problems with the culture of the NSW Police Force. Today I want to detail two further incidents that have come to light in the past week. First, the airing of footage of an 18-year-old Aboriginal man, Patrick Little, as his head was driven into a wall and he was then thrown into a cell door after his arrest by New South Wales police while in custody at a New South Wales police station. At the end of the footage, after his brutal treatment, Little says to the officer who has just assaulted him, "You have just lost your job." But the officer had not. Unbelievably, even after being charged and convicted of assaulting Little, the officer remains a serving police officer at Goulburn Police Station on full pay. Meanwhile, last week police were filmed at the University of Sydney knocking a senior law professor to the ground for the crime of being a witness to a student protest. Professor Simon Rice described his experience as follows:

> I was grabbed from behind, and marched to a corner. My legs were kicked out from under me and I fell to my hands and knees. Trying to get up, I was pushed back down. Told I was under arrest, I was issued a fine for breaching the COVID Public Health Order.

When the police feel they have impunity to publicly attack a professor of law, even when they know people are watching, and to assault a young man in their custody, despite knowing they are being filmed, then anyone who is willing to look can see a police force that is out of control. What will it take for the Parliament to start doing its job and pass laws that place boundaries and oversight on an increasingly rogue police force?

Today I had the privilege of helping to facilitate a human rights roundtable discussion focusing on India. The panel was arranged by the Humanism Project, which seeks to work collaboratively within the global Indian diaspora to promote the values of tolerance, secularism and inclusiveness. Speaking at the forum, which was partly hosted in a COVID-safe way from the Jubilee Room, and predominantly via Zoom, were Dilpreet Taggar, the editor at *South Asian Today*; Dr Vikrant Kishore, an activist at South Asians for Inclusiveness; Zia Ahmed, editor at *Australian Muslim Times*; and, Anjum Rafiki, an activist with Stand with Kashmir. They formed the first panel.

Joining us from India for the second panel were Dr Colin Gonsalves, a senior advocate at the Supreme Court and founder of the Human Rights Law Network; Dr Ram Punyani, an eminent activist; Dr Pooja Tripathi, national convener of the All India Mahila Congress; and Manjula Pradeep, an eminent human rights activist and a lawyer. The final panel came from across the globe. It consisted of Motika Anand, an activist from Chicago, USA; Suniti Sanghavi, an activist from Voice Against Fascism in India, who joined us from Los Angeles; Joel Clark, a campaign strategy advocate for Amnesty Australia here in Sydney; and Iqbal Dar, an activist from Stand with Kashmir Australia, based in Melbourne. The forum was opened with an address by my Federal colleague Greens Senator Janet Rice, and attended by former Greens Senator Lee Rhiannon.

All those distinguished passionate activists and professionals came together because they are gravely concerned about what is happening in India under Narendra Modi. India's constitution commits it to democracy, equality, secularism and the protection of civil liberties, including freedom of speech and religious freedom. Yet to quote Amnesty International the government engages in "widespread crackdown, detaining opposition leaders and activists". Nearly two million people have been pushed to the brink of statelessness in procedures that have been broadly described as arbitrary and discriminatory. Millions of indigenous forest dweller families and communities have been threatened with forced eviction, as have many other indigenous groups within India where there is competition for resources.

Women are not adequately protected from sexual and domestic violence, and harassment and discrimination is widespread. Forum participants called on the Australian Government to require an ongoing human rights dialogue as part of its broader engagement with the Modi administration and to renegotiate trade agreements between Australia and India to include a human rights clause. All of them, together, urged the rest of the world to watch what is happening in India, to call out the human rights abuses and to stand up for what should be proudly the world's largest democracy but is increasingly lurching towards fascism.

HUNTER REGION PROJECTS

The Hon. CATHERINE CUSACK (22:02:42**):** As a member of the Berejiklian Government I am proud to report exciting progress being made on four projects in the Hunter region. The first concerns one of my special passions: protection and care for our vulnerable and dwindling koala population. On Friday 25 September environment Minister Matt Kean officially opened the Port Stephens Koala Sanctuary, which includes a brand new koala hospital and rehabilitation facility for sick and orphaned koalas. The Government's $44.7 million Koala Strategy allocated $3 million towards the facility. It includes tourism facilities and a viewing area for visitors to see koalas in real life, to learn and to delight in the existence of the iconic animal.

Port Stephens Council more than matched the funding for the amazing facility, which is a credit to the advocacy, dedication and work of volunteers. I acknowledge Mayor Ryan Palmer and councillor Jaimie Abbott, who successfully championed the project with the Premier and the former environment Minister. On Friday 2 October I attended the release of the concept design for a new seven-storey acute service building at John Hunter Hospital, which is a key milestone in the $780 million investment into the new health precinct. It was appropriately unveiled by Premier Berejiklian, who said the precinct will support 3,000 new jobs over the life of the project.

The Minister for Health, Brad Hazzard, announced a 60 per cent increase in the intensive care unit capacity and an almost 50 per cent increase in theatres, interventional suites and procedural spaces. The new acute services building will include a new emergency department, new adult and paediatric critical care services, new imaging and interventional services, a new birthing suite and maternity services, a neonatal intensive care and special care nursery, larger redeveloped inpatient units and a rooftop helipad.

On Monday 12 October it was my honour to turn the first sod for the new $7 million Tomaree TAFE Connected Learning Centre [CLC] at Salamander Bay. It was highly symbolic because the site works were already well underway, with the new facility on track to open early next year. The guests included Mayor Ryan Palmer and Councillor Jaimie Abbott, who have advocated for the project at all levels of government. Indeed, it was the first issue Ryan ever raised with me when I met him in 2017 before he had even been elected to council and was president of the Tomaree Business Chamber. The business chamber has been a great advocate for this project.

The initial case for a new TAFE was made by the Nelson Bay business community as part of its plan to revitalise its CBD. So delivering the project in Salamander Bay was not the initial expectation. However, TAFE NSW, which was represented by Roger Hale at the event, has worked closely with the community and council to explain the exciting new concept of a connected learning centre. Essentially, it is a fully flexible facility, and I mean physically flexible as well as program flexibility. It is described as a skills and training ecosystem, is close to local high schools and growth industries, and is well serviced by public transport.

The new CLC facilities enable TAFE to deliver multiple courses in more isolated communities, like the Tomaree peninsular. This is made possible through the delivery of mobile specialist facilities that can be integrated onsite for the duration of courses. It is a new, breathtaking and exciting approach to meet the needs of TAFE students and ensure a large and diverse offering of courses to the region. This model would not have worked in the Nelson Bay CBD due to the inability of trucks to access the appropriate locations. The Tomaree Business Chamber and the council were very understanding of that.

Later that that day I joined the mayor of Maitland, Councillor Lorreta Baker, to officially open Maitland Regional Athletics Centre, funded by the New South Wales Government's Restart NSW Fund, as stage two of the new $10.5 million Maitland Regional Sports Complex. Maitland Council contributed $5 million to the project and managed the redevelopment and I cannot speak highly enough of the quality and innovation of its work. The facility is breathtaking in its use of new technologies, including sensors in the rubber track so that athletes in training can monitor and enhance performance using a sports watch which records their data and enables them and their coaches to tailor their own programs.

The facility is aesthetically beautiful due to the astonishing grass centre, which is just the surface, with metres of underground engineering for irrigation, drainage and soil monitoring. I predict that sports bodies and councils around Australia will be sending delegations to Maitland to view this achievement. It enhances the entire CBD and is a great credit to council and all the organisations that contributed.

SKIN CANCER

The Hon. BEN FRANKLIN (22:07:48**):** This week we have talked about the importance of people getting screened for prostate cancer. Tonight I talk about the importance of also getting screened for skin cancer, and I speak from personal experience. This week I had to have a biopsy on my leg. I had waited too long before I had myself tested again and I have a cancer in my leg, which is now being analysed and I probably will need to have some fairly unpleasant surgery. My point is simply this: We have to get tested, all of us. In this nation, with this sun, it is so easy for us all to get skin cancer and if we do not take the time to be screened regularly it could cost us our lives. I encourage every member of this House and every member of New South Wales to get tested regularly.

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

Motion agreed to.

The House adjourned at 22:08 until Tuesday 10 November 2020 at 14:30.