New South Wales

Legislative Council

PARLIAMENTARY DEBATES
(HANSARD)

Fifty-Seventh Parliament
First Session

Tuesday, 10 November 2020

Authorised by the Parliament of New South Wales

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LEGISLATIVE COUNCIL

Tuesday, 10 November 2020

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

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

Announcements

MESSAGE STICK

The PRESIDENT (14:31:36**):** This is the first sitting week to coincide with NAIDOC Week since the presentation of the message stick to the New South Wales Parliament in 2017. Today we mark the Parliament's commitment to support Aboriginal people in their efforts to strengthen and share their culture and heritage, and to create a future that celebrates and values every person in New South Wales. Under paragraph (b) of the resolution of continuing effect relating to the message stick, I request that the Usher of the Black Rod place the message stick on the table for the duration of the sittings this week.

Ministerial Statement

NAIDOC WEEK

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (14:32:14**):** As Mr President has just reminded the House, this week is NAIDOC Week, which is a time for all of us to celebrate the history, culture and achievements of Aboriginal and Torres Strait Islander peoples. NAIDOC has its origins in the 1920s and 1930s. During this period an Aboriginal rights group decided a new strategy was needed to get the attention of the Australian public.

On Australia Day 1938 protesters marched through the streets of Sydney, followed by a congress attended by over a thousand people. This event became known as the Day of Mourning and was one of the first major civil rights gatherings in the world. After the Day of Mourning, there was a growing feeling that it should become a regular event and in 1939 William Cooper, an Aboriginal civil rights activist and the founder of the Australian Aborigines League, sought assistance from the National Missionary Council of Australia to support and promote it as an annual event. Then known as Aborigines Day, it became a regular occurrence and a focal point for advocacy for Aboriginal civil and political rights.

While important, in 1955 the National Aborigines Day Observance Committee, after which NAIDOC Week is named, came to the view that Aborigines Day should not only be a day of protest and grievance against past wrongs but also a celebration of Aboriginal achievement, heritage and culture. In 1974 the day became a week-long celebration held from the first to the second Sunday of July. Like most things this year, celebrations were impacted by COVID-19. In June the national committee made the decision to postpone this year's celebration to protect Elders and community members with chronic health issues.

This year's theme "Always Was, Always Will Be" recognises that First Nations people have occupied and cared for this continent for over 65,000 years. This year's celebration runs from Sunday 8 November to Sunday 15 November, which is the first time that the event has taken place during a parliamentary sitting week. I thank Mr President for bringing the message stick into the Chamber for the week. Many members would remember the Parliament's special ceremony in 2017 to commemorate the introduction of the Aboriginal Languages Bill. I pay tribute to the Deputy Leader of the Government, who was the Aboriginal affairs Minister at the time of the passage of the Aboriginal Languages Bill.

The message stick is a physical symbol of the languages that the Aboriginal Languages Act seeks to acknowledge, nurture and grow. It is a commemoration of the introduction of the bill in the Legislative Council—the first of its kind in the world—and the first occasion on which an Aboriginal language was spoken in debate by a non-member. This message stick represents genuine communication: speaking to each other and truly listening to each other. It is a reminder of the two-way ongoing dialogue between the Aboriginal community and the New South Wales Parliament. I am proud of the position that it holds in the Chamber. I thank the House and encourage all members to involve themselves with a NAIDOC Week event. Events are taking place across all of New South Wales over the coming week. Members can learn more on the NAIDOC Week website, naidoc.org.au, or by listening in during question time.

The Hon. MICK VEITCH (14:36:16**):** I speak as the proud grandfather of Wiradjuri grandchildren. I will quote a lovely poem entitled *Acknowledgement of Country*, written by Jonathan Hill:

Today we stand in footsteps millennia old.
May we acknowledge the traditional owners
whose cultures and customs have nurtured,
and continue to nurture, this land,
since men and women
awoke from the great dream.
We honour the presence of these ancestors
who reside in the imagination of this land
and whose irrepressible spirituality
flows through all creation.

The message stick is a wonderful symbol. Members of the House may not know the full story, but it is one of the things I will be particularly proud of when I leave this place. At the time of the debate, the message stick was so important to the Elders who were in the Chamber that I thought it appropriate to undertake a commemoration of longstanding. It is really important to have it on the table for NAIDOC Week. I acknowledge the Minister at the time, the Deputy President, the Hon. Trevor Khan, and Mr President for taking up my suggestion that the message stick find a permanent residence in the Chamber. It is most apt that it be placed on the table. NAIDOC Week celebrations are held across Australia each July. Unfortunately due to COVID, celebrations were not possible in July this year and were moved instead to this week. I urge all members to get involved in NAIDOC Week celebrations however they can. The number of people will be smaller, but there will be other ways to get involved.

The theme this year is "Always Was, Always Will Be". It recognises that First Nations people have occupied and cared for this continent for over 65,000 years. The very first human footprints on this continent were those belonging to First Nation peoples. First Nation history is not defined by documented European contact, whether in 1770 or the 1606 arrival of the Dutch on the western coast of Cape York Peninsula. It is a history where First Nation peoples were Australia's first explorers, navigators, engineers, farmers, botanists, scientists, diplomats, astronomers and artists. Last week I had the chance to again observe the oldest man-made structures on earth, the Brewarrina fish traps. If any member has not been to visit, they should have a look. We acknowledge and celebrate 65,000 years of brilliant achievement across one of the harshest continents on this planet. NAIDOC Week is a time for the whole community to come together and learn about this amazing history. I urge all members to be involved in NAIDOC Week.

Bills

SPORTING VENUES AUTHORITIES AMENDMENT (VENUES NSW) BILL 2020

STATUTE LAW (MISCELLANEOUS PROVISIONS) BILL 2020

STRONGER COMMUNITIES LEGISLATION AMENDMENT (MISCELLANEOUS) BILL 2020

HEALTH LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL 2020

ROAD TRANSPORT LEGISLATION AMENDMENT BILL 2020

WORK HEALTH AND SAFETY AMENDMENT (INFORMATION EXCHANGE) BILL 2020

Assent

The PRESIDENT: I report receipt of messages from the Governor notifying Her Excellency's assent to the bills.

Documents

OMBUDSMAN

Reports

The PRESIDENT: According to the Ombudsman Act 1974, I table the annual report of the Ombudsman for the year ended 30 June 2020, received out of session and authorised to be made public on 27 October 2020.

The Hon. Damien TUDEHOPE: I move:

That the report be printed.

Motion agreed to.

NSW CHILD DEATH REVIEW TEAM

Reports

The PRESIDENT: According to the Community Services (Complaints, Reviews and Monitoring) Act 1993, I table the report of the NSW Child Death Review Team for the year ended 30 June 2020, received out of session and authorised to be made public on 27 October 2020.

The Hon. DAMIEN TUDEHOPE: I move:

That the report be printed.

Motion agreed to.

INSPECTOR OF THE INDEPENDENT COMMISSION AGAINST CORRUPTION

Reports

The PRESIDENT: According to the Independent Commission Against Corruption Act 1988, I table the following reports of the Inspector of the Independent Commission Against Corruption:

(1) Report for the year ended 30 June 2020, received out of session and authorised to be made public on 27 October 2020.

(2) Report entitled *Telecommunications (Interception and Access) Act 1979 (Cth) – Serious Gap in Inspector's Powers*, received out of session and authorised to be made public on 27 October 2020.

(3) Report entitled *Report of an audit of applications for and execution of search warrants by the Independent Commission Against Corruption for 2018-19*, dated October 2020, received out of session and authorised to be made public on 27 October 2020.

The Hon. DAMIEN TUDEHOPE: I move:

That the reports be printed.

Motion agreed to.

INSPECTOR OF CUSTODIAL SERVICES

Reports

The PRESIDENT: According to the Inspector of Custodial Services Act 2012, I table the following reports of the Inspector for Custodial Services:

(1) Report for the year ended 30 June 2020, dated October 2020, received out of session and authorised to be made public on 27 October 2020.

(2) Report entitled *Inspection of Mary Wade Correctional Centre*, dated October 2020, received out of session and authorised to be made public on 27 October 2020.

The Hon. DAMIEN TUDEHOPE: I move:

That the reports be printed.

Motion agreed to.

INDEPENDENT COMMISSION AGAINST CORRUPTION

Reports

The PRESIDENT: According to the Independent Commission Against Corruption Act 1988, I table the following reports of the Independent Commission Against Corruption:

(1) Report for the year ended 30 June 2020, dated October 2020, received out of session and authorised to be made public on 27 October 2020.

(2) Special Report No. 2 entitled *A parliamentary solution to a funding model for the ICAC*, dated November 2020, received out of session and authorised to be made public on 6 November 2020.

The Hon. DAMIEN TUDEHOPE: I move:

That the reports be printed.

Motion agreed to.

AGEING AND DISABILITY COMMISSION

Reports

The PRESIDENT: According to the Ageing and Disability Commissioner Act 2019, I table the annual report of the Ageing and Disability Commissioner for the year ended 30 June 3030, received out of session and authorised to be made public on 27 October 2020.

The Hon. DAMIEN TUDEHOPE: I move:

That the report be printed.

Motion agreed to.

LAW ENFORCEMENT CONDUCT COMMISSION

Reports

The PRESIDENT: According to the Law Enforcement Conduct Commission Act 2016, I table the annual report of the Law Enforcement Conduct Commission for the year ended 30 June 2020, received out of session and authorised to be made public on 29 October 2020.

The Hon. DAMIEN TUDEHOPE: I move:

That the report be printed.

Motion agreed to.

Committees

PRIVILEGES COMMITTEE

Reference

The PRESIDENT: I inform the House that, according to the resolution appointing the Privileges Committee, on 27 October 2020 I referred to the Privileges Committee terms of reference for an inquiry into matters which relate to the execution of search warrants on premises associated with Mr John Zhang.

Documents

EXECUTION OF SEARCH WARRANTS BY THE AUSTRALIAN FEDERAL POLICE

Correspondence

The PRESIDENT: On 21 October 2020, following a resolution of the House, I wrote to the Commissioner of the Australian Federal Police requesting clarification on the nature of offences and the current status of the Australian Federal Police investigations into Mr John Zhang and whether the Hon. Shaoquett Moselmane is a person of interest in the ongoing investigations. On 29 October 2020 I received a response from the Assistant Commissioner for Counter Terrorism and Special Investigations as follows:

AFP
AUSTRALIAN FEDERAL POLICE

29 October 2020

The Hon. John Ajaka
President of the New South Wales Legislative Council
Parliament House
Macquarie Street, Sydney
NSW 2000

Dear Mr Ajaka,

I refer to your letter dated 21 October 2020 concerning the Honourable Shaoquett Moselmane. As you state in your letter Mr Moselmane and a staff member of his, Mr John Zhang, were the subject of search warrants executed by the AFP in June of this year.

You seek information from the AFP on three matters. In summary they are:

(a) The nature of the offences being investigated by the AFP,

(b) The current status of the AFP investigations, and

(c) Whether Mr Moselmane is a person of interest in any ongoing investigations.

The warrants executed on Mr Zhang are the subject of ongoing litigation before the High Court and as such the suspicions founding the warrants are a matter of public record. In short the AFP is investigating offences against 92.3(1) and 92.3(2) of the *Criminal Code*

1995 (Cth), which makes it an offence for a person to engage in acts with, or on behalf of, a foreign principal that, amongst other things, will influence political rights or duties or governmental functions and where some part of the conduct is covert or deceptive.

While the warrants were executed in June you will appreciate the fact that, owing to the considered and appropriate determination of privileges claim by the NSW Parliament, the AFP has only recently been able to access material seized from warrants at the Honourable member's residence and office. Furthermore, a large amount of material obtained from Mr Zhang's properties remain unexamined by the AFP owing to unresolved privilege claims. In view of this, the AFP's investigations are ongoing and it would be inappropriate to comment further on the state of those investigations.

The AFP appreciates your, and the Legislative Council's, interest in understanding the Honourable Member's status in respect of the AFP's investigation. The AFP recognises the Legislative Council is central to the functioning of NSW's democracy, and the AFP is naturally keen to ensure positive and productive relationships with the Legislative Council and officers of the NSW Parliament. As the investigations develop, the AFP will ensure the integrity of NSW Parliament and the Legislative Council is carefully considered.

Yours sincerely,

Scott Lee APM
Assistant Commissioner
Counter Terrorism & Special Investigations

Announcements

ROUNDTABLE ON RETURNS TO ORDER

The PRESIDENT (14:46:08**):** Further to the resolution of the House on 16 September 2020, I inform the House that I convened a roundtable meeting on Tuesday 3 November 2020 to discuss returns to order. The Independent Legal Arbiter, the Hon. Keith Mason, AC, QC, attended the meeting along with members, representatives of the Department of Premier and Cabinet and officers of the Department of the Legislative Council, as per the resolution. A report will be prepared on the roundtable meeting and will be circulated to members in due course, with a view to its tabling during the first sitting week in 2021.

Motions

NATIONAL BIRD WEEK

The Hon. MARK PEARSON (14:47:05**):** I seek leave to amend private members' business item No. 877 outside the order of precedence by omitting in paragraph (5) "exploit birds" and inserting instead "interact with birds"—a compromise.

Leaved granted.

The Hon. MARK PEARSON: Accordingly, I move:

(1) That the House congratulates the Australian Broadcasting Corporation's Classic FM radio station for promoting the annual National Bird Week celebrated from 19 October to 25 October 2020.

(2) That the House appreciates that Classic FM recommends individuals sit in a quiet place to observe birds and listen to their songs. This brings peace of mind.

(3) That the House notes the incredible stamina of migratory birds that can travel immense distances in order to feed and breed, including travel to Lake Eyre, which fills with water only a few times in a century but somehow birds thousands of kilometres away know and make the journey to feed and mate but also know when to leave before it begins to dry to make the long distance across the continent to reach food and water before they might perish.

(4) That the House notes the verse in William Blake's poem *Auguries of Innocence*, "A Robin Red breast in a Cage Puts all Heaven in a Rage" and Spike Milligan's responding verse, "How feels heaven when, Dies the billionth battery hen?"

(5) That the House observes the many ways humans interact with birds including:

(a) caged birds, such as battery hens and intensively farmed ducks;

(b) messenger pigeons, used in wartime for sending communications, to stop ships sinking, planes falling and saved countless thousands of lives; and

(c) pigeons who are often the only friends of the homeless and friendless when they feed them in the park.

(6) That the House notes the importance of birds as totemic beings in Indigenous culture, for example, with the story told by Yuin Elder Uncle Max Dulumunmun Harrison, now aged 88, about how he was saved by a Willy Wagtail, together with his brothers and sisters when they were very young children, recounting that a Willy Wagtail suddenly arrived near them and frantically hopped around wagging its tail quickly, as in Yuin lore this means danger is imminent and everyone must flee, the children left with their Aunt, and only a matter of hours later police arrived to seize them under the racist policy of assimilation.

(7) That the House notes that birds have inspired wonderful art in all mediums including music, for example:

(a) *The Lark Ascending* by Ralph Vaughan Williams; and

(b) the second movement of the *Sixth Symphony,* the *Pastoral Symphony*, by Ludwig van Beethoven.

Documents

TABLING OF PAPERS

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

(1) Australian Crime Commission Act 2002—Annual report of the Chair of the Board of the Australian Criminal Intelligence Commission for the year ended 30 June 2019.

(2) Legal advice from Mr Bret Walker, SC, in relation to the matter of privilege notice of motion on the *Notice Paper* this day adjudging the Leader of the Government guilty of contempt of the House.

(3) Legal advice from the Crown Solicitor's Office in relation to:

(a) the lawfulness of floodplain harvesting without a relevant water access licence, water supply work approval or basic landholder right under the Water Management Act 2000 relating to Government business notice of motion on the *Notice Paper* this day for the rescission of the disallowance of the Water Management (General) Amendment (Exemptions for Floodplain Harvesting) Regulation 2020;

(b) the lawfulness of floodplain harvesting with a relevant water access licence, water supply work approval or basic landholder right under the Water Management Act 2000.

(4) Report of the Office of the National Rail Safety Regulator entitled *Implementation of the NSW Government's response to the Final Report of the Special Commission of Inquiry into the Waterfall Rail Accident – Reporting period: April 2019 to March 2020: Report 40*, dated August 2020.

(5) Report on the Statutory Review of the Work Health and Safety (Mines and Petroleum Sites) Act 2013 and Regulation, dated October 2020.

I move:

That the reports be printed.

Motion agreed to.

TABLED PAPERS NOT ORDERED TO BE PRINTED

The Hon. DAMIEN TUDEHOPE: According to Standing Order 59, I table a list of all papers tabled in the previous month and not ordered to be printed.

Committees

LEGISLATION REVIEW COMMITTEE

Reports

The Hon. TREVOR KHAN: I table a report of the Legislation Review Committee entitled *Legislation Review Digest No. 21/57*, dated 10 November 2020. I move:

That the report be printed.

Motion agreed to.

SELECTION OF BILLS COMMITTEE

Reports

The Hon. NATASHA MACLAREN-JONES: I table report No. 40 of the Selection of Bills Committee, dated 10 November 2020. I move:

That the report be printed.

Motion agreed to.

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

(1) That:

(a) the Drug Supply Prohibition Order Pilot Scheme Bill 2020 be referred to Portfolio Committee No. 5 – Legal Affairs for inquiry and report;

(b) the bill be referred to the committee at the conclusion of the mover's second reading speech;

(c) the resumption of the second reading debate on the bill not proceed until the tabling of the committee report;

(d) the committee report by 17 November 2020; and

(e) the committee report consist of the hearing transcript only.

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

(a) Work Health and Safety Amendment (Food Delivery Workers) Bill 2020;

(b) Stronger Communities Legislation Amendment (Domestic Violence) Bill 2020;

(c) NSW Jobs First Bill 2020;

(d) National Parks and Wildlife Legislation Amendment (Reservations) Bill 2020; and

(e) Retirement Villages Amendment Bill 2020.

Motion agreed to.

COMMITTEE ON THE HEALTH CARE COMPLAINTS COMMISSION

Reports

The Hon. LOU AMATO: I table report No. 1/57 of the Committee on the Health Care Complaints Commission entitled *Review of the Health Care Complaints Commission's 2017-18 and 2018-19 annual reports*, dated November 2020. I move:

That the report be printed.

Motion agreed to.

The Hon. LOU AMATO (14:51:33**):** I move:

That the House take note of the report.

Debate adjourned.

JOINT STANDING COMMITTEE ON ELECTORAL MATTERS

Reports

The CLERK: According to standing order, I announce receipt of report No. 1/57 of the Joint Standing Committee on Electoral Matters entitled *Administration of the 2019 NSW State Election*, dated October 2020, received out of session and authorised to be printed on 28 October 2020.

The Hon. BEN FRANKLIN (14:53:26**):** I move:

That the House take note of the report.

Debate adjourned.

PUBLIC ACCOUNTABILITY COMMITTEE

Government Response

The CLERK: According to standing order, I announce receipt of the Government response to report No. 6 of the Public Accountability Committee entitled *Regulation of building standards, building quality and building disputes: Final report*, tabled in this House on 30 April 2020, received out of session and authorised to be printed on 30 October 2020.

Mr DAVID SHOEBRIDGE (14:54:23**):** I move:

That the House take note of the Government response.

I will have more to say on this when the matter comes before the House for discussion and report, but this response by the Government is deeply unpersuasive. Perhaps the single greatest failure in the Government's response is its inability to map out any pathway to keep citizens and the community safe from the scourge of flammable cladding. It is now over three years since that dreadful fire that we saw in Grenfell Tower—over three years since we saw dozens and dozens of people lose their lives in what was a tragically predictable disaster. That same cladding—or similar—is on thousands and thousands of buildings, high-rise and not, across this State.

Three years on this Government has no plan, no funding, no commitment and no blueprint to deal with the cladding crisis in New South Wales. It has got to the point where building owners cannot even obtain a credible expert to provide them with the advice on how to remove flammable cladding because of the insurance crisis that has followed the Government's regulatory failure. Yet in this critical area, in response to this committee's report—the report that recommended we adopt the Victorian pathway, which is not perfect but is working to rectify buildings and make them safe—the Government squibbed it. It is doing nothing. Doing nothing will inevitably lead to further tragedy. Doing nothing will continue to place extreme and inappropriate costs on building owners and on strata schemes across the State, which are faced with enormous costs to remove flammable cladding.

Building owners and strata schemes are unable to find appropriate experts to assist them to identify how to remove the cladding. Worse still, a number of strata schemes are addressing dangerous cladding, but the

cladding they are using may be deemed to be unsafe in 12 or 18 months' time. At the moment the Government cannot come up with a whitelist of acceptable cladding products that people can put on their properties. This is an unconscionable failure on the part of the Government. It is only one aspect where we call out the inadequacy of the response to the building crisis in New South Wales.

Debate adjourned.

Documents

DARYL MAGUIRE, FORMER MEMBER FOR WAGGA WAGGA

Return to Order

The CLERK: According to the resolution of the House of Wednesday 21 October 2020, I table documents relating to an order for papers regarding travel by Mr Daryl Maguire, received on Wednesday 28 October 2020 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of the documents.

MACQUARIE GENERATION ASSETS

Return to Order

The CLERK: According to the resolution of the House of Wednesday 14 October 2020, I table documents relating to an order for papers regarding the sale of the Macquarie Generation Assets, received on Thursday 29 October 2020 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of the documents.

Claim of Privilege

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

THE HON. GLADYS BEREJIKLIAN EMAIL CORRESPONDENCE

Return to Order

The CLERK: According to the resolution of the House of Thursday 15 October 2020, I table documents relating to an order for papers regarding the Premier's email correspondence, received on Thursday 29 October 2020 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

Claim of Privilege

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

LAND CLEARING

Return to Order

The CLERK: According to the resolution of the House of Wednesday 21 October 2020, I table correspondence relating to an order for papers regarding boundary clearing for vegetation, received on Thursday 5 November 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 relevant offices and departments.

THEMATIC REVIEW OF WRITING

Return to Order

The CLERK: According to the resolution of the House of Wednesday 21 October 2020, I table documents relating to an order for papers regarding thematic review of writing, received on Thursday 5 November 2020 from the Secretary of the Department of Premier and Cabinet, together with an indexed list of documents.

Claim of Privilege

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

STRONGER COMMUNITIES FUND

Correspondence

The CLERK: According to the resolution of the House of Tuesday 20 October 2020, I table correspondence relating to a further order for papers regarding the Stronger Communities Fund, received on 9 November 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.

THE HON. DON HARWIN

Tabling of Documents Reported to be Not Privileged

The CLERK: According to the resolution of the House of 20 October 2020, I table redacted documents Nos (a)/(b) 12, (a)/(b) 20, (a)/(b) 51 and (a)/(b) 53 received on 27 October 2020 from the General Counsel of the Department of Premier and Cabinet, identified as not privileged in the report of the Independent Legal Arbiter, Mr Bret Walker, SC, dated 25 September 2020, on the disputed claim of privilege on papers relating to the alleged breach of public health order by the Hon. Don Harwin, MLC.

Petitions

RESPONSES TO PETITIONS

The CLERK: According to sessional order, I announce receipt of the following response to a petition signed by more than 500 persons:

> Government response from the Hon. Brad Hazzard, MP, Minister for Health and Medical Research, to a petition presented by Ms Cate Faehrmann on 22 September 2020 concerning a two-year trial of mobile and fixed laboratory grade pill testing services in New South Wales, received out of session and authorised to be printed on 27 October 2020.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. ADAM SEARLE: I move:

That business of the House notice of motion No. 3 be postponed until Tuesday 17 November 2020.

Motion agreed to.

Mr JUSTIN FIELD: I move:

That business of the House notice of motion No. 2 be postponed until Tuesday 17 November 2020.

Motion agreed to.

Committees

SELECT COMMITTEE ON THE PROVISIONS OF THE PUBLIC HEALTH AMENDMENT (REGISTERED NURSES IN NURSING HOMES) BILL 2020

Chair and Membership

The PRESIDENT: I inform the House that the Clerk has received the following nominations for membership of the committee:

Government:	Mr Fang Mrs Maclaren-Jones Mr Martin
Opposition:	Mr Donnelly Mrs Houssos Mr Mookhey
Crossbench:	Ms Boyd Mr Pearson

The PRESIDENT: I further inform the House that on 28 October 2020 the Leader of the Opposition nominated Mrs Houssos as chair of the committee.

Announcements

HANSARD MEMBER SEARCH

The PRESIDENT (15:37:15**):** The *Hansard* by member search page on the internet has been updated. Previously when a *Hansard* search was conducted according to member, the member's speeches were numbered in reverse chronological order with number one for their most recent speech. The numbering is now in chronological order with the member's first spoken contribution being number one. On behalf of all honourable members, we thank the team at Hansard for this wonderful change to the system.

Privilege

STRONGER COMMUNITIES FUND

Contempt of the Leader of the Government

The Hon. ADAM SEARLE (15:38:08**):** I seek leave to amend the matter of privilege notice of motion No. 1 by omitting all the words after "that" and inserting instead:

this House notes that no additional documents were produced to the House according to the order of the House of 20 October 2020 for the production of documents relating to the Stronger Communities Fund.

(2) That this House notes:

(a) (i) correspondence tabled in the House on 22 October 2020 from the Secretary of the Department of Premier and Cabinet advising that the Department of Premier and Cabinet will conduct a search to confirm that it does not hold any documents that are required to be produced in response to the order of the House of 20 October 2020 and provide certification in response to the order on or before 10 November 2020;

(ii) correspondence from the Office of the Premier, Office of the Deputy Premier and Office of the Minister for Local Government, advising that no documents covered by the terms of the resolution and lawfully required to be provided are held by those offices; and

(b) the return to the order of the House of 20 October 2020 received 9 November 2020 from the Secretary of the Department of Premier and Cabinet advising that "no documents covered by the terms of the Order and lawfully required to be provided are held by the Department of Premier and Cabinet."

(3) That this House notes evidence, including that given by a Senior Policy Advisor, Office of the Premier, during a hearing of the Public Accountability Committee's inquiry into Integrity, efficacy and value for money of New South Wales Government grant programs held on Friday 23 October 2020, that:

(a) the Premier had been advised of the proposed list of councils to be funded and the proposed projects by way of "working advice notes";

(b) the Premier had made an indication in writing on that note regarding the proposed list of councils and projects as to her views;

(c) the paper copy of the working advice notes provided to the Premier had been shredded;

(d) the electronic "working advice notes" created in Microsoft Word had been deleted; and

(e) the contemporaneous email records indicate that the Premier "signed off" and "approved" the grants.

(4) That this House notes evidence given by Mr Tony Vizza, Board Member, Australian Information Security Association and Mr Stephen Knights, Director, Australian Information Security Association during a hearing of the Portfolio Committee No. 1 – Premier and Finance inquiry into Cybersecurity on 29 October 2020 that documents created in Microsoft Word that have been deleted can be recovered.

(5) That this House accordingly adjudges the Leader of the Government as the representative of the Government in this House as guilty of contempt of the House for the Government for the Government's continued claims in this House that there are no documents that exist to produce in response to orders for papers relating to the Stronger Communities Fund despite the sworn testimony of a senior policy adviser to the Premier that the documents were shredded and deleted.

Leave granted.

The Hon. ADAM SEARLE: Accordingly, I move:

(1) That this House notes that no additional documents were produced to the House according to the order of the House of 20 October 2020 for the production of documents relating to the Stronger Communities Fund.

(2) That this House notes:

(a) (i) correspondence tabled in the House on 22 October 2020 from the Secretary of the Department of Premier and Cabinet advising that the Department of Premier and Cabinet will conduct a search to confirm that it does not hold any documents that are required to be produced in response to the order of the House of 20 October 2020 and provide certification in response to the order on or before 10 November 2020;

(ii) correspondence from the Office of the Premier, Office of the Deputy Premier and Office of the Minister for Local Government, advising that no documents covered by the terms of the resolution and lawfully required to be provided are held by those offices; and

(b) the return to the order of the House of 20 October 2020 received 9 November 2020 from the Secretary of the Department of Premier and Cabinet advising that "no documents covered by the terms of the Order and lawfully required to be provided are held by the Department of Premier and Cabinet."

(3) That this House notes evidence, including that given by a Senior Policy Advisor, Office of the Premier, during a hearing of the Public Accountability Committee's inquiry into Integrity, efficacy and value for money of New South Wales Government grant programs held on Friday 23 October 2020, that:

(a) the Premier had been advised of the proposed list of councils to be funded and the proposed projects by way of "working advice notes";

(b) the Premier had made an indication in writing on that note regarding the proposed list of councils and projects as to her views;

(c) the paper copy of the working advice notes provided to the Premier had been shredded;

(d) the electronic "working advice notes" created in Microsoft Word had been deleted; and

(e) the contemporaneous email records indicate that the Premier "signed off" and "approved" the grants.

(4) That this House notes evidence given by Mr Tony Vizza, Board Member, Australian Information Security Association and Mr Stephen Knights, Director, Australian Information Security Association during a hearing of the Portfolio Committee No. 1 – Premier and Finance inquiry into Cybersecurity on 29 October 2020 that documents created in Microsoft Word that have been deleted can be recovered.

(5) That this House accordingly adjudges the Leader of the Government as the representative of the Government in this House as guilty of contempt of the House for the Government for the Government's continued claims in this House that there are no documents that exist to produce in response to orders for papers relating to the Stronger Communities Fund despite the sworn testimony of a senior policy adviser to the Premier that the documents were shredded and deleted.

I thank the Government for providing members of the House with correspondence directed to me as well as legal advice to the Government from Mr Bret Walker, SC, with his views as to the limitations of the House's powers in relation to the suspension of members of the House for not giving satisfactory answers. While not conceding that Mr Walker's advice is correct, nevertheless I say to members of the House that the facility of giving the Leader of the Government the opportunity to provide an explanation to the House as to why there are no documents was a concession that was made to the Executive in the event that it could not produce documents or that there were no documents to be produced. The Opposition thought that was fair.

The DEPUTY PRESIDENT (The Hon. Trevor Khan): We do not need barrackers.

The Hon. ADAM SEARLE: But as to the attitude that has been taken by the Government, Labor is happy to put the focus back on the non-production of documents, which the amended motion does. That is an important matter, because it has been raised and debated in the House on a number of occasions. The heroic position that has been taken by the Leader of the House on instructions from the Government was the most unpalatable brief that advanced the proposition that there are no documents to be produced and—at least implicitly, if not explicitly—that there were never any documents to be produced. That flies in the face of consistent practice of governments of both sides of the House. The Leader of the House has basically said, "Look, you might think there should be documents, but on this occasion there are none and you cannot make us create what does not exist."

I acknowledge that the Leader of the House was acting in good faith and on instructions, but he was seriously misled, as was the House, because there were documents on a computer and in physical form. Labor knows that the brief of documents, as it were, was taken by the Premier's staff to the Premier with a list of the proposed spending and the councils that were to receive the funding, which the Premier wrote on. But Labor does not know on what basis those decisions were made, because once the email had gone from the Premier's office to the Office of Local Government telling OLG what to do, the fact is that the physical document was shredded. That is interesting, given that on 22 October the House gave the Leader of the Government the opportunity to be frank and tell the House what on earth had happened in that matter. The Leader of the Government was no doubt also misled on instructions. He said, "There are no documents and you cannot exceed the powers of the House just because you think there should be." The comment was most revealing. On 22 October the Leader of the Government said:

> 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.

That is what the Leader of the Government told the House on 22 October. I would really like the Leader of the House or the Leader of the Government to address in debate why the Leader of the Government did not tell the House what Ms Lau told the Public Accounts Committee inquiry. She said, "Those documents did exist, but we shredded them. We destroyed those documents, but that was not good enough, so we went back to the Word document and we pressed delete." At least that would have been refreshing in its honesty.

The klaxon bell of omission from the Leader of the Government in his explanation to the House is just breathtaking. I do not say that because of any deficiency in him personally; like the Leader of the House, the Leader of the Government is here in a representative capacity, giving explanations to the House on instructions from the highest level of the Executive—the Premier herself. The Opposition can only assume that, faced with repeated calls for those documents and the so-called explanations that were trotted out by the Leader of the House and by the Government as a whole, the Premier knew what was being said in the name of the Government.

The Government must have known at all times what Ms Lau had to say about the fate of those documents because presumably those documents had been searched for high and low and on repeated occasions. The Government again made the conscious decision to not be frank with the House, which is appalling, woeful and shows a lack of responsibility, candour and honesty to the people of the State through the House. Labor thinks it is important to send a very clear message that the House believes that the continued non-production is, in fact, contemptuous because, despite the destruction of the physical record and the effort to delete the electronic record, the Opposition knows from evidence to the cybersecurity inquiry—and if not from there, then from other sources—that you cannot ever delete those documents. They are still within the grasp of the Government, which begs the question: Why has the Government chosen to not produce the information that is sought despite repeated calls for the production of those documents by the House?

That gives rise to queries about what is in those documents and it begs the question: What will those documents show? The public of this State deserve to know how the Premier of the Government chose to allocate more than $141 million of taxpayers' money. And, of course, it was not just the Premier. The Opposition knows that the Deputy Premier and the former Minister for Local Government undertook a similar exercise, bandit also knows that funds totalling $250 million were expended in that fashion. However, Labor is focusing on the Premier's administration of those funds.

We note that the Premier's office said that no decisions were made there; they were made by the Office of Local Government. Presumably, they say that the Premier has just expressed a view. Labor and other members in this House do not accept that. We know that the Premier was the actuating decision-maker because that is what her office said in an email to the Office of Local Government. Mr Hurst from Office of Local Government has said under oath that the Premier made the decision and he acted on those instructions. We think it is prudent to continue to press this matter because it is an important matter of accountability to Parliament. It does the Government no credit to go to such lengths to try to obscure the truth of this matter or to hide the facts of this matter from the House and the people of this State.

Mr DAVID SHOEBRIDGE (15:50:14**):** I move:

That the question be amended by inserting at the end:

(6) That this House calls on the Premier to undertake an urgent document recovery process to identify and retrieve all working advice notes (howsoever named) referred to by Sarah Lau, Senior Policy Adviser, Office of the Premier, during a hearing of the Public Accountability Committee held on Friday 23 October 2020 together with all documents including emails forwarding, responding to, addressing or otherwise relating to any such advice notes (howsoever named) that were created or deleted between 1 June 2018 and 23 October 2020.

(7) That, under Standing Order 52, there be laid upon the table of the House by 12 noon Monday 16 November 2020, the following documents in the possession custody or control of the Office of the Premier or the Department of Premier and Cabinet relating to the document recovering process undertaken by the Department of Premier and Cabinet to identify and retrieve deleted files, documents and emails relating to Stronger Communities Fund:

(a) all documents recovered by the document recovery process;

(b) all reports generated by the document recovery process;

(c) all documents and correspondence relating to or referring to Ms Lau's evidence which are held by the Department of Premier and Cabinet or the Office of the Premier created on and from 23 October 2020;

(d) all documents detailing the description or scope of, or the contract for the document recovery process; and

(e) any legal or other advice regarding the scope or validity of this order of the House created as a result of this order of the House.

(8) That this House orders the Leader of the Government to attend in his place at the commencement of business on Tuesday 17 November 2020 to report on the production of documents, including the data recovery process and to give an explicit explanation of the circumstances and timing of the destruction of the documents.

It is a deeply unfortunate situation that we find ourselves in. Not only have we seen the Premier's office engage in the deliberate and clearly unlawful destruction of key Government records relating to how the Premier decided that $141 million worth of public money would be pork-barrelled into predominantly Coalition-controlled councils, but also we do not have a single document produced. The Government has repeatedly come into the House and acted hurt and offended that we want to see at least one document that outlines how those projects were identified. We want to see at least one document that shows how collectively a quarter of $1 billion of public

money was allocated to pork-barrelling projects for the Coalition in the nine months leading up to the State election. We want to know how they choose those projects to try to buy the last State election. Let us be clear, that is what this motion is about.

The Hon. Damien Tudehope: Hornsby.

Mr DAVID SHOEBRIDGE: Indeed. I note that the member has said Hornsby. The Government is trying to settle down their disgruntled Coalition supporters, including the council where the mayor is the President of the New South Wales Liberal Party and sits in the middle of the Premier's faction. We want to know how, in a 72-hour turnaround, it was offered, accepted and delivered $90 million of public money without a single assessment or public notice and without anybody finding out. We then find out that it is in fact a $90 million down payment.

The PRESIDENT: Order! The member will resume his seat. I remind Government members that they will have an opportunity to speak in this debate if they so wish. As Government members would appreciate, this is a very serious matter. It is totally unacceptable that there were over six interjections from Government members. I will call Government members to order if I hear one more interjection.

Mr DAVID SHOEBRIDGE: This $90 million 72-hour sweetener that was given to Hornsby Shire Council courtesy of the Premier, without any documentation or assessment, turns out to be a down payment on what that Liberal-controlled council expects to get. The council has an arrangement with the Premier's office that it will receive a quarter of $1 billion of public money because it was dudded in the process and because it did not get to eat up Ku-ring-gai Council and steal all of its money. Apparently, through a secret undocumented arrangement with Hornsby council the New South Wales Government is going to tip in a further $160 million to top up that one Liberal-dominated council to a quarter of $1 billion.

There is a side deal to give the City of Parramatta Council a swift $16 million to sort out a legal dispute between Parramatta council and Hornsby council after the Government stuffed up the amalgamation process. How is it that there is not a single document in the Premier's office that describes this utterly crooked arrangement? The Leader of the Government has repeatedly come into the House acting innocent and hurt. He says, "How dare you move these motions? How dare you say that we do not have any documents? We have tried. We have produced everything we have." The crocodile tears coming from his face were generated in the Premier's office. We sit and watch, and none of us is persuaded. We cannot believe it. Now we find out that the Leader of the Government has been given a half-truth.

The Hon. Don Harwin: Point of order: I do not wish to take up the member's time but he is repeatedly referring to the Leader of the Government while looking at my colleague, the Leader of the House. I ask that he be clear as to who he is directing his comments to.

Mr DAVID SHOEBRIDGE: Good point. The Leader of the House comes into the House weeping crocodile tears, gnashing his teeth and saying, "How dare you be so mean to us? We have produced all of the documents that we have. We have produced them all."

The Hon. Damien Tudehope: Point of order: While I accept that the member has a right to make his point, to parody me in this fashion is unparliamentary. I suggest that he withdraw the suggestion that I ever had crocodile tears. I provided an explanation to the House. Parodying me both by way of words and tone of voice is unparliamentary.

The Hon. Don Harwin: To the point of order: Mr Shoebridge is reflecting on the honourable member and making imputations about his character, which are deeply offensive and should be withdrawn.

The PRESIDENT: I uphold the point of order. I am aware of the exact wording of the notice of motion that is being debated. I ask that the member debate the motion before him and not make imputations in relation to the Leader of the House.

Mr DAVID SHOEBRIDGE: Mr President, I note and respect your ruling. The explanation we were given is that the Government has tried, it has looked, it has hunted, but it cannot find the documents. I accept that the Leader of the House was telling us faithfully what he was told. I accept that he came into the House with what turned out to be an obscenely deceptive half-truth delivered to him by the Premier's office. What we did not hear in that explanation, which I accept was withheld from the Leader of the House, was the other half of the truth. The first half was that they could not find any documents and that they have produced everything they have. There is a kind of truth to that, but the second half of the truth—the thing that made it a huge lie—was that the reason they had produced everything and there was nothing else to produce was because they had deleted and shredded it.

The Hon. Damien Tudehope: Point of order—

Mr DAVID SHOEBRIDGE: They had deleted it and shredded it.

The PRESIDENT: Order!

Mr DAVID SHOEBRIDGE: They had deleted it and shredded it and they just forgot to tell us.

The PRESIDENT: Order! I will not be forced to scream over Mr David Shoebridge. When a point of order is taken, members should cease and allow me to deal with it.

The Hon. Damien Tudehope: I do not quibble with the suggestion of the member that I may have been misled, but his suggestion that I lied stretches the bounds of propriety in respect to the imputation which is carried with the allegation.

The PRESIDENT: If I am wrong I will ask Mr David Shoebridge to withdraw the comment, but I understood he was saying that you were simply repeating what you were told and that whomever told you was the person that he was directing the imputation against.

Mr DAVID SHOEBRIDGE: Can I just be clear: That is 100 per cent.

The PRESIDENT: There is no point of order.

Mr DAVID SHOEBRIDGE: A half-truth that fails to tell us of the culpable and deliberate destruction, apparently in accordance with the so-called document management procedures inside the Premier's office, is—

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

Members

REPRESENTATION OF MINISTERS ABSENT DURING QUESTIONS

The Hon. DON HARWIN: The Deputy Leader of the Government is absent from question time today due to ill-health, as I believe all honourable members are aware. If any members have questions relating to her Education portfolio or to any other portfolios which she would answer as the representing Minister, they should be directed to me.

Questions Without Notice

RIVERINA CONSERVATORIUM OF MUSIC

The Hon. ADAM SEARLE (16:00:24**):** My question without notice is directed to the Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. Given the 5 November parliamentary answer to a question taken on notice regarding the $30 million—

The Hon. Don Harwin: I think 5 November was Saturday.

The Hon. ADAM SEARLE: I will start the question again, just for the avoidance of doubt. Given the Minister's answer in Parliament, in this Chamber, to a question taken on notice regarding the $30 million Riverina Conservatorium of Music when the Minister said, "No meetings took place between myself or members of my office with the Premier or her office in relation to that matter", will the Minister inform the House whether there are any other ministerial offices that the Premier or her office met or discussed with relating to the funding for this project?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (16:01:29**):** If I understood his question, the Leader of the Opposition has asked a question about meetings between the Premier's office and other ministerial offices. Obviously I will need to take that question on notice and seek an answer.

NAIDOC WEEK

The Hon. LOU AMATO (16:01:55**):** My question is addressed to the Aboriginal affairs Minister. Can the Minister update the House on how the New South Wales Government is supporting NAIDOC Week activities this year?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (16:02:13**):** Yes, I can. I thank the Hon. Lou Amato for his question. As I stated in my ministerial statement earlier today, the National NAIDOC Committee made the decision to postpone this year's celebration to this week. Each year the New South Wales Government, through Aboriginal Affairs NSW, supports NAIDOC Week events with funding of up to $200,000 for a range of community events across the State.

Many of the larger events that traditionally take place each year during NAIDOC Week have either had to reduce in size or postpone in the hope of celebrating in the usual capacity next year. That being said, I am delighted that there has been the chance to support a total of 95 smaller-scale activities throughout the State, through funding of nearly $160,000. This support, administered through Aboriginal Affairs NSW, has helped enable 28 events in western New South Wales, 12 in Greater Sydney, 13 in the Hunter and Central Coast region, 10 in the Illawarra southern region, seven in the Murdi Paaki region, 11 in the New England and north west, and 14 on the North Coast.

On Sunday I was delighted to visit NAISDA Dance College at Kariong, an institution which I imagine many members are aware of—certainly the Hon. Taylor Martin has visited it with me before. The college is holding an exhibition of visual artworks by NAISDA students, called "Gurayndja", celebrating connections as Aboriginal and Torres Strait Islander people to what always was and always will be the world's oldest continuing culture. The artworks and the dance were tremendous. I really enjoyed talking to the students about what Aboriginal culture means to them in NAIDOC Week 2020.

Yesterday I visited one of the recipients, the Glebe Youth Service, to see the community arts project, which is being led by local Elder Aunty Katherine Dodd Farrawell and emerging artist Kirawahn Fernando. The Always Was, Always Will Be NAIDOC art project at Glebe is a large-scale collective community artwork with contributions from local Aboriginal and Torres Strait Islander youth and community members, facilitated and guided by Aunty Kath. The work is tremendous. They encourage everyone in the community to contribute and it is a way of healing in what is a disadvantaged community after a very difficult year. I wish everyone a happy NAIDOC Week.

MENTAL HEALTH STAFF

The Hon. PENNY SHARPE (16:05:21**):** My question without notice is directed to the Minister for Mental Health, Regional Youth and Women. In April 2020 the Minister committed to employing 180 full-time community-based mental health staff. Why are there only 59 full-time mental health staff employed and when will the remaining 121 be employed?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:05:44**):** I thank the honourable member for her question in regard to the announcement that we made during our time when COVID was upon us and we put forward a thoughtful and good policy directive for employing 180 mental health clinicians, which was what the honourable member was asking me, who were to be focused in the community, as well as other parts of our mental health response. I am not quite sure where the honourable member got her number of 50?

The Hon. Penny Sharpe: Fifty-nine.

The Hon. BRONNIE TAYLOR: Fifty-nine, because it gives me great delight to inform the House that clinicians have filled all positions with those COVID placements. I suggest the member checks her numbers.

The Hon. PENNY SHARPE (16:06:43**):** I ask a supplementary question. I would like the Minister to elucidate her answer, given that in answer to a question on notice that was received at the beginning of October she indicated that only 59 staff had been employed.

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:07:05**):** That was October. I believe today is 10 November and, as of today, 180 positions have been filled. Thank you so much for your question and I congratulate all local health districts on the phenomenal effort they have made in employing every single—did I say 180—new mental health clinician positions in New South Wales. Things change very quickly in health and processes have to be gone through, but what a herculean effort by our local health districts to get those 180 specialist clinicians into services. Again it is a clear demonstration of how hard people are working on the ground to make sure that mental health services are provided.

These things take time. The employment has been staggered, as one would imagine, because 180 positions is a very big injection into the mental health workforce in this State. It is a welcome injection of people into that workforce that has done an absolutely phenomenal job in what has been an extremely challenging year. That workforce is focused on community mental health, which clearly reflects the recommendations of the Living Well reform. We are halfway through mental health reform in this State. It is a huge undertaking and has been a huge focus of this Government. I take this opportunity to welcome all of those 180 new clinicians in New South Wales who have joined the mental health team. They will be providing an incredible service in a valuable role, which has been highlighted so much lately with the discussions around mental health in New South Wales. It is certainly a great day today.

The Hon. WALT SECORD (16:09:56**):** I ask a second supplementary question. Will the Minister for Mental Health, Regional Youth and Women elucidate her answer about the 180 positions that she repeatedly mentioned in her answer? Will the Minister provide a full list of the locations of the 180 positions?

The PRESIDENT (16:10:15**):** Order! I have indicated this on a number of occasions and have always been grateful to the Hon. Daniel Mookhey, who continually confirms that the three boxes need to be ticked. For a supplementary question to be in order, it must satisfy three aspects. First, it must be actually and accurately related to the original question; secondly, it must relate to or arise from the answer; and, thirdly, it must seek to elucidate a part of the answer given. I cannot see how the question relates to the original question that was asked. It asked:

> In April 2020 the Minister committed to employing 180 full-time community-based mental health staff. Why are there only 59 full-time mental health staff employed and when will the remaining 121 be employed?

The Hon. Walt Secord is effectively adding a third new part to the question. The supplementary question is out of order.

SOUTH AFRICA CIVIL UNREST

Reverend the Hon. FRED NILE (16:11:36**):** My question without notice is directed to the Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, representing the Premier. Is the Government aware of the recent escalation of civil unrest and violence in South Africa? Will the Government update the House on the status of any Australians in the country or who have family in South Africa? Will the Government liaise with the Department of Foreign Affairs and Trade and inquire what steps could have been taken to address this problem that affects Australian citizens in South Africa?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (16:12:10**):** I thank Reverend the Hon. Fred Nile for his question and his concern for the welfare of Australians caught overseas in civil unrest. I do not have a brief on the situation in South Africa with me but I am sure the Premier will be able to make inquiries of the Department of Foreign Affairs and Trade and provide the member with a speedy answer.

SUICIDE MONITORING SYSTEM

The Hon. SAM FARRAWAY (16:12:42**):** My question is addressed to the Minister for Mental Health, Regional Youth and Women. Can the Minister outline the State's first suicide monitoring system?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:13:03**):** I thank the honourable member for his question and his interest and commitment in that area. I know he has been asking lots of questions on the issue recently. On Monday I visited the NSW Coroner's Court in Lidcombe alongside my colleague the Attorney General, Mark Speakman, and Her Honour Magistrate Teresa O'Sullivan, the State Coroner, to launch the State's first ever suicide monitoring system. Previously, policymakers had to wait for lengthy procedures such as coronial inquests before data became available. That meant we were reliant on annually collected data from the Australian Bureau of Statistics.

The new data system will give us up-to-date data about the number of suicides across the State. It means the Government will be able to make critical decisions about services and local health responses in communities where it can effectively see emerging risks in real time instead of reacting to out-of-date data. That is a real breakthrough in our timely response to suicide policy. It is the result of a four-way cross-Government collaboration between NSW Health, the Department of Communities and Justice, the State Coroner and the NSW Police Force. It is a critical step towards reforming the management of suicide data in New South Wales.

The system will provide timely and reliable data on suspected suicide events so we can respond to communities with emerging high need. It is just the start. NSW Health is continuing to work with other agencies to develop an enhanced dataset, which will include more information about key vulnerable groups such as any previous contact with health services and any social, economic or other pressures that may have contributed to their susceptibility. To coincide with the launch, we have released the first public report containing this year's data to date, which illustrates the significance of the new system. There has been widespread public concern and media coverage about the possible effects of COVID-19, bushfires and other factors on suicide rates.

The report showed that sadly there were 673 deaths from suicide from January to September 2020. However, it is only one more than the number in the same period in 2019, which was 672 deaths from suicide. While every suicide is a tragedy, we are encouraged that there has been no overall spike in a year that continues to deliver so many challenges. The new suicide monitoring system is a significant milestone in the New South Wales Premier's Priority Towards Zero Suicides strategy, with the New South Wales Government investing $87 million over three years in new suicide prevention initiatives. It will change lives and it certainly will save

them. We are really excited to have it up and running and informing us in real-time data to ensure that we can support communities. [*Time expired.*]

EXCLUSION FENCING

The Hon. MARK PEARSON (16:16:09**):** My question is directed to the Minister for Mental Health, Regional Youth and Women, representing the agriculture Minister. I have been contacted by concerned wildlife carers and kangaroo shooters who have observed trapped wildlife being killed or becoming very distressed and dying a long lingering death as a consequence of exclusion fencing being installed in 100-kilometre clusters by landholders in northern New South Wales. Is the Minister aware of the harm being caused by Local Land Services encouraging farmers to construct them under the New South Wales Government's Supporting Our Neighbours fencing funding program?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:16:52**):** I thank the honourable member for his question, which is addressed to agriculture Minister Adam Marshall in the other place whom I represent in this place. It is always distressing to hear about any animals suffering for whatever reason. Local Land Services do a terrific job in this State and they have had a difficult time in recent years with a drought like we have never seen before. I know they would be doing everything they could to ensure that they were doing their job, helping farmers but also ensuring that animals are not suffering. There are really good people on the ground in Local Land Services, who are working hard to do the right thing. As the question contains quite a bit of detail about fences and particular incidents, I will take it on notice and get back to the member as soon as possible.

Q FEVER

The Hon. MICK VEITCH (16:18:00**):** My question without notice is directed to the Minister for Mental Health, Regional Youth and Women, representing the Minister for Health and Medical Research. Given that Western Division communities such as Broken Hill, White Cliffs, Ivanhoe, Menindee and Tibooburra will be unable to access Q fever clinics this year, what steps has the Government taken to reopen the vital Q fever clinics?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:18:25**):** I thank the honourable member for his question to me representing the health Minister, Brad Hazzard, in the other place. I acknowledge the member's deep commitment to Q fever and his deep commitment to ensuring that as many people as possible are immunised. He knows more about Q fever and its effects on people who work in agriculture than most people in this Chamber, including me.

The Hon. Mick Veitch: More than I ever want to know.

The Hon. BRONNIE TAYLOR: I take that interjection. It is a terrible and debilitating disease. I have had those discussions with the member before. During the drought we discussed how we were worried about children not wearing masks feeding stock from the backs of their trucks when the dust was blowing up and there was the potential for that to infect those young lives with Q fever. As the honourable member and I have discussed before, the vaccination is not as effective in children, which has been a real issue. I am unaware of people not being able to access the clinics in Broken Hill. I take that matter very seriously. I will find out why that is the case and get back to him with an answer as soon as possible. I thank the member for his question.

JOBS PLUS PROGRAM

The Hon. WES FANG (16:19:49**):** My question is addressed to the Minister for Finance and Small Business. Will the Minister advise the House how the Jobs Plus Program will contribute to the economic recovery of New South Wales?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:20:06**):** I thank the member for his question. Next week will be the moment we all, especially the shadow Treasurer, have been waiting for when the best Treasurer in Australia will deliver the New South Wales budget. What do we know about the budget so far? We know that the Treasurer is focused on job creation, stimulating economic growth and driving our economic recovery forward. Now is the time to put the economy before the budget. Last week we had a preview of what is to come, with the Premier and Treasurer announcing the Jobs Plus Program—a $250 million package that will encourage domestic and international businesses to relocate or to develop their presence in New South Wales. The program is targeted at businesses that will create at least 30 new net jobs in New South Wales and aims to create or support up to 25,000 jobs to 30 June 2022.

A key factor in that support will be up to four years of payroll tax relief for every new job created by qualifying businesses. Businesses will be assisted with guidance on appropriate site selection and access to fast-track planning approvals. Other elements of the Jobs Plus Program include providing enabling infrastructure, including local roads, access to utilities and future-proofed digital infrastructure; a one-stop shop Jobs Plus

concierge service; and access to free or subsidised Government spaces and accommodation. The Jobs Plus Program will help cement New South Wales as the best place to do business in Australia. Our robust and focused response to the COVID-19 pandemic, while keeping our economy open, has increased our international profile as an attractive location for establishing or growing a business. Members should not take my word for it; I am sure those—

The Hon. Mick Veitch: Thanks for the advice.

The Hon. DAMIEN TUDEHOPE: Well there you go. Business NSW chief executive Nola Watson said:

> As we move into the next phase of recovery, we need to identify ways to supercharge parts of the economy able to absorb spare economic capacity.

She said further:

> Payroll tax is a barrier to job creation and the Jobs Plus Program will remove one of the biggest barriers for employers looking to expand or relocate to NSW.

The program will provide more investment and more jobs, and there is more to come. Some of the good figures coming out—I have run out of time. However, I will return to that point.

DARYL MAGUIRE, FORMER MEMBER FOR WAGGA WAGGA

The Hon. MARK LATHAM (16:23:14**):** My question is directed to the Leader of the Government, representing the Premier. I draw the Minister's attention to the Premier's statement at ICAC that her relationship with Daryl Maguire was not of sufficient substance to be disclosed publicly and also to her statement on radio 2GB on 19 October that Mr Maguire was not her boyfriend—"He wasn't anything of note". Why then did Daryl Maguire arrive at the Premier's North Shore home on 13 September and let himself in to collect his toiletries and other personal items inside the Premier's home? Does this not demonstrate an intimate personal relationship and the Premier's failure under the New South Wales Ministerial Code of Conduct to declare Mr Maguire's business and financial interests?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (16:24:06**):** It sounds awfully like the honourable member is seeking an opinion. I will take the question on notice.

MADE IN NSW FUND

The Hon. WALT SECORD (16:24:20**):** My question is directed to Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. Given that on 7 November the Government announced $175 million to attract international filmmaking to New South Wales, like the Marvel movies and Disney productions, under the Made in NSW Fund, why has the Minister failed to provide similar support to struggling New South Wales and Australian productions?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (16:24:42**):** It is simply not true. If the honourable member had done his research, he would be aware that Made in NSW is available to television productions that are made by New South Wales-based companies. They include some of the best shows on television. *Mystery Road*, one of my absolute favourites, was made with Made in NSW funds. It is an absolutely fantastic show. *Doctor Doctor*, which, to be perfectly frank, I have not seen, is made with Made in NSW funds. It might not be what the Hon. Penny Sharpe watches.

The Hon. Walt Secord: Point of order—

The PRESIDENT: The Clerk will stop the clock. The Minister will resume his seat. I apologise for not having heard the Hon. Walt Secord earlier due to the interjections from Government and Opposition benches.

The Hon. Walt Secord: My point of order goes to relevance. The Minister is talking about previous productions. My question related to what the Government is doing for future productions. He is talking about productions in the past.

The PRESIDENT: The question states:

> Given that on 7 November the Government announced $175 million to attract international filmmaking to New South Wales, like the Marvel movies and Disney productions, under the Made in NSW Fund, why has the Minister failed to provide similar support to struggling New South Wales and Australian productions?

The Hon. Walt Secord: For future reference involving handing the President copies of the papers, what difficulties do we have when we change the question and do not edit them on the paper?

The PRESIDENT: I can only go by what I have in front of me or what I heard.

The Hon. Walt Secord: We provided you with a copy as a courtesy to allow you to facilitate the Chamber. You are now using it against us. That is very unfair.

The PRESIDENT: That is not the first time the Hon. Walt Secord has made that accusation against me. I find it incredibly offensive. I do not need you to supply me with a copy of your questions anymore. Whenever you or any other member takes a point of order, I will simply make my ruling without having the question in front of me. The member's point of order is out of order.

The Hon. DON HARWIN: I would have thought it was obvious that by talking about how the scheme has had successes in the past, there will be more successes in the future. The honourable member seems to be challenged today in terms of his mental dexterity. So *Doctor Doctor* is filmed at—

The Hon. Adam Searle: Point of order: The Leader of the Government has reflected churlishly on another member of the House.

The Hon. Walt Secord: I am deeply offended.

The PRESIDENT: I uphold the point of order. I note that the Minister has withdrawn the comment.

The Hon. DON HARWIN: I withdraw. *Lambs of God* is a great show on a streaming service. It was made under Made in NSW. In the past five months in Broken Hill, *RFDS*, about the Royal Flying Doctor Service, has provided—I was told on a recent visit to Broken Hill that there was not a single available motel room and that it was impossible to get into restaurants because of the filming of that show. Made in NSW is making all of this possible and it will do so in the future. I will say more about this shortly, but $175 million is to be allocated from the Made in NSW Fund. It will go to International Footloose Production but it has always gone to local productions as well, topped up by regional filming incentives. For example, *RFDS*, if memory serves me correctly, received a $100,000 incentive to film at Broken Hill. It is a fantastic—

The Hon. Walt Secord: Nothing for Australians.

The Hon. DON HARWIN: The honourable member is interjecting and he is simply wrong. He has been caught out doing what he so frequently does—getting his facts wrong and trying to mislead people. But he cannot do that in this place.

MADE IN NSW FUND

The Hon. TREVOR KHAN (16:29:45**):** My question without notice—although, perhaps somewhat prescient—is addressed to the arts Minister. Will the Minister update the House on how the Made in NSW fund is supporting screen production and jobs in New South Wales?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (16:30:02**):** If only the Hon. Walt Secord had waited, he would have known the answer to his question. I am absolutely delighted that New South Wales will maintain its role as the number one State for screen production in Australia, thanks to the Government's commitment of $175 million to the Made in NSW fund, which will make available $35 million a year over the next five years. That will provide a massive injection to the sector, which is home to over 1,500 screen production businesses that employ 9,000 people and generate $1.6 billion of income in the State. The commitment will create thousands of local jobs for cast, crew and production services, as well as generating a significant amount of work for trades and hospitality. The enhanced funding for Made in NSW will also ensure that high-end local drama productions continue to flourish, bringing Australian stories to our screens.

It will also provide new opportunities for communities and jobs in western Sydney and regional New South Wales. Since 2016-17 Made in NSW has committed $54 million to 18 international productions and 39 Australian drama series, generating more than $900 million for the New South Wales economy in local production and supporting more than 26,000 jobs on international productions and local TV drama series. For every dollar invested it has delivered over $17 in New South Wales expenditure.

The Hon. Sam Farraway: What a return!

The Hon. DON HARWIN: It is a fantastic return. Most recently the fund secured two large-scale Marvel movies that are supporting thousands of jobs and injecting more than $250 million into the State's economy. *Shang-Chi and the Legend of the Ten Rings* has just finished filming in Sydney. I am advised that it had over 2,200 direct New South Wales employees in cast, crew and extras and it had procurement from over 900 New South Wales vendors. Marvel is now gearing up to begin production on *Thor: Love and Thunder* with Chris Hemsworth. Most of those 2,200 people will go on to work on *Thor* as well. The Government's successful

management of COVID-19 has put New South Wales on the map as the ideal State for film production. New South Wales really is the place— [*Time expired*.]

RURAL LAND USE STRATEGY

The Hon. MARK BANASIAK (16:33:20**):** My question without notice is directed to the Minister for Mental Health, Regional Youth and Women, representing the Deputy Premier, and Minister for Regional New South Wales, Industry and Trade. Is the Minister aware of the Snowy Monaro local government area Rural Land Use Strategy, which is presently up for consultation, that takes large amounts of private property and other land and proposes to rezone them to E3? Is the Minister also aware that the study that informs that proposal has admitted that mapping was done with limited access to land, almost no ground truthing and that the council should have put more work into it if it wanted to proceed with any significant change? Why has the Minister allowed such a gross violation of private property rights to be proposed in her own electorate that would also clearly cripple industries that she is responsible for, and what will she do to halt this violation of a right that has existed since the *Magna Carta*?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:34:04**):** I thank the member for his question to the Deputy Premier and outstanding member for Monaro whom I represent today because I am representing the Hon. Sarah Mitchell. He has asked quite a detailed question about land use in the Snowy Monaro region, which is also my home. I do not know about other members, but I cannot wait to get back there at the end of these two sitting weeks. As the question is detailed, I will take it on notice and come back to the member with an answer. I can confidently say that the member for Monaro, John Barilaro, will always put his electorate first and that is why he won every booth in the last election. It was an impressive result and it is fabulous to have him back. I look forward to receiving an answer to the question.

The Hon. MARK BANASIAK (16:35:15**):** I ask a supplementary question. I ask the Minister to elucidate the part of her answer where she spoke about living in that electorate. Does she have concerns about whether those Rural Land Use strategies will impact her property and will she will be making representations in local council submissions to that inquiry on that strategy?

The Hon. Bronnie Taylor: Point of order: The supplementary question should be ruled out of order because it is asking about my personal circumstances, which are not related to the question.

The PRESIDENT: The supplementary question is out of order.

The Hon. Walt Secord: You don't live in Cooma. You live in Double Bay.

The Hon. Bronnie Taylor: Point of order: I draw the President's attention to the interjection by the Hon. Walt Secord shouting out the suburb in which I live and where I have a property in Sydney. I ask that he withdraw the comment and cease to throw out personal comments about where members in this Chamber live.

The Hon. Walt Secord: The member is relatively new to the Chamber and does not understand that by acknowledging my interjection she has placed it on the record. But to assist, I will withdraw my comment.

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

REGIONAL ARTS NSW

The Hon. ROSE JACKSON (16:36:42**):** My question without notice is directed to the Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. Given the Minister's decision to dissolve Regional Arts NSW, what is his response to community concerns across the State that it will affect the ability of regional arts and cultural groups to access future arts funding?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (16:37:03**):** I will not assume that the honourable member was just given the question by the Hon. Walt Secord. She is absolutely wrong. Regional Arts NSW has not been dissolved at all.

The Hon. Rose Jackson: Tell that to Julie Briggs.

The Hon. DON HARWIN: You should not believe everything you read in *The Sydney Morning Herald*. Frankly, if the member had gone beyond the headline, she would have realised that what was being reported by Linda Morris in the body of the article was not reflected by what the subeditor put in the headline. The fact is that there is not one cent—

The Hon. Walt Secord: Stop attacking Linda Morris.

The Hon. DON HARWIN: I was not attacking Linda, I assure you. I was supporting Linda because she got it right.

The PRESIDENT: The Clerk will stop the clock. The Minister will resume his seat. I have no idea how Hansard was possibly following any of that, let alone how I was supposed to follow any of it, especially when supplementary questions are being asked. The Minister will not encourage interjections, nor respond to interjections. Members will cease interjecting. The Minister has the call.

The Hon. DON HARWIN: The fact of the matter is that Regional Arts NSW will continue. Its constituent parts—the Regional Arts Development Organisations [RADOs]—will not only be continued but will, in fact, have their funding increased. The devolved funding program that used to be run in Sydney will now be run by them in the regions. Moreover, I just announced that each of the 15 RADOs will receive a special restart grant of $130,000. The idea that Regional Arts NSW is being wound up or defunded or not having a future role could not be further from the truth. I have great faith in our RADOs. They are excellent. They are the constituent organisations of Regional Arts NSW. They will decide what Regional Arts NSW's central operations in Sydney look like. That is exactly how it should be. It should not be a top-down decision from Sydney made by arts Ministers or Create NSW. This body is all about the regions. It is the regions that should be making the decisions about what operations they have in Sydney. That is why I am backing the RADOs. That is why the future of Regional Arts NSW is particularly bright.

PERINATAL MENTAL HEALTH WEEK

The Hon. LOU AMATO (16:40:18**):** Mr President—

The Hon. Mick Veitch: You're a machine, Lou.

The Hon. LOU AMATO: I acknowledge that interjection. My question is addressed to the Minister for Mental Health, Regional Youth and Women. Will the Minister outline what the New South Wales Government is doing to recognise perinatal mental health?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:40:40**):** I thank the honourable member for his question.

The Hon. Robert Borsak: I heard you on the ABC yesterday. You were very good.

The Hon. BRONNIE TAYLOR: I acknowledge that interjection. I thank the Hon. Robert Borsak. I hope Hansard got that. This week is Perinatal Mental Health Week, when we shine a spotlight on perinatal mental health issues and show our continuing support for expectant and new parents. Depression and anxiety can affect parents at any time in their life, but there is an increased chance during pregnancy and the year following the birth of a baby, which we call the perinatal period. Approximately 13 per cent of women and 8 per cent of men experience depression or anxiety during that time. Sadly, women are at greater risk of mental illness during pregnancy or following childbirth than at any other time in their life. This week I have had the pleasure to be involved in a coordinated campaign to mark Perinatal Mental Health Week with more than 20 organisations, including the Gidget Foundation, PANDA, Karitane and Tresillian, to promote a wide range of information and resources. When great teams work together, they really can achieve wonderful things to make people's lives better. This is a fantastic example of that.

COVID-19 has increased the level of community distress, including among expectant and new parents. As part of the New South Wales Government's $80 million COVID-19 response mental health package, Tresillian received $1.44 million for its SleepWellBaby app to provide parents with advice to reduce stress and concern related to common early parenting issues. Since the app was released, 20 per cent of users who completed the mental health check scored in the high-risk category and were offered follow-up referrals to GPs, PANDA and the Tresillian Parent's Helpline. We also invested $750,000 in the Gidget Foundation to complement the existing $3 million four-year commitment, which enables education, screening and counselling services to new parents. The New South Wales Government is also proud to support Karitane with over $7 million in funding each year to support families across the State.

Less common perinatal mental health conditions include postnatal psychosis, bipolar affective disorder and personality disorders. That is why we are establishing two eight-bed, statewide, public mental health mother-and-baby units at Royal Prince Alfred and Westmead hospitals so that women who experience severe or acute perinatal mental ill health can be accommodated jointly with their infant while receiving psychiatric care—such an important part of them being able to do that. I am sure many members have new parents in their lives. I urge them to use the Perinatal Mental Health Week to check in with those new parents, ensure that they are well supported and that they know where to get help if they are struggling. Now, more than ever, we must look after our new parents. We must ensure that they know that all those supports are available and ready to help them.

ENERGY POLICY

The Hon. ROBERT BORSAK (16:43:58**):** My question without notice is directed to the Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, representing the Minister for Energy and Environment. Does the Minister accept that reliable coal-fired energy supplies more than 80 per cent of the power needs of New South Wales and that this power alone provides reliable, affordable and cost-effective energy solutions for large industrial users and employs tens of thousands of people directly and indirectly? How many jobs will be lost in regional and rural New South Wales if the Liberal-Nationals Government seeks to move away from reliable baseload power and transition towards intermittent energy sources using communist-made solar panels and wind turbines? How many people does it take to service a wind or solar farm once it is built?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (16:44:37**):** There are a number of questions of detail in the later aspects of the honourable member's questioning, which I will refer to the Minister for Energy and Environment. I will speak on a number of matters in the beginning part of the question. First of all is the question of coal power and whether the Government accepts that it provides reliable, dispatchable power. The answer is, of course, we recognise that. The Hon. Matt Kean as energy Minister accepts, as I did when I was energy Minister, the absolutely crucial role that it is playing. Is the Government moving against coal-fired power generation? The answer is that it is not. Because those plants are reaching the end of their serviceable working life, the fact is that the owners of those coal-fired power generators have to make investment decisions about whether to rebuild them or modify them and keep them open. The companies involved are Energy Australia, Delta—I think it is now called Sunset Power International—ERM Power, Origin Energy and AGL. They themselves have taken the decisions to not renew them after they reach the end of their serviceable life.

The Government must, therefore, look at what is the best way to replace that dispatchable power and do that in a way that is consistent with a best price replacement and that ensures that we meet our international obligations relating to climate. We are getting a very clear signal from the private sector as to where it wants to go. It wants to go on a least cost basis towards renewable power generation. Now, we know that the wind does not always blow and the sun does not always shine, so there will need to be more. That is why the consistent position of the Government right through this parliamentary term thus far and before that, when I was energy Minister and brought out the transmission strategy and pumped hydro strategy, was to move in the direction that we have announced in the past couple of days and which we will proceed to legislate in the next few weeks. [*Time expired.*]

The Hon. ROBERT BORSAK (16:47:46**):** I ask a supplementary question. Will the Minister elucidate his answer by answering the part of the question that relates to how many jobs will be lost in rural and regional New South Wales as the Government's policy transitions away from coal-fired baseload power?

The PRESIDENT: Order! The supplementary question is out of order. I know that it is up to the Minister if he wants to take it. There is no point of order, but that is not a supplementary question. Members cannot simply say, "elucidate by answering that part of the question you did not answer". A Minister is entitled to answer the part of the question that they wish. You need to meet all three criteria to make it a supplementary question.

FOOD LABELLING

The Hon. GREG DONNELLY (16:48:35**):** My question without notice is directed to the Minister for Mental Health, Regional Youth and Women, representing the Minister for Agriculture and Western New South Wales. What is the Government's response to moves locally, domestically and internationally to ban vegan food producers from labelling their meat substitute products as "steak" and "sausage"?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:49:08**):** I thank the honourable member for his question directed to the Minister for Agriculture and Western New South Wales, who I represent in this Chamber. As the question contains some detail and refers to banning vegan food producers from calling things steaks and sausages, I will have to take it on notice and get back to him with a thorough response.

BUY.NSW SUPPLIER HUB

The Hon. WES FANG (16:49:46**):** My question is addressed to the Minister for Finance and Small Business. How is the new buy.nsw supplier hub making it easier for suppliers, including small and medium businesses, to do business with the New South Wales Government?

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (16:50:16**):** I thank the honourable member for his question. It is not often that you get two questions from the one member in one day and I am very grateful.

The Hon. Penny Sharpe: You're excited.

The Hon. DAMIEN TUDEHOPE: I am very excited. There are approximately 82,500 active suppliers registered to do business with the New South Wales Government for all types of goods and services, including construction. As of 22 October all of those active registered New South Wales Government suppliers were migrated to the buy.nsw supplier hub—a single digital service that makes it easier for businesses to register to sell to government and manage their information. The new dashboard will allow businesses to update their information, edit their profiles and view their opportunities in a single place. But the work is not yet done. We are also looking for ways to get small and medium businesses more involved in New South Wales Government procurement.

The Hon. Bronnie Taylor: Hear, hear!

The Hon. DAMIEN TUDEHOPE: It is a great story. Our commitment to getting small and medium businesses more involved in government procurement work is in the data. In 2019-20 the New South Wales Government spent more than $40 billion on goods and services and construction, with nearly half of that amount going to small and medium businesses.

The Hon. Rose Jackson: The other half went offshore.

The PRESIDENT: I call the Hon. Rose Jackson to order for the first time. Her nodding her head in agreement is greatly appreciated.

The Hon. DAMIEN TUDEHOPE: Of the total $19.1 billion spent with suppliers identified as small and medium enterprises, $16.6 billion was spent with more than 51,000 small and medium businesses located in New South Wales. This is more than just a big number. Every time we engage a small or medium business we support jobs, families and local communities. The new buy.nsw supplier hub will be a real help to those small and medium businesses. Buyers will use the supplier list to find suppliers to best meet their needs. The more information provided to the supplier profile, the more attractive a business will be to New South Wales Government buyers. The Government's procurement policy includes specific measures to encourage procurement from Aboriginal enterprises, small and medium enterprises and innovative startups. The supplier hub creates fresh opportunities for those potential suppliers to be visible to Government departments so that they can engage with them. As we move forward in our economic recovery, small and medium businesses will be doing the heavy lifting and we want them to partner with the New South Wales Government to get back to work.

WARRAGAMBA DAM WALL

Mr JUSTIN FIELD (16:53:42**):** My question is directed to the Minister for Mental Health, Regional Youth and Women, representing the Minister for Water, Property and Housing. What action will be taken by the Government to investigate claims by traditional owners in last week's Warragamba Dam wall raising inquiry hearings that representatives of WaterNSW and consultants who were engaged to undertake the Aboriginal cultural heritage assessment offered inducements to those traditional owners, including access to culturally significant sites and offers of jobs, in exchange for support for the project?

The Hon. BRONNIE TAYLOR (Minister for Mental Health, Regional Youth and Women) (16:54:16**):** I thank the member very much for his question. Given that the question relates to an ongoing investigation in WaterNSW, I am not able to provide any further comment. I am advised that the Minister's office would be happy to provide an update from WaterNSW on this matter to members of the House as soon as possible.

RIVER STREET BRIDGE, DUBBO

The Hon. JOHN GRAHAM (16:54:50**):** My question without notice is directed to the Special Minister of State, Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts, representing the Minister for Transport and Roads. In light of substantial community opposition to the River Street Bridge project in Dubbo, will the Government halt the project and properly consult with stakeholders regarding a better solution?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (16:55:22**):** The River Street Bridge and a bypass are two separate projects, and the bridge should not be considered as an alternative for a bypass. That is important. Full funding has been confirmed for the River Street Bridge project, comprising $176 million from the Australian Government and $44 million of New South Wales Government funding. I am advised that the project is currently still in the detailed design stage. During this stage, the concept design features are further developed and detailed to enable a final set of drawings to be completed in preparation for construction.

The Government will continue to consult with the community during each phase of the project. This will help to bring major employment as well as local and regional benefits to the Central West, with major work set to start in 2022. I am advised that the process for selection of that option was that Transport for NSW consulted with Dubbo City Council to develop 11 preliminary options for consideration. From this process, six strategic options were recommended for public display. The options were put on public display in May 2016 and the community and stakeholders were invited to have their say. Various other processes were gone through before the River Street option was announced as the preferred option in June 2017.

ARTS AND CULTURE

The Hon. SAM FARRAWAY (16:57:11**):** My question is addressed to the Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts. Will the Minister please update the House on how the New South Wales Government is supporting the arts and cultural sector as it reopens?

The Hon. DON HARWIN (Special Minister of State, and Minister for the Public Service and Employee Relations, Aboriginal Affairs, and the Arts) (16:57:21**):** I am absolutely thrilled to have the chance to tell the House that the restart phase of the $50 million Rescue and Restart package is now underway. I have announced that more than $30 million to kickstart the arts and culture sector will now proceed as theatres, festivals and live performances return across the State. One hundred and sixty arts and cultural organisations, including 60 regional arts organisations, will share in more than $24 million to help kickstart their summer programs. Those immediate payments to our multi-year and annually funded not-for-profit arts organisations will bolster and stimulate the sector now that community transmission of COVID-19 in New South Wales is so low. The funds will provide a cash injection into those independent arts organisations to employ artists and creatives, develop new work and support regional New South Wales through more touring. Needless to say there has been a wonderful response. I want to share a couple of examples with the House. I received an email from Vic from The Cad Factory in south-western New South Wales. When Vic was advised that the Cad Factory would receive $30,000 in funding, he wrote:

> Thanks for your email. Reading this brought a little tear to my eye. When I called Sarah to tell her, her response was, 'I just want to cry.' A very welcome contribution in uncertain times.

Nicole van Bruggen from the Australian Romantic & Classical Orchestra was kind enough send to Create NSW an email. She said:

> Thank you so much for this morning's email with this incredibly positive news. It is exactly what we need to get 2021 off to a successful and strong start.

When Fraser Corfield from the Australian Theatre for Young People [ATYP] was advised of the $220,000 that the ATYP would receive, he wrote:

> I just wanted to forward our heartfelt thanks on behalf of all of us at ATYP. This makes a huge difference to us for next year. It gives us the breathing space we desperately needed to focus on 2022 and beyond and lets us fully realise the innovations and opportunities that arose unexpectedly from this year's shutdown.

That is great news. The independent arts sector has responded well, but there are lots of other aspects to what we have announced beyond the $24 million in funding to independent arts organisations. I will be delighted to tell the House about those on subsequent occasions.

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

Supplementary Questions for Written Answers

MADE IN NSW FUND

The Hon. WALT SECORD (17:00:57**):** I direct my supplementary question for written answer to the arts Minister. In relation to the Made in NSW film funding announcement that was made on 7 November, will the Minister provide a list of New South Wales and Australian productions that received funding, not just American and international productions?

Questions Without Notice: Take Note

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. WALT SECORD: I move:

> That the House take note of answers to questions.

ARTS AND CULTURE

DARYL MAGUIRE, FORMER MEMBER FOR WAGGA WAGGA

MADE IN NSW FUND

The Hon. WALT SECORD (17:01:31**):** I will take note of a number of answers that were given by the arts Minister. In relation to COVID support, which the Minister referred to, he failed to acknowledge that the arts and culture sector as well as the hospitality sector were the first to close and the last to reopen. The arts Minister continues to duck and weave over the Premier's involvement in the $30 million funding that was granted to the Riverina Conservatorium of Music. Earlier this year I asked whether there were meetings that involved the Premier and the arts Minister and the matter was taken on notice. On 5 November the Minister answered that question by saying:

> … no meetings took place between myself or members of my staff with the Premier or her office in relation to that matter.

Today the Minister pretended not to know about that answer. He is again ducking and weaving and he continues to refuse to answer the question. The Government continues to cover that up when it should admit that the Premier and the disgraced former member for Wagga Wagga simply cooked up the grant between themselves. I refer to a question on the Made in NSW announcement that was made on 7 November in which the Treasurer and the arts Minister announced that the Berejiklian Government would pour funds all over American and international film productions, but would ignore the struggling New South Wales and Australian film sector.

The arts Minister was unable to nominate a single New South Wales project. He only referred to previous productions, harking back to *Mystery Road* and some cooking shows. At no point was the Minister able to nominate a New South Wales production. Yes, I welcome the jobs associated with the Marvel movies and Disney productions, but what about our local Australian and New South Wales filmmakers? Sadly the arts Minister is only interested in wearing a tuxedo and hobnobbing with American celebrities like Zac Efron, Johnny Depp, Kevin Spacey, Tom Hanks and other American actors and film crews.

Finally, I express my deep disappointment that the arts Minister still stands by his claim that he did not defund Regional Arts NSW, the peak body that is responsible for coordinating arts projects in New South Wales. In relation to that, 12 out of 14 organisations expressed their concern about his interference in the project. I end on the Made in NSW legislation that the Opposition has put before the other Chamber. That would have been the perfect opportunity for the Minister for Finance and Small Business to provide his support. At the moment the only thing the Government has done is nominate a task force and set up a hub. The community wants to see New South Wales products in New South Wales. For example, I was in the Illawarra last week and the steel that was used to make the light poles came from the Illawarra, but the light poles were made in Vietnam. I thank the House for its consideration.

ENERGY POLICY

The Hon. MARK LATHAM (17:04:39**):** I take note of the answer on energy policy. I draw the attention of the House to the supreme importance of that matter. If the Government does not get it right we will be talking about blackouts, de-industrialisation and a huge loss of manufacturing jobs. One has only to hear from the Leader of the Government to understand the wing and the prayer that the Government is on. The Leader of the Government talks about the importance of pumped hydro. Why would New South Wales, which has coal and uranium in the ground, put its investments into pumped hydro when we are part of the flattest and driest landmass on earth? The industry knows that there is not a pumped hydro scheme in New South Wales that stacks up commercially. Malcolm Turnbull spent an extraordinary $11 billion on Snowy 2.0. That may not be of any use until 2035. Experts say that the distance between the two dams and the pipe length is such that the efficiency gains are non-existent. In fact, it will burn more energy than it can ever create.

Then we have the Shoalhaven, which is not commercially viable. The industry is saying no-one in New South Wales would build one or two dams to pump the water up and down to create pumped hydro because it does not stack up. I believe the Government has advice that says that it should not have accelerated its renewable energy zones because that will bleed the existing coal-fired power stations to death by the middle of this decade, in 2025. If that happens and they close, according to that advice, what do we have? We have an unprepared renewable energy sector; pumped hydro, which is not commercially viable; and batteries. It is a form of science fiction to think that we can get 100 per cent battery storage in New South Wales, given that at the moment the statistic is 0.08 per cent, as pointed out by the excellent Dan Walton from the Australian Workers' Union. Where does that leave workers, the energy supply and industrial host manufacturing in New South Wales?

I strongly urge the Australian Labor Party and all of the former and existing trade union officials to say, "It is one thing to believe in renewable energy, but if you get this wrong you will kill it forever." You will kill it forever, along with the jobs that your members hold. It is very important to have scrutiny over this. I will speak

further tomorrow in debate on a call for papers under Standing Order 52 to get all of the documents, modelling and advice on the table. It is one thing for members to say that they believe in 100 per cent renewable energy—obviously I do not think that is viable—but if members believe in it, would they not want to do this right? They should not engage in a mad rush to accelerate the renewable energy zones in Orana and New England without the backup storage to keep the lights on. It is vital to have a reliable and affordable electricity supply not only for retail trade and tourism but also, and most importantly, for advanced manufacturing in New South Wales. The stakes are incredibly high. The Government and the Opposition cannot afford to get this wrong.

SUICIDE MONITORING SYSTEM

The Hon. SAM FARRAWAY (17:07:45**):** I take note of the answer given today by the Minister for Mental Health, Regional Youth and Women, the Hon. Bronnie Taylor, regarding my question on the post-suicide register and further support. As we know, losing a loved one to suicide is an incredibly devastating and absolutely traumatising experience for anyone and it has deep effects across all communities, no matter where they are. I commend the Minister on the investment to build a suicide monitoring system that will give the Government and its communities up-to-date data about the number of suicide deaths across New South Wales. I understand the system will provide timely and reliable data on suspected suicide events so that the Government and local health districts can respond to communities with emerging high needs quickly and appropriately.

I also note that NSW Health is not stopping there. It will continue to develop the system moving forward. NSW Health will work with other government agencies, including the Department of Communities and Justice, to backdate the data to January 2015 and to develop an enhanced dataset that will include more information about vulnerable groups. The new suicide monitoring system is a significant milestone in the New South Wales Premier's Priority, Towards Zero Suicides. As we heard earlier, the New South Wales Government is investing $87 million over the next three years into new suicide prevention initiatives to keep our community healthy and thriving. The new system will change and save lives. I commend the Hon. Bronnie Taylor, the Minister responsible for mental health, for leading the charge on this and for working with all of the agencies to develop what will be a life-changing project and policy area for the Government and for this State moving forward.

Q FEVER

RIVER STREET BRIDGE, DUBBO

The Hon. MICK VEITCH (17:10:01**):** I take note of two answers given today. First, I take note of the answer given by the Hon. Bronnie Taylor relating to Q fever. Now would be the worst time for communities in the Far West to not have access to Q fever clinics. Q fever symptoms are remarkably similar to COVID-19 symptoms. There are many people going into agricultural industries such as the shearing industry for the first time because of readjustments in workplaces. Being assessed for a vaccine is critical to the prevention of Q fever. It is a debilitating illness and we seriously do not want people in the Far West not being screened for Q fever. I urge the Government to revisit its decision. I suspect the decision might have to do with not being able to secure readily available flights for the pathology testing, but I urge the Government to not prevent those screening clinics from operating. We must find another way to accommodate those clinics.

Secondly, I take note of the question asked by the Hon. John Graham and the response provided by Minister Harwin relating to the River Street Bridge. A couple of weeks ago I was in Dubbo where I received a petition with nearly 11,000 signatures from community members who are opposed to the River Street Bridge. It is problematic for the Government to say in its response that there were 11 options and it whittled them down to six in conjunction with the council. The mayor of Dubbo, Councillor Ben Shields, clearly indicated to me that the preferred option of the council is the Troy Bridge. The Troy Bridge is the preferred option of the council, not the River Street Bridge.

As the Minister pointed out, the concern in Dubbo is that the Troy Bridge is no longer an option once the River Street Bridge is constructed. The council has a local environmental plan [LEP] in place. As I understand it, the Troy Bridge bypass is a part of their LEP. The council has been approving developments with that in mind, and suddenly the Government is proposing the River Street Bridge, which is completely different and not on the map. It is a new road and a new project. I find that quite remarkable. The community does not want the River Street Bridge. The Minister talked about consultation with stakeholders, but the trucking industry made it very clear to me that it was not consulted. That the biggest potential users of this road were not consulted is a terrible slight on the trucking industry in the State.

ENERGY POLICY

Mr JUSTIN FIELD (17:13:07**):** I take note of the question and answer regarding energy. I must say I was pleasantly surprised to see the announcement earlier this week of the Government's plan for renewable energy in New South Wales. The energy Minister announced an ambitious plan and I look forward to seeing the details in

the legislation that has been flagged. Mr Latham mentioned that we have coal and uranium in the ground, but the biggest natural energy advantage in New South Wales is the vast area shone down on every day from the giant nuclear power station in the sky, the sun. It has never made sense that we have not taken advantage of it to the degree we could. The great lack here has been a Federal plan for transition and an energy strategy for the country. Now we are seeing the States lead the way where the Commonwealth has failed to step up. The plan will support regional communities and jobs in regional communities. It will provide alternative revenue streams for farmers. But most of all, it will start to map out where investments will be made for us to make the necessary energy transition in New South Wales.

Another point that Mr Latham mentioned is very relevant to our discussion on this announcement, but also more broadly on the debate on energy in New South Wales and managing the transition. Mr Latham presented the concern that speeding up the transition would inevitably cruel the ability of the coal-fired power stations in New South Wales to continue to operate; it might see that transition happen quicker than it otherwise would. That means that soon after we start to see the implementation of the strategy and the investment in renewable energies, the economic sense for coal-fired power stations in New South Wales falls away. That ultimately means that it has always been a better deal for us to invest in renewable energy because it is cheaper energy, it has less environmental cost, and there are more jobs.

The transition has always been necessary. There are jobs here, and the challenge for governments and oppositions is to ensure that it is translated to the communities who will be impacted by this transition. We should not be scared of it or shy away from it. We must work with industry, and heavy industry as well, on how it can be part of the renewable energy future. There is a climate imperative, an environment imperative and a jobs imperative. We should not be scared of it. We should not be looking backwards; we should be looking forward when it comes to energy. I congratulate Minister Kean for doing so.

JOBS PLUS PROGRAM

The Hon. WES FANG (17:16:10**):** I take note of the answer given by the Minister for Finance and Small Business to my question on the Jobs Plus Program. What a fantastic program it is. The Government is looking to invest $250 million into a package designed to attract businesses to relocate or expand in the great State of New South Wales. We heard how the program is going to work. We now know that for businesses to qualify for the program, they must demonstrate that they will be able to create at least 30 new jobs within New South Wales. The Government is looking to create an extra 25,000 jobs with the program. A key plank of the program is four years of relief from payroll tax. The New South Wales Government is always looking for ways to improve the tax framework to better support job creation and to give businesses more freedom to grow.

The Government has progressively reduced the payroll tax burden on businesses by increasing the payroll tax threshold to $1 million as of 1 July this year. As a result, only 6.5 per cent or 52,000 businesses are registered to pay payroll tax. I note that the NSW Labor Party did not take the policy to the 2019 election, meaning that if Labor had been elected, thousands of businesses would have missed out on the opportunity to hire more staff and invest back into their businesses. During the COVID-19 pandemic, businesses with a payroll of less than $10 million have been given an automatic 25 per cent waiver on their payroll tax, which is huge. They can invest that money back into their businesses and jobs and into supporting local economies, including rural and regional economies in Wagga Wagga, Dubbo and Lismore and all the wonderful regional areas that the Labor Party does not care about. All businesses were able to defer payroll tax payments for six months to the end of October 2020—

The Hon. Mick Veitch: You are a goose.

The Hon. WES FANG: —and then request a stimulus payment arrangement—

The Hon. Mick Veitch: You are a goose, a deadset goose.

The Hon. WES FANG: —spreading payments over up to 24 months. [*Time expired.*]

The PRESIDENT: The Hon. Mick Veitch knows better than that. He did not make the comment that the member is a goose once, not even twice; he said it three or four times. I now ask him to withdraw the comments he made.

The Hon. Mick Veitch: Point of order: The honourable member knows that I reside in regional New South Wales. That is a terrible slight on me and my community. He has clearly defamed my reputation in Tumut and Young. That is offensive. I do not withdraw. He should withdraw the comment he made about my reputation. Honourable members know I live in regional New South Wales. This is a disgrace.

The Hon. Wes Fang: To the point of order—

The PRESIDENT: No. I have asked the Hon. Mick Veitch to withdraw the comment.

The Hon. Mick Veitch: No.

The PRESIDENT: I am giving the Hon. Mick Veitch a second opportunity to withdraw his comment that the member is a goose. I remind him that it is gross disorder to not comply with a request to withdraw. The member will give me no alternative but to remove him from the Chamber, and I do not want to see that happen. I also indicate to the Hon. Mick Veitch, because I am trying to give him as much latitude as possible, that upon his withdrawing at my request I will then deal with his point of order regarding the Hon. Wes Fang, but I have to deal with this first. There is still a second opportunity to withdraw because the member has not responded. I am requesting for a second time that the member withdraw the comment that the Hon. Wes Fang is a goose.

The Hon. Mick Veitch: I withdraw the comment.

The PRESIDENT: I thank the honourable member for that. I will now give the honourable member an opportunity to speak on his point of order in relation to what he says the Hon. Wes Fang said. I need the honourable member to repeat it for me.

The Hon. Mick Veitch: Further to the point of order: The honourable member has clearly slighted my reputation as a member who resides in regional New South Wales. He knows that and I ask him to withdraw the comment relating to regional New South Wales and Labor Party members not understanding regional New South Wales.

The Hon. Wes Fang: Further to the point of order: My comments were in relation to the New South Wales Labor Party in general. Obviously there were events occurring within other jurisdictions, such as within the Federal jurisdiction with members leaving the front bench and I was referring to that. I certainly was not referring to the Hon. Mick Veitch. I know the Hon. Mick Veitch is a very valued member of his community within the Tumut area, and before that in the Young area. My comments were certainly not directed to the Hon. Mick Veitch; they were directed in general terms to the New South Wales Labor Party and the events that occurred today. If the Hon. Mick Veitch takes offence to that I withdraw and I apologise. However, that is not what I was referring to. For the Hon. Mick Veitch to draw that conclusion is drawing a slightly longbow. But again, as I said, I will withdraw and apologise.

The PRESIDENT: I believe the Hon. Wes Fang has covered every single base. He has assured the Chair, and I have to accept it, that he was not referring to the Hon. Mick Veitch. He has also said that if in any way the Hon. Mick Veitch felt that, he withdraws and apologises. I believe that takes care of the member's point of order.

WORK HEALTH AND SAFETY

The Hon. ANTHONY D'ADAM (17:23:27**):** I take note of two answers to question Nos 2367 and 2372 on the *Questions and Answers* paper. At the heart of the work health and safety system is the notion that the system is designed to create safe systems of work. A key instrument in achieving that goal is through facilitating worker voice on safety matters. The Act does that through creating structures of representation and consultation that provide a framework for the election of workers as health and safety representatives. I wanted to know how committed the Government is to this key feature of the Act, so I asked, on notice, how many health and safety representatives have been elected in New South Wales in the years that the Work Health and Safety Act has been in operation. I was stunned at the answer that was provided.

In 2015 there were 1,022 work health and safety representatives elected; in 2016 the number dropped to 846; in 2017 it dropped again to 647; it bobbed up to 696 in 2018; and in 2019 only 343 health and safety representatives were elected. I thought I would also ask about the commitment of the Government to enforcing those consultation provisions in the Act. I asked how many prosecutions have been initiated under section 33 relating to part 5 of the Act, which is the part that relates to consultation. The answer given was none—zero. This Government is not committed to worker representation. My concern is that the Coalition, like all coalition governments, is not interested in empowering working people; it is not interested in worker voice. The data confirms that the Government has run down the health and safety representative system and, without worker voice in matters of safety, more workers will die, more workers will be maimed, more workers will be injured, and that is on the Government.

NAIDOC WEEK

The Hon. LOU AMATO (17:26:03**):** I take note of answers to questions given by the Hon. Don Harwin. It was great to hear that the New South Wales Government is supporting Aboriginal organisations and communities to adapt this year's NAIDOC Week to a COVID-safe environment. It certainly has been a difficult year for Aboriginal organisations and communities right across Australia. This year the New South Wales Government has supported 95 smaller-scale COVID-safe NAIDOC activities throughout the State. This was only possible because of the extra finance or grants given by the Government. Aboriginal Affairs NSW supports

NAIDOC Week events through a grants initiative each year so that the community can celebrate Aboriginal heritage and culture. I was also pleased to hear that Aboriginal Affairs NSW is hosting a cultural performance at the Sydney Opera House, which will be live-screened to the community during NAIDOC Week. I hope everybody joins in.

SUICIDE MONITORING PROGRAM

The Hon. TARA MORIARTY (17:27:07**):** I take note of answers provided today in relation to mental health, particularly in relation to the suicide monitoring system that has been announced by the Government. It is very welcome and I look forward to seeing how it will work in practice. This has been talked about for a very long time. Suicide rates have gone up steadily over the past two years since it has been a priority of the Government to reduce rates. I do not say that as a criticism; I say it because I know that every single person in this place cares very deeply about the suicide rates in this State. We care about every single person who makes an unfortunate decision in this area and we care about the ramifications across the community. I point this out because the rates have increased and we really need to take more urgent action. We cannot be making announcements and dragging out new systems for periods of years. We need to do everything we can to save every life that we can. I would like to see more urgency and more action taken by the Government in relation to this issue.

TAKE NOTE OF ANSWERS TO QUESTIONS

The Hon. SCOTT FARLOW (17:28:33**):** We have got cricket season approaching at the moment. I know that the Leader of the House is a big cricket fan, as is the Hon. Mark Latham, as we heard in his speech recently. What we saw today was a little bit of flat bowling from members opposite as we come into the cricket season. We also saw some great batting performances today. When it came to Minister Harwin's batting form today, he delivered a ton, particularly from the flat bowling of the Hon. Walt Secord opposite. Boundary after boundary he was hitting them for six, effectively. We were rolling up the big hit from members opposite when it came to the Made in NSW fund and this gotcha moment that apparently the funding was not going to New South Wales arts operations, was not going to New South Wales productions—

The Hon. Walt Secord: He could not name a single project.

The Hon. SCOTT FARLOW: He named project after project: *Doctor Doctor*.

The Hon. Walt Secord: In the past.

The Hon. SCOTT FARLOW: I will say that *Thor* was in the past as well. But there are more productions out there and thankfully more productions will be made in New South Wales with $175 million being dedicated to the Made in NSW fund to attract projects from all around the world and locally. I am sure the Hon. Walt Secord would love to be in one of the productions. I am sure he would do a tremendous job—

The Hon. Ben Franklin: Cameo.

The Hon. SCOTT FARLOW: —in a cameo role, perhaps even a starring role in one of those productions. The member opposite reminded me a little bit of *The Simpsons* when Radioactive Man was secured to be shot in Springfield. I could see the Hon. Walt Secord being cast as Mayor Quimby, running them out of town, going after them with the last $1,000 leaving-town tax, and the poor film producers would retreat to Hollywood, a town that treated people with fairness and respect as they did in *The Simpsons*. That could be a role for the Hon. Walt Secord, perhaps.

Reverend the Hon. Fred Nile: What about the Joker?

The Hon. SCOTT FARLOW: I note that interjection from Reverend the Hon. Fred Nile—as quick as a whippet there. We also heard other great news in this Chamber today. There was another great knock from the Hon. Bronnie Taylor. It was another century from her, celebrating the 180 mental health staff being employed in New South Wales. It was another bit of flat bowling from those opposite. Team New South Wales is doing tremendously well under the Minister for Mental Health, Regional Youth and Women, making sure that we have those frontline mental health workers on the ground to support our communities in this time of need. That was supported by the suicide monitoring system announcement, giving up-to-date suicide data. Yesterday I was happy to hear the Hon. Bronnie Taylor's announcement that there had not been a spike in suicide numbers during the COVID-19 period. I am sure all members join me in commending her work and the work of the people of New South Wales.

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

Motion agreed to.

Deferred Answers

MINISTERIAL RESPONSIBILITY

In reply to **the Hon. PENNY SHARPE** (13 October 2020).

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

I refer you to my answers to the Leader of the Opposition's questions in Legislative Assembly Question Time on 14 and 15 October 2020.

I expect all members of Parliament to comply with the requirements of the *Code of Conduct for Members*.

STATE ENVIRONMENTAL PLANNING POLICY (KOALA HABITAT PROTECTION) 2019

In reply to **the Hon. MARK BANASIAK** (13 October 2020).

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

I am advised:

The Department of Planning, Industry and the Environment is not aware of any development applications refused under the State Environmental Planning Policy (Koala Habitat Protection) 2019.

WATER MANAGEMENT

In reply to **the Hon. ROBERT BORSAK** (13 October 2020).

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

In March this year, the Commonwealth Treasurer announced that all monetary thresholds for Foreign Investment review Board [FIRB] assessment had been temporarily set to $0. This lowered threshold guaranteed any sale was assessed by the appropriate agency. New South Wales has a publicly searchable NSW Water Register and Water Access License Register which provides information about every water licence in New South Wales. In addition, the Australian Tax Office [ATO] maintains a Register of Foreign Ownership of Water Entitlements, to provide greater transparency on the level of foreign ownership of Australia's water entitlements. All foreign investors with an interest in a water right or registerable water entitlement (which includes irrigation rights, the right to hold water, and/or the right to take water from a water resource in Australia) are required to register with the ATO.

PARLIAMENTARY ASSETS

In reply to **Mr DAVID SHOEBRIDGE** (13 October 2020).

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

I refer to my response given after Question Time on Tuesday 13 October.

DARYL MAGUIRE, FORMER MEMBER FOR WAGGA WAGGA

In reply to **the Hon. MARK BUTTIGIEG** (13 October 2020).

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

It would be inappropriate to comment on any matters before the Independent Commission Against Corruption.

BUSHFIRE RISK MITIGATION

In reply to **Mr JUSTIN FIELD** (13 October 2020).

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

I am advised that the NSW Fire Trail Standards are available online at: https://www.rfs.nsw.gov.au/__data/assets/pdf_file/0009/69552/Fire-Trail-Standards-V1.1.pdf and that Planning for Bush Fire Protection is available online at: https://www.rfs.nsw.gov.au/__data/assets/pdf_file/0005/174272/Planning-for-Bush-Fire-Protection-2019.

MINISTERIAL RESPONSIBILITY

In reply to **the Hon. PENNY SHARPE** (14 October 2020).

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

The Government's policy is that any emails received or sent in the course of official duties, irrespective of what ministerial email account is used, should be managed within the obligations set out by the State Records Act 1998.

MINISTERIAL RESPONSIBILITY

In reply to **the Hon. WALT SECORD** (14 October 2020).

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

All Ministers have a Ministerial email account.

DARYL MAGUIRE, FORMER MEMBER FOR WAGGA WAGGA

In reply to **the Hon. MARK LATHAM** (14 October 2020).

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

This is a matter for the Independent Commission Against Corruption.

FAMILY LAW REFORM

In reply to **Reverend the Hon. FRED NILE** (14 October 2020).

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

I am advised:

> Courts make decisions based on the totality of the evidence before them and in accordance with the applicable legislation. In proceedings before the Children's Court under the Children and Young Persons (Care and Protection) Act 1998, the safety, welfare and well-being of the child or young person is the paramount consideration.
>
> Similarly, in proceedings before the Family Court or Federal Circuit Court under the Family Law Act 1975, the best interests of the child is the paramount consideration for the court when making a parenting order. Those courts are required to prioritise the safety and welfare of a child and must ensure that any order they make does not place a child at an unacceptable risk of harm.
>
> The majority of parents and all children subject to Children's Court proceedings are legally represented. If a party to proceedings is dissatisfied with a court's decision, there are avenues available to appeal against the court's orders.

MINISTERIAL RESPONSIBILITY

In reply to **the Hon. ROD ROBERTS** (14 October 2020).

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

My attendance at the event of the Australian Council for the Promotion of the Peaceful Reunification of China on 1 March 2015 was in my capacity as President of the Legislative Council.

Prior to and since my attendance at this event no concerns have been raised with me by any security agency.

CRITICAL THINKING SKILLS AND EDUCATION

In reply to **the Hon. COURTNEY HOUSSOS** (14 October 2020).

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

The Centre for Education Statistics and Evaluation [CESE] published a paper entitled *General capabilities: A perspective from cognitive science* in June 2019.

The paper considers insights from cognitive science to explore the most effective ways of supporting students to develop key capabilities such as critical thinking. Cognitive science research shows that capabilities such as critical thinking need to be taught through subject or learning area and intertwined with content knowledge.

In addition, CESE's *What Works Best* suite of publications underpin advice to New South Wales public schools on the most effective strategies for teaching.

RIVERINA CONSERVATORIUM OF MUSIC

In reply to **the Hon. ADAM SEARLE** (15 October 2020).

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

I refer the honourable member to my written answer to a supplementary question after question time on 15 October. In May 2018 I visited the Wagga Wagga electorate to attend events at the Batlow Literature Institute, Museum of the Riverina, Greens

Gunyah Museum and the Riverina Conservatorium. As is protocol for these events, the local member was invited as a courtesy. I have had no other meetings with Mr. Maguire.

RIVERINA CONSERVATORIUM OF MUSIC

In reply to **the Hon. PENNY SHARPE** (15 October 2020).

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

I refer the honourable member to my written answer to a supplementary question after question time on 15 October. In May 2018 I visited the Wagga Wagga electorate to attend events at the Batlow Literature Institute, Museum of the Riverina, Greens Gunyah Museum and the Riverina Conservatorium. As is protocol for these events, the local member was invited as a courtesy. I have had no other meetings with Mr Maguire.

RIVERINA CONSERVATORIUM OF MUSIC

In reply to **the Hon. WALT SECORD** (15 October 2020).

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

I refer the honourable member to my answer given in the House. Further, I can advise that no meetings took place between myself or members of my office with the Premier or her office in relation to that matter.

GREYHOUND WELFARE

In reply to **the Hon. MARK PEARSON** (15 October 2020).

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

As the representative of the Minister, I provide the following advice in relation to the question asked by the Hon. Mark Pearson, MLC:

The Coalition for the Protection of Greyhounds has made several incorrect assumptions relating to the number of greyhounds that "should have been adopted" or are "missing". The Greyhound Welfare and Integrity Commission advises that it does not agree with the figures claimed by the CPG.

The numbers cited have not taken into account greyhounds that remain with their original owner, trainer or breeder, as is often the case. For example, in GWIC's recent compliance check of greyhounds whelped between 1 July and 30 September 2018, 98.5 per cent were found to still be in the custody of a registered participant.

It is also claimed that 40 per cent of greyhounds whelped are considered unsuitable for racing. Prior to the establishment of the Commission, it was estimated that 30 per cent of greyhounds whelped may never race, however since the commencement of the Commission and the introduction of industry reform, breeding numbers have reduced significantly and it cannot be assumed this figure continues to fit the situation of the past three years.

The Commission has found that most greyhounds that do not race, or that are retired from racing, remain in the custody of their owners or trainers and therefore remain registered with the Commission. As a result, they are not included in rehoming statistics published by the Commission. Evidence of this can been seen in the quarterly Retirement and End of Life reports on the Commission's website. These greyhounds are still subject to Commission inspections and monitoring.

MEMBERS' CODE OF CONDUCT

In reply to **the Hon. MARK BUTTIGIEG** (15 October 2020).

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

I expect all Members of Parliament to comply with the requirements of the *Code of Conduct for Members*.

DARYL MAGUIRE, FORMER MEMBER FOR WAGGA WAGGA

In reply to **the Hon. ROD ROBERTS** (15 October 2020).

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

This is a matter for the Independent Commission Against Corruption.

ANIMAL DISSECTION

In reply to **the Hon. EMMA HURST** (15 October 2020).

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

While the dissection of animals is not mandated by any NESA syllabus, some teachers make a professional judgement to offer their students the opportunity to participate in a dissection activity in New South Wales schools.

The way this activity is offered varies from school to school and is dependent on the course being delivered and age of the students.

Every scenario that allows dissection as a teaching activity in schools, involves the use of animals or parts from animals that have already been humanely killed for some other reason.

Clear advice about the way any dissection activity can be carried out has been developed by the Schools Animal Care and Ethics Committee and published on the Animals in Schools website for all schools.

This advice provides guidelines on the situations where dissection can be carried out. Teachers who choose to offer dissection as a teaching activity, do so because they believe they are providing their students with authentic learning experiences and the opportunity to acquire knowledge and skills for achieving course outcomes.

To demonstrate how muscles, bones and organs are arranged, whole dead animals may be purchased from the butcher, supermarket, fish market or abattoir.

This most commonly involves chickens, fish and crustaceans that have been prepared for human consumption.

When a teacher wishes students to learn about the different organs within animals, they can purchase kidneys, hearts, livers and lungs from the butcher, supermarket or abattoir.

At other times when teachers may wish students to develop dexterity and proficiency in using instruments, plants and plant parts are very suitable as the subject of the dissection.

Computer simulations and models are useful teaching resources and are also used extensively in schools as both alternatives to dissection and as preliminary learning prior to a dissection.

Any student who selects not to be involved in a dissection is offered an alternative activity.

The Schools Animal Care and Ethics Committee promotes the 3Rs as a filter to be applied whenever animals are used in New South Wales schools.

This includes the replacement of animals with other methods, the reduction in the number of animals used and the refinement of techniques used to reduce the impact on animals.

In New South Wales the three school sectors employ a full time Animal Welfare Coordinator to manage the work of the Schools Animal Care and Ethics Committee, ensure all schools in NSW comply with all relevant animal welfare legislation and provide advice to schools on their use of animals including the issue of dissection.

POWERHOUSE PARRAMATTA

In reply to **the Hon. PETER PRIMROSE** (15 October).

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

I am advised,

The project will implement an Australian Industry Participation Plan in accordance with the Australian Jobs Act 2013. Infrastructure NSW is carrying out an Expression of Interest process to shortlist capable design and construction organisations to manage the delivery of the Powerhouse Parramatta, in line with Government procurement guidelines.

Any mandated local supply would be detailed in the Request for Tender, the second stage of the procurement process whereby shortlisted tenders develop detailed proposals for the delivery of the project.

The Powerhouse Parramatta will create 4,000 direct and indirect jobs, and will inject hundreds of millions into the local economy through the procurement of construction materials and labour.

RISLAND AUSTRALIA

In reply to **the Hon. MARK LATHAM** (20 October 2020).

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

It would be inappropriate to comment on matters related to the Independent Commission Against Corruption's investigation in Operation Keppel.

COVID-19 AND RELIGIOUS CONGREGATIONS

In reply to **Reverend the Hon. FRED NILE** (20 October 2020).

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

I have been advised that under the Public Health (COVID-19 Restrictions on Gathering and Movement) Order (No 5) 2020, which commenced on 28 September 2020, 135 exemption applications were considered up to 28 October 2020, with 29 of these requests granted. Gatherings at seven places of public worship were exempted.

Applications were received for community sporting activities, funerals or memorial services, weddings, outdoor public gatherings, gatherings at residential premises, major recreation facilities, and places of public worship.

The denominational breakdown of applicants is not considered when assessing an exemption request in the context of public health risk. Exemptions are generally made only in exceptional circumstances and when the applicant demonstrates an understanding of how public health risks will be controlled.

ANIMAL WELFARE

In reply to **the Hon. MARK PEARSON** (20 October 2020).

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

This is a matter for the Minister for Agriculture and Western NSW.

THE HON. GLADYS BEREJIKLIAN

In reply to **the Hon. ROD ROBERTS** (20 October 2020).

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

I refer you to the Australian Government's Protective Security Policy Framework.

REGIONAL CONSERVATORIUMS

In reply to **the Hon. ROSE JACKSON** (20 October 2020).

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

Regional conservatoriums are incorporated, independent, not-for-profit organisations. They are partly funded by the Department of Education.

The effects of the COVID-19 pandemic have been felt throughout the wider community, including organisations such as Coffs Harbour Regional Conservatorium.

COVID-19 has required changes to Coffs Harbour Regional Conservatorium's usual operations in order to sustain the business and deliver high -quality music education and experiences to the Coffs Coast community.

The department administers the Regional Conservatorium Grants Program. Program funding is allocated to support the music education component of the conservatorium's work. It is not designed to cover all administrative costs of regional conservatoriums.

I'm advised that Coffs Harbour Regional Conservatorium received a funding allocation of $396,972 for the 2019/20 financial year. The budget for the 2020/21 financial year is yet to be finalised.

Key Performance Measures form an integral part of the Funding Agreement between the department and regional conservatoriums. The department has recognised that the COVID-19 restrictions may have an impact on the capacity of Coffs Harbour Regional Conservatorium to meet their agreed Key Performance Measures.

The department provided each of the 17 regional conservatoriums, including Coffs Harbour Regional Conservatorium with an additional $6,082 in June 2020, as a one-off payment to help them manage the new challenges of remote learning during COVID-19.

The Association of NSW Regional Conservatoriums is the governing body that acts in the interests of the 17 regional conservatoriums. The department continues to work with the 17 regional conservatoriums and the Association of NSW Regional Conservatoriums to monitor the ongoing impact of COVID-19.

POKER MACHINES AND MONEY LAUNDERING

In reply to **Mr JUSTIN FIELD** (21 October 2020).

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

While the anti-money laundering function of the Central Monitoring System [CMS] is being implemented and is a part of the new system, the algorithm is still undergoing refinement and testing before being put into operational use. As the tool is not currently operational there have been no reports of potential money laundering offences through this system.

Written Answers to Supplementary Questions

STUDENT ONLINE CHECK-IN ASSESSMENTS

In reply to **the Hon. COURTNEY HOUSSOS** (22 October 2020).

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

The check in assessment was optional for schools and provided one method for teachers to assess student learning following the COVID-19 learning from home period.

Teachers use many methods to assess student learning including classroom observation and diagnostic testing tools.

THE HON. GLADYS BEREJIKLIAN

In reply to **the Hon. MARK LATHAM** (22 October 2020).

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

It would be inappropriate to comment on these matters while an ICAC investigation is underway.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. SAM FARRAWAY: On behalf of Mr David Shoebridge: I move:

That committee reports and Government responses orders of the day Nos 1 to 4 be postponed until the next sitting day.

Motion agreed to.

Committees

PORTFOLIO COMMITTEE NO. 3 - EDUCATION

Reports

Debate resumed from 25 February 2020.

The Hon. MARK LATHAM (17:33:22**):** The report of Portfolio Committee No. 3 – Education entitled *Measurement and Outcome-based Funding in NSW Schools* was indeed a landmark report because it was based on evidence. It considered extensively the material presented at hearings and the submissions. The conclusion we reached was that the New South Wales education system was failing its students. We have the fastest falling school academic results in the world; even the Government's chosen curriculum reviewer, Geoff Masters, has said that. The necessity is to return to the things that work. It is a lasting frustration in education that every aspect of every system around the world has been studied, examined and researched until they drop.

We know the things that work in the classroom. This Government, to its credit, set up the Centre for Education Statistics and Evaluation [CESE] to produce a document entitled *What works best*, which has seven or eight things in the classroom that are known to get the most effective outcome. But for some reason, it has not been applied universally through the school system. What is the point of having *What works best* if schools do not actually use it? There are no incentives, no compulsion, nothing mandatory for schools to actually follow the recommendations of that document.

Would it not make sense to say, here are the boundaries to which schools can teach and that they must teach off the menu of things that work in the classroom. That was the first finding of the committee. It is remarkable that under Local Schools, Local Decisions—this laissez-faire policy—schools have been able to race off and do whatever they like. The evidence base is clear. John Hattie, to his credit, has systemised it into calibrated numbers, indicating the impact on student learning. Obviously you are after a system where the schools are producing more than one year's academic growth for every year of schooling.

Hattie can tell you the things, systematically, that achieve that. CESE has produced something similar aligning with Hattie's research and its own conclusions. So how hard is it for the New South Wales Government in this environment to produce the systems, the boundaries, the incentives and the compulsion for schools to teach to the things that actually work? The problem in New South Wales is that you can chart the moment the academic results started to decline in the Programme for International Student Assessment [PISA] research and testing: from the moment schools became experimental.

The schools started to think that wellbeing programs were more important than academic success and that so-called student centred, student self-starting learning could be better than direct instruction. They started to think that teachers as facilitators, walking around group learning in open plan classrooms with a coffee cup in their hand, was somehow going to do something for our academic results. All the research shows that is the wrong approach. Billions of dollars have been wasted on open plan buildings and schools when research from Macquarie University shows—and common sense would tell you—it is very hard for students to hear in an environment of 100 students and three or four teachers. It is hard for them to concentrate on their teacher instead of all the other confusion and the clatter elsewhere in the room.

All the things that could have gone wrong in the New South Wales school system have gone wrong. A lot of the blame must be sheeted to former Minister Piccoli, who was foolish enough to go down the pathway of Local Schools, Local Decisions—the laissez-faire policy—that said if you want to ignore the CESE evidence you

can. If you want to ignore John Hattie's systematic findings based on metadata from all over the world, you can, and schools can go and do whatever they like. I do not know what outcome Piccoli and Premiers O'Farrell and Baird thought they were going to achieve from that but it has been an absolute catastrophe for New South Wales.

The purpose of the report was to essentially do two things. Firstly, to look at the budget approach—the outcome-based budgeting in education—to say that the system is adequately funded and the Gonski rivers of gold are flowing but education cannot just be a bottomless pit where you pour the money in, regardless of results and regardless of outcomes. Outcome-based budgeting should be a discipline by which the Government says that those are the things that work in the classroom so apply them in teaching methodology, learning approaches, textbooks and learning materials.

Do everything that works and the outcomes will naturally improve academic results. Sadly in New South Wales, not only is the evidence being ignored, not only do we have inadequate measurement—and the report made many recommendations about that—but we also actually have best practice schools. You can visit some schools in New South Wales that are absolutely outstanding. Top of that list for me is Marsden Road Public School in Liverpool, where the principal, Manisha Gazula, is a whiz in applying the disciplines and the classroom practices that work to drive results that are way above expectations for a community that has a low socio-economic base, a fair number of recent arrivals to the country and refugees. The school's results are way above expectations.

It is an approach based on teachers teaching, not with a coffee cup in hand, with group learning and wandering around or project-based learning, but standing at the front of the classroom engaging in a rich interchange of ideas with their students and imparting deep knowledge and understanding. That is what works at Marsden Road Public School, a best practice school in New South Wales. The committee also had a good look at Balgowlah Boys college on the North Shore, which has seemingly a miracle in the New South Wales system of teachers who teach: They stand at the front of the classroom, construct sentences and an English argument. They have had recent publicity to say that they have been achieving fantastic results. Since the time of the report I have visited Hoxton Park High School, whose results on the vocational front are amazing. We visited school after school from the small batch of schools that can be defined as best practice in New South Wales.

Again, John Hattie has highlighted this paradox. How hard is it to scale up best practice? Why is it that we can have dozens of good schools in New South Wales out of the 2,200 government schools but not scale up their success and say, "Here is the model that works"? Why do we not use Manisha Gazula at Marsden Road Public School as a facilitator and an inspiration for a cluster of other schools in the Liverpool, Fairfield and surrounding districts and say, "There is the best practice model. She will help you implement in your school the success she has had in her school"? Forget about the fads, the experimentation and the things outside the boundaries of what works. Here is the thing that achieves best practice so scale up. Of course all of this is common sense. Why do we have a guy like Mark Scott, the head of the education department, who essentially in these areas would not know if he was Arthur or Martha, flopping around with every excuse under the sun instead of simply doing these common-sense things?

I am glad to see the finance Minister here, a senior Minister of the Government. It is true that the Cabinet adopted a number of recommendations of the committee's great report. However, it was with the proviso: if they can be implemented. If we allow Mark Scott to say that things cannot be implemented, New South Wales will continue to have falling academic results. On his watch the situation will continue where only one school out of 2,200 New South Wales government schools says it has the strategic goal of achieving academic growth. That is Marsden Road Public School. What is a school for if not for achieving academic growth? Only one school mentions that as its strategic objective in its school plan. Meanwhile 60 schools in New South Wales employ the Grow Your Mind consultants, with their worksheets on animal yoga, shark versus dolphin thinking and gratitude meditation. One simply despairs!

I grew up in and still hold fondly and truly represent areas where young people in the worst of circumstances sometimes, in families where there are no role models of work and aspiration, have one thing in their life that matters, and that is the government school down the road. If it is not a good, high-achieving school, they have nothing else to fall back on. No-one knocks on their door and says, "Here is a job for you," or "Here is a big opportunity in life handed on a platter", or "Here is a higher education degree that you can use". No-one has parents who own a business or who have big assets available to them. They have their government school down the road. How hard is it to measure and follow the evidence and best practice to say that every one of those government schools in disadvantaged areas should be an outstanding school with the very best teachers.

I thank the committee members who applied themselves to that task. I thank the Cabinet for adopting what is thought to be a record number of recommendations. But the Government should wipe the idea of "if it can be implemented". The committee made its recommendations on the basis of best practice. It works in some of our schools so it must be done everywhere. Scale it up and follow the evidence. In particular, we must replace Local Schools, Local Decisions. I despair that the education Minister, who is not here today unfortunately, made

a decision in February to get rid of Local Schools, Local Decisions but nine months later has not replaced it with another strategy. It is the right thing to get rid of it because it has been a hopeless failure. The Piccoli era was a complete disaster but where is the replacement policy that says, "Here are the things led by CESE and the Hattie research that work in the classroom. Apply yourself to them, not only in learning materials and curriculum but also in teaching methods."

We know what works in the classroom. It has all been measured. We need that discipline and rigour applied to every government school to lift up students. The report has many fine recommendations that must be followed through. I despair that the implementation through Mark Scott and some of the other excuse-makers in the department will not be all that flash. I see the Department of Education distribute to 60,000 or 70,000 teachers in New South Wales penis tucking guides. I look at Kirrawee High School distributing a survey to 13-year-old girls about how and why they are heterosexual. I look at some of the rubbish at Maitland High School taught in year 7 English about Black Lives Matter and police profiling.

We cannot afford to introduce that political and sexual material into the classroom. Some teachers may be interested in that but they should not be working anywhere near kids. That is my argument. The truth is that many schools have gone off the rails with their own experimental programs, with their own fad ideas, with their political and sometimes shamefully sexual agenda foisted on students when the basics that the Premier talks about lie in deep knowledge and understanding: teachers teaching, following the evidence, doing all the things that work and scaling up the best practice.

The committee has produced a report along those lines. I hope Cabinet keeps coming back to it to ensure that it is being implemented, instead of the world's top excuse-maker Mark Scott knocking these things around. If excuse-making could drive our academic results, New South Wales would be at the top of the PISA rankings because the department makes more excuses than could be seen in a month of Sundays. We must get away from that excuse-making mentality and follow the recommendations of the report. I thank the members of the committee, including the Deputy Chair the Hon. Matthew Mason-Cox, the Hon. Courtney Houssos and the Hon. Anthony D'Adam, who are in the Chamber. Committee members had differences of opinion but what I liked about the process was the fact that it sparked a debate that the education committee has not had and that we have not had in this Chamber for quite some time.

Other important issues have been examined in the past. We are at a crisis stage in New South Wales with falling academic results. We are sliding down the international league table and down the Australian comparisons. It is not a time for excuse-making or for saying, "Let's do this subject to implementation." We must get it done for the students in New South Wales who need improved schools. They expect it from the Government. Quite frankly, the Government has let them down and this report is a roadmap, a pathway to educational opportunity in New South Wales. I thank the committee members. I commend the report.

The Hon. COURTNEY HOUSSOS (17:46:26**):** I make a contribution to debate on the report of Portfolio Committee No. 3 – Education entitled *Measurement and outcome-based funding in New South Wales schools*, tabled on 18 February 2020. On 18 August 2020 the Government tabled its response. It was a wideranging and broad inquiry. The report contained 66 recommendations. I will speak to some of the key issues raised in the inquiry. Labor did not support all 66 recommendations of the report. However, we did seek to engage in the inquiry in a constructive manner because it is clear that there is a serious problem in New South Wales schools, which has been reflected in the most recent NAPLAN and Programme for International Student Assessment results. I am particularly concerned that New South Wales schools, which used to lead the nation, are going backwards compared to schools in other jurisdictions.

During the inquiry the committee did not receive a clear explanation from the NSW Department of Education as to why that is the case. Worst of all, there is no clear plan for how New South Wales schools will become world leaders again. Undoubtedly we live in the era of data. Schools, like so many organisations, collate a broad range of information, much of it accessible by the education department. However, parents are forced to make decisions about their children's education with limited access to it. The committee was surprised by the rich data sources that are available only to the department to view and not to parents and the community. Labor introduced NAPLAN to ensure that the most disadvantaged schools receive the support they need. But now, a decade later, it is sometimes used as the singular marker of a school's success.

That is why we are supporting a new, broader measure for schools to give parents and the community a clearer picture of all the value-adding that a school is contributing. We should provide parents and school communities with more information about our schools. They are hungry for it so that they can make informed decisions about their children's education and understand the state of New South Wales schools more generally. Some people are fearful of schools being stigmatised if that information is available at an individual school level. That fear is impeding the necessary oversight to ensure that underperforming schools are brought up to an appropriate standard.

The inquiry heard almost conflicting testimony on the issue of outcome-based funding. On the one hand we heard the transformative benefits of outcome-based budgeting spruiked. On the other hand we heard that the adoption of outcome-based budgeting would not change the needs-based funding model for New South Wales schools. Let me be clear: Labor has and always will support needs-based funding for schools. We are yet to see how those two concepts will play out in practice, but will be watching closely. We support the recommendations to ensure that the best evidence-based teaching models are used in New South Wales schools. I take this opportunity to put on record my personal support for the teaching of phonics. I also find the arguments for explicit teaching or direct instruction hard to disagree with. I thank Professor John Hattie for his informative research, which was included in the committee's report.

Labor's position is that the best, evidence-based teaching should be set by the Centre for Education Statistics and Evaluation, with room for innovation if new best-practice models evolve, not set by the inquiry report. We also support the introduction of school inspectors in order to increase the number of highly paid and recognised teachers in classrooms. I fully support measures to provide excellent teachers who do not want to pursue a leadership career path but want to stay in the classroom. The inquiry heard that the current model is based on the Singaporean model of Highly Accomplished and Lead Teachers. We have just 284 across New South Wales because it costs hundreds of dollars and years to apply. In 2018 only five teachers were accredited in the category; it is not working in practice.

Just weeks ago the Government announced a new Best in Class arrangement, which seems to duplicate the existing one in place. During the inquiry the Victorian Government announced a package for disadvantaged schools, and we subsequently recommended that the New South Wales Government do something similar to allow our best and brightest teachers and principals to be targeted into our most challenging schools in our most disadvantaged areas. There were some financial incentives for that and we called on the Government to allow and support teachers to take on what can be challenging roles. We support a voice for parents and more inclusion. We recommended more consultation with P&Cs, especially on major spending decisions and exit interviews for parents leaving a school. How parents are engaged within a school community is an important issue that the committee dealt with seriously. Sometimes it is excellent but sometimes it is not so good and that is a big missed opportunity for schools.

We also heard a lot of evidence about the interface of health and education services. Because schools are dealing with those issues on a day-to-day basis, along with the influx of money from Gonski, they often in effect become providers for a range of health issues. That is something that has been pursued and we heard about in our inquiry and in the current test case that the Teachers Federation is running. It is a genuinely challenging issue that we need to come up with a better solution for. Schools are seeing the disadvantage and at the moment they are the ones that have the funds to address it. I have concerns about the way it will be addressed going forward. I am a big supporter of wellbeing programs, which play a vitally important role, but we must ensure that the focus of our schools is academic excellence.

I have a few final remarks on Local Schools, Local Decisions. So many problems are arising from that signature government policy. I understand that it is attractive to find what works best for a local community but, as the president of the Teachers Federation said, we have a public school system, not a system of public schools. At the moment it is not serving our public school system. Labor members of the committee dissented from a significant number of the report's recommendations. We do not support the proposal for performance-based contracts for principals or directors of educational leadership, nor the introduction of financial incentives for schools achieving better results. The Bump It Up pilot program in New South Wales schools shows that there is room for improvement simply by more active engagement with the available data.

We do not support earned autonomy, nor for schools to be entirely responsible for teacher recruitment. That is a problem that has come with the Local Schools, Local Decisions program because it is overloading our schools with more administration. They must be focused on academic excellence; they must focus on their students, on teaching and on what they do best. That is a problem that must be addressed and hopefully will be addressed by a future Labor Government. I thank the other committee members, especially my Labor colleague the Hon. Anthony D'Adam, and the committee secretariat for their fantastic and professional work. I also place on record that the Chair genuinely drafted the report. There were some issues, which I am sure my colleague will cover, but no-one can question the Chair's enormous commitment to the cause of education in New South Wales. Although we did not always agree with his solutions, he put in an extensive amount of work and showed incredible commitment to the inquiry.

That stands in stark contrast to the Government response. After such a comprehensive, broad, engaging and constructive inquiry it was pretty weak that the Government, in the absence of any other solutions for declining standards in our schools, simply said that it would support the report in principle and bounce it off—basically saying that it could not be implemented. We need a solution for the problem of declining standards in our schools.

As a committee we do not agree on all of the solutions but we had some. In the absence of anything else, I call on the Government to adopt the report and start improving our local schools, not just for our kids now but for future generations.

The Hon. MATTHEW MASON-COX (17:56:10**):** At the outset I congratulate the committee on an excellent report. I was proud to be a member of the committee as deputy chair and I comment on the remarkable leadership of the Hon. Mark Latham as chair. His intellectual focus on the sad and disappointing results that our school system has been delivering for the past number of years—which have been well documented in Programme for International Student Assessment and NAPLAN results—drove us forward. Sadly, the system has been declining for far too long. As the Hon. Courtney Houssos highlighted, we have a set of solutions in the report. Whilst the committee did not agree on everything in the report, there was enormous goodwill. We all embarked on a journey that encompassed a range of visits to schools, including primary schools and high schools from a range of different backgrounds—be they disadvantaged areas in the country, elite schools or special and selective schools.

Being part of the education committee was an education in how our system delivers education in this State, and I learnt an enormous amount. The report was, quite extraordinarily, drafted in its first instance by the Chair. It obviously went through a process of reflection and refinement in the committee, but the bulk of the intellectual work was done by the Chair with the committee's support, which is a remarkable achievement. The report is a signpost for the Government of what needs to change and happen. Before I deal with some of the key recommendations, I refer members to appendix 3, which is a good summary of some of the key things we need to do to ensure that disadvantaged schools have a chance of success. Working out best practice and how to upscale that best practice across the system is absolutely key. That must be the driving force for better results in our schools across the board. Indeed, it is not a complicated formula. We saw variations on themes but from the Centre for Education Statistics and Evaluation we have the list of key best-practice teaching methods and a whole range of toolkits for driving best performance in schools.

When one looks at the research from John Hattie and the key influences on student achievement, understand the key drivers in that system and twin that with the common factors in relation to best practice, this is not rocket science. It is quite extraordinary that we have not adopted that across the board in New South Wales as much as possible to drive performance in our schools. I refer members to appendix 3. In that appendix six common factors in creating successful disadvantaged schools are listed. The first is "a strong focus on school discipline with clear, consistently applied classroom rules." That pretty fundamental stuff is sadly not followed in a whole range of schools through our system. The second is "direct instruction in the classroom, so that new content is explicitly taught in sequenced and structured lessons." Again, that is fairly self explanatory.

The third is "data-informed practices". The variance in how each school actually looked at the data and how that then informed its practices was something that we ran into time and again as we moved through the education system and visited schools. One would think that there would be a lot more consistency in that regard and, indeed, enforcement from a centralised hub over what is happening in our schools to ensure that these basics are being taught, and that schools are being held accountable for that at a school system level and on a school-by-school basis. The fourth is "comprehensive early reading instruction". It is critical for breaking that cycle of disadvantage. We just have to get in there and as early as possible deal with the reading and literacy issues in our schools. The fifth is "teacher collaboration". That is really focused on in-house professional development, peer observations, mentoring and really refining that best practice within a school. It is very fundamental. It is about culture, driving it forward, and involving the teacher cohort, ensuring that it is upgraded and that they have access to the best quality professional development based on the data and what works in schools.

Finally, the sixth is "stable, experienced and autonomous school leadership." With principals having the capacity to select staff and run school budgets in line with evidence-based school priorities. It is pretty straightforward. We saw again and again the importance of leadership in schools. The principal provides that leadership creates a culture and binds the teacher cohort and, from there, the school cohort into a best practice focused, outcome-driven model. In our schools we need to see best practice finally upscaled. We need to ensure that, in these particularly disadvantaged schools, children from all manner of difficult backgrounds have that opportunity through the benchmarking of the best possible approach in teaching.

I turn now to the recommendations. I will focus on a couple of specific recommendations that I think are very important and have not been mentioned yet. In particular, I look at the Tailored Support and Best Practice School Network programs to end educational disadvantage in New South Wales. In that regard, we spent a lot of time with the department looking at how it tailored this program to different schools and, indeed, how it is implemented in schools. I could not help but be surprised in that process at how it is a "softly, softly" approach when there is a school that is identified as being below par or not being up to where it should be in terms of its

teaching methods or results and how the education department must be invited into the school, rather than reach into that school more directly to start dealing with some of those processes.

One understands the sensitivities in these areas. However, if a school is not doing as well as it could be and there are issues that are being reported and, based on the data, there clearly needs to be something done about the performance, then we need to take a hands-on approach. That was pretty much the approach of the Committee. Indeed, when we saw the Victorian education department come out with its new, if you like, fly-in response and increased funding for school principals focused on culture, leadership and bringing subject experts into schools that really need them to drive performance. It spoke volumes about what we could do in New South Wales if we were only enthused or committed enough to ensure that this type of best practice approach is implemented as much as it possibly can. I encourage the Government to look at the 66 recommendations and the very detailed underpinning of those in this report to drive education forward. To not rest on one's laurels. There have been too many excuses for too long.

The bureaucracy needs to start to take a much more outcome-focused and best practice approach to delivering in our school system. Outcome budgeting was the genesis of this report and that morphed into a massive review of our whole education system. In that regard, the needs-based funding model for schools and our State-driven, predominantly Commonwealth funding is an important starting point. It was clear in the report that we need to supplement that with an outcome-based model. Where we do identify best practice, we can channel funding into that and into a network of schools around clusters to ensure that that teaching method can be used more widely in regions. From there we can seek to drive best practice across the system. It is a complicated report and area. There are simple solutions. I encourage the Government to read this report more carefully. I think its response to date relies too much on bureaucratic engagement. In terms of implementation, we have a vision here. We need to have the courage to implement it.

The Hon. ANTHONY D'ADAM (18:06:20**):** I will make some broad observations. I concur with the comments that the Hon. Matthew Mason-Cox made about this being a journey. It was very much a journey for me. At the commencement of my time in the Legislative Council this was one of the first substantive inquiries I was involved in. It was fascinating to get out and see a lot of the practices in the education system but with the benefit of hindsight I have far greater reservations about many of the measures that have been proposed in this report. As my knowledge of the system has increased, I recognise the complexity of the challenges that are facing the system and the many forces that actually pull the system in different directions. One incident in the deliberative actually challenged me quite deeply. I remember very clearly an exchange between the Hon. Mark Latham and Mr David Shoebridge. The Hon. Mark Latham had basically said, "This is my plan. These are my proposals in terms of the education system. What are you offering?"

If we are not going to accept the fundamentals of the critique that the Hon. Mark Latham has articulated in many aspects of this report, I think it is incumbent on us to respond and come up with an alternative proposition. The report and inquiry itself was based on a misnomer. It started off as an inquiry into outcomes-based funding, but the moment we heard from the Treasury officials we realised that we had got it all wrong. That, in fact, they were talking about something quite different: a concept that was quite clear in the minds of Treasury but was not well understood in the public mind—that is, this notion of outcomes-based budgeting. It is a mistake to choose education as the area to roll this out. It does not fit. It is a square peg in a round hole. It is a notion that is really designed around specific project funding and not for long-term programs like public education, where the outcomes are not crystal clear. I do accept that the key question for this inquiry was: What is school for? The Hon. Mark Latham articulated that in his contribution.

For the Hon. Mark Latham the purpose is wholly academic, but I do not subscribe to that. We have been drawn into a view of schooling that is very much constrained by a neoliberal outlook, that sees education in a purely instrumental way and sees it as an adjunct of the economy that is all about preparing people for the workforce. It is actually not about that; it is about so much more. It is about preparing people to be good citizens and to live good and fulfilling lives. That is a complex process that is not something that can be reduced to a simple measure like NAPLAN or HSC results. It leads us down a very problematic path when we then structure the system on the basis of that measure alone. That will lead us to a position where we miss so much about the purpose of education and allow the metric to continue to narrow the focus of the system, to the detriment of the children that we are trying to educate. There is a saying described as Goodhart's law that says that when a measure becomes a target then it ceases to be a good measure. We should bear that in mind in terms of this report.

One observation that struck me through this inquiry is the very defensive outlook of the department. It is a very closed and very defensive department, and I can understand why it might hold that position. There is no question that the people in the department are committed to public education, but they fear that if the public knew about the weaknesses and the failings of the system that somehow it might collapse. My view is that if you want to instil public confidence in the education system then you have to start from a position of honesty. It came up

in some of our discussions that the department was deeply scarred by the experience so many years ago of the headline "The class that failed". That narrative of failure is what we arrive at when we measure the system purely on the academic criteria. In fact, the system failed those kids because we tried to measure them against an inappropriate measure.

I recently went to Ashcroft High School, which I know that the Hon. Mark Latham visited at the start of the inquiry in one of his individual forays into the system. Having visited that school, I have to say that I was very impressed. It is not an academic school. It is a very disadvantaged school, but I think that it serves its community well. It actually has a much broader view of the purpose of education. On a whole range of measures, that school is a success and should be celebrated. There is no question that the department is awash with data. There is a capacity with the data that is available to develop some complex measures that reflect the complexity of the system.

Another observation that I would make is that we have heard a lot about the determinants of educational success, but one of the things that we are consistently blind to is that their overall impact is minor in comparison to the question of socio-economic disadvantage. When you control for socio-economic disadvantage, all of these measures come into play. But the overarching, dominant factor in terms of determining educational outcome still remains socio-economic advantage or disadvantage. That is the problem with the way that this inquiry has considered the problems with the system. It has not properly accounted for that question of socio-economic disadvantage.

In terms of the process, I commend the chair. It was in many ways a very good process: discussion papers and a lot of excursions. Those kinds of activities were good. I have significant reservations about the approach that the chair took to drafting the report. I am perhaps a little conservative on this front. I think it is appropriate that the way that reports are drafted should properly appraise the evidence and that the obligation of the chair in preparing a report is not to produce a document that is deeply infused with the chair's own world view. It should be a document that bears a resemblance to the committee's experience and that reflects the evidence that has been collected. The commentary should be arrived at through deliberation by the committee as a whole.

In closing, I want to thank the other participants in the inquiry: the Hon. Courtney Houssos, the Hon. Matthew Mason-Cox, the Hon. Mark Latham, Mr David Shoebridge, the Hon. Scott Farlow and the Hon. Wes Fang. It has been a very interesting inquiry and it is definitely a thought-provoking report, which people should reflect on although not necessarily accept many of the recommendations.

The Hon. SCOTT FARLOW (18:16:14**):** I speak in the debate on what is an excellent report that was produced by the education committee. I am glad that the Hon. Mark Latham is here. I want to start by commending him for taking on the mammoth task of preparing this report—hundreds of pages that he toiled away through the summer to produce. The committee can be very grateful for that. It is a mistake that I am sure he will not make again as we prepare our next report. We all appreciate our wonderful committee staff and how they are able to prepare a report that reflects the diverse views of our committee, even with some direction from the chair. Reflecting on that deliberative process, I think we had to make a few attempts at it because of the task before us. We might have even had an aborted deliberative at some stage, or one where we did not get very far at all. We came together to be able to find some areas of common ground, which was good. I commend the chair for his work in navigating through that.

We note of course that the report was one that the Government members largely supported. The Government is making good progress in picking up some of the issues in the report. I commend the Minister for her engagement with the report and particularly her former chief of staff, Meghan Senior, who both took the opportunity to see this committee not as a threat but as a committee that could come up with some possible answers and directions in an area in which the Government is very committed to making change. That is a view that I think all members of the committee, no matter what their ideological bent, came to this inquiry with as well.

To pick up on the point of the Hon. Anthony D'Adam, there was sort of a misnomer when this committee started. It was about the view, at least, or the misconception that it was outcome-based funding and not outcome-based budgeting. On the first day we heard some wonderful evidence from our Treasury officials—which I must say was perhaps not even understood as well by the education officials at the table with them—about outcome-based budgeting and what the intention of outcome-based budgeting was. That was of course to focus on the outcomes rather than necessarily the inputs so that no school would be disadvantaged. There were recommendations to that effect as well. That was something that I think all members of the committee largely agreed on when it came to the funding mechanisms—that we ensure that we put the funding where it is needed. That was not necessarily to go to what I think was one of the fears: that a school that was not performing so well would have its funding stripped from it. That is not the Government's intention and nor was it the committee's intention in its recommendations. It is rather to be able to target that funding better.

One of the recommendations that the committee made was to produce autonomy when it came to funding and earned autonomy with Local Schools, Local Decisions. We heard a lot of evidence. I am a fan of Local Schools, Local Decisions because there have been some reforms to that program. But a lot of the good performances that we heard of from the high-performing schools stemmed from their Local Schools, Local Decisions autonomy. They were able to break the mould and they could employ either specialist teachers in certain areas or put special resources into other areas. That was because of their autonomy and because they were not necessarily captive to the system. All members of the committee were enlightened by the schools that we visited. I am sure we all have tales and memories that have stuck with us from our visits to those schools.

One story that has stuck with me came from our visit to Mimosa Public School in Frenchs Forest, which is in a relatively affluent area of Sydney. When we visited I remember the principal said, "We had the choice. We could be a coasting school and we could do relatively well. We would never pop up on anyone's radar as an underperforming school, but we decided that we wanted to be a high-performing school." I thought that was very true of many schools. Joining the committee came at a fairly good time for me, given that my son started school last year, so I do have some understanding of the educational system. As we visited the schools I did a few compare and contrasts with some of my son's kindergarten experiences. I am very grateful for all of the work that has been done by my son's teachers, of course.

There were some areas where I saw certain items that should really be extrapolated across the whole system. That was one of the recommendations that all members of the committee agreed on. We wanted to scale up that best performance model. There was some debate about how that would work. One of the recommendations had originally been about the blue ribbon schools, but it was that high-performing school cohort that the Government has accepted in its response to the recommendations. There was also debate about how we could scale that up and how we can give some schools that have the best practice model the ability to share that model with other schools around the State. It became very clear that, for the schools that were performing very well, the principal was fundamentally important. It was the big-personality principal who was able to bring people along the journey with them.

The committee heard about that when it came to the Hattie method and the explicit instruction model of education. There was some resistance, but whether it was the Catholic school that we visited in Bass Hill, Mimosa Public School or Auburn North Public School, the schools that performed incredibly well were able to get all of their staff on board to adopt a new model. Although there were some stories of resistance, most of the stories were of teachers who wanted to be involved in that process. Also, explicit instruction and direct instruction models work, there is no doubt. The evidence is there and the evidence is supported by all of the studies. We saw that in practice in classrooms as well. The evidence that explicit instruction is the most effective method of teaching was recognised by the Government in its response to the recommendations.

Data also came up constantly in high-performing schools. Those schools drill down into the data. Teachers use data walls to track student progress. Every school said that the NAPLAN data was useful to inform their understanding of how students were progressing. The Scout data, which is not publicly available, impressed all members of the committee. The schools that had great student attainment were using data. Data is fundamentally important. Data is important to raise up students that are underperforming and to understand how to provide additional opportunities to students who are performing at an amazing level. On visiting those schools we saw some of the data walls. For instance, in literacy there were kindergarten students who were performing at a year 4 level. Of course, in reverse, there were year 2 and year 3 students who were performing at the same level as a kindergarten student.

It was important to understand, as the principal at the Catholic school in Bass Hill told us—unfortunately its name escapes me—that it was not just a story about data, it was a story about a student. There would be a day when the teachers would look at the data and spend time drilling down on the issues behind why the student achieved a level of performance and where there were opportunities for that student. The data helped to inform teachers about the student's progress. At the end of the day, it was all about the student and the student's practice. It was not just about a number. It was incredibly illuminating for the committee to understand the thinking that went into each and every student as teachers followed their progression.

I commend the chair for his wonderful work on the report and for coming up with suggestions on how we can improve our education system, although they are not suggestions that everybody around the table would agree with. I pick up on the Hon. Anthony D'Adam's point that it is incumbent on all of us to come up with suggestions, to test them and to innovate in this space, because all of us fall into the trap of focusing on what is easy when it comes to education. That includes infrastructure and the like, which is easy to see and measure, but what goes on in the classroom is so important. The focus on what goes on in the classroom will help us to address the decline that we can all agree has occurred in our system over the past 20 or 30 years.

The Hon. MARK BANASIAK (18:26:08**):** I was not going to contribute to debate on the committee report. I was going to speak to another committee report that was coming up, but I felt compelled and I could not help myself. I did not participate in the inquiry, but obviously due to my background I am deeply interested and invested in education. I note that the committee report picked up on a lot of matters that I have been talking about in this place since I arrived. We have largely seen a recycling of ideas, policies and initiatives from the Department of Education dating back decades. I note that the Hon. Matthew Mason-Cox drew attention to appendix 3. A lot of the things that he was talking about when he went through the features of appendix 3 was essentially a direct recycling of What works best, a policy initiative that came out in 2014, and now we have version two of that.

The Hon. Courtney Houssos spoke about Best in Class and how that was essentially a rejigging or recycling of the highly accomplished teachers initiative. That raises a concern about why we keep recycling, rebadging and reworking those ideas. If they are not working under a different name, why are they not working? Are they working in some schools but not in others? That is probably the case. They are working in the high-performing schools because the principal has taken the initiative and said, "I like the thought bubble that has come down from the department in the principal circulars. I am going to use it and engage with it." Meanwhile other principals have not. That relates to the Hon. Mark Latham's comment that there has been a light-touch approach to some of that compliance. It may have been the Hon. Matthew Mason-Cox who mentioned there has been a light-touch approach to enforcing what works best or best practice in schools. That is a valid argument.

There has been a light-touch approach by saying, "Here is an idea. Come down and have a look at it. It is up to you whether you do or you do not adopt the idea." I acknowledge the contributions from members, including the Hon. Anthony D'Adam, who spoke about Ashcroft High School. I put on record that Ashcroft was the second school at which I taught and it is a great school. It is not necessarily the most high-performing school in the State, but I believe it punches well above its weight in terms of what it delivers for the kids in that community and for the community in general. It certainly made me the teacher that I ended up being in the end. I acknowledge the great work from the Hon. Mark Latham and from the committee, which has put forward some great recommendations.

I do not necessarily agree with the recommendation about performance-based pay for directors, educational leadership [DELs] and principals. I acknowledge that there are poor-performing DELs and principals, but we create a danger by going down that path. We reaffirm or cement what is essentially a protection racket that runs between some DELs and some principals. There is downward pressure on DELs to make sure that their principals make them look good. If we apply a performance-based pay to that relationship, we increase the downward pressure and we will not necessarily generate better DELs or better principals. I put that on record. Thank you.

The Hon. MARK LATHAM (18:29:55**):** In reply: I thank the speakers in this debate and the members of the committee, including the Hon. Wes Fang, who was a great contributor; the Hon. Scott Farlow, whose contribution I heard earlier on; and Mr David Shoebridge, who was an expectedly lively, worthy and combative contributor to the deliberative meeting. This was a committee that had debate, and that is why we are here. Essentially I came back into politics to do something about our schools, so of course I drafted the report. I am not here for a haircut. I want to do something positive about the performance of New South Wales schools.

Ashcroft High School has been mentioned. I grew up 200 or 300 metres down the road from Ashcroft High. I will never accept the proposition that it is not an academic school or that it cannot be an academic school in the future. My three sisters went to Ashcroft High. I was fortunate enough to go to Hurlstone Agricultural High School at Glenfield, but the schools in south-west Sydney have always been the pathway to a better life for students. One of the things I regret in the current debate, and we have heard it in this context, is the dichotomy between wellbeing and academic success. The best form of wellbeing in any school is an engaged, creative and curious learner. If we want to stimulate the mind of the young person growing up on Harrison Street, Ashcroft, give them wellbeing, good citizenship and hope in life, then a creative, curious and engaged learning process is the key. If they do not have that, they have nothing.

Those things will give them the great trifecta of social wellbeing, citizenship and academic skills to go on to make a contribution to society, and to probably earn a few bob. The great Neville Wran said that, at one level, the purpose of being working class is to get out of it and lead a better life for you and your children. There is no shame to say that someone can have economic success, but good, solid, working-class and larrikin Australian values. I have always believed in that and I have always believed that a place like Ashcroft High could deliver it for all of its students. Ashcroft High is using its money because of this cost-shifting and the need for community health services, legitimately so, but where is the health budget to do those things so that the school can focus on creative and engaged learners and give them successes in life? So the debate continues.

It is critical. Quite frankly, the most important thing we can do as parliamentarians is to look at the results and the need to turn them around for the long-term benefit of New South Wales. There is a whole stack of problems. The Chamber should be thankful to have a very committed and engaged committee focusing on those

things. The debate today is a sign of the quality of this committee and the big issues it is trying to grapple with. I thank the Minister for her engagement. In particular I thank Meghan Senior, who was fantastic as the liaison point to the Minister's office. I thank the secretariat for their outstanding work. Madeleine Foley and her co-workers have been tremendous. They said to me, "What do we do about the committee workload?" Get more Chairs to write the draft report, as I did. There is a ready-made solution. It was unorthodox, but we are here to get feedback and to contend ideas.

The committee process has shaped some of my thinking along the way. I am not completely convinced of my intellectual superiority on all of those issues. There is room for improvement and to adapt to the ideas of others. Believe it or not, I have moments of doubt and they were reflected in the deliberations of the committee. The committee has done a good job. As the Deputy President has suggested, the committee will come back for a one-day hearing next year to quiz the department on how it is implementing the recommendations and what "(subject to implementation)" actually means in practice? The committee will return to ask what the Cabinet is doing to get better educational outcomes in New South Wales. I am a proud product of government schooling in this State. One of the great heartbreaks of my life has been to watch that it no longer applies to the opportunities I had in the 1960s and 1970s. I regret that the Latham family has had to look elsewhere to give our children the very best opportunities. I regret that and dwell on that more than anything else in my public life. If we could turn it around, it would be the very best service to New South Wales.

The DEPUTY PRESIDENT (The Hon. Courtney Houssos): The question is that the House take note of the report.

Motion agreed to.

The DEPUTY PRESIDENT (The Hon. Courtney Houssos): I will now leave the chair. The House will resume at 8.00 p.m.

Bills

STRONGER COMMUNITIES LEGISLATION AMENDMENT (DOMESTIC VIOLENCE) BILL 2020

First Reading

Bill received from the Legislative Assembly, and read a first time and ordered to be printed on motion by the Hon. Damien Tudehope, on behalf of the Hon. Sarah Mitchell.

The Hon. DAMIEN TUDEHOPE: According to sessional order, I declare the bill to be an urgent bill.

The PRESIDENT: The question is that the bill be considered an urgent bill.

Declaration of urgency agreed to.

The Hon. DAMIEN TUDEHOPE: I move:

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

Motion agreed to.

The Hon. DAMIEN TUDEHOPE: I move:

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

Motion agreed to.

Privilege

STRONGER COMMUNITIES FUND

Contempt of the Leader of the Government

Debate resumed from an earlier hour.

Mr DAVID SHOEBRIDGE (20:03:28**):** As I was saying before proceedings were interrupted, the instructions provided to the Leader of the House—no doubt half-briefed so that his presentation had a genuine air of veracity to it, which must be extremely awkward, in retrospect, for the Leader of the House—were to come into this Chamber twice and say to members that there were no documents to produce and how dare we proceed with the motion because they had told us on more than one occasion that there were no documents to produce. That was the extraordinary position of the Government. Why were there no documents to produce? That is because the Premier's office deleted and shredded the documents. I can understand how awkward that must feel for members in this place to be given half-truths by the Premier's office.

It is one thing to try to mislead your political opponents in the broader debate; it is another thing for the Premier's office to place a senior Minister in the position of directly misleading the Chamber by giving such a half-truth and failing to say that it was a conscious, deliberate strategy of the Premier's office to destroy the document that led to the non-production of documents in this House. Every time we look at this, every fresh aspect creates another scandalous case of hidden or destroyed documents and an utterly scandalous use of one-quarter of a billion dollars of public money. The answer we get time and again is that it was in accordance with the guidelines, but there are no criteria in the guidelines. We had the bizarre situation with the evidence of Mr Hurst, the Acting Chief Executive Officer of the Office of Local Government, when he tried to explain—

The Hon. Damien Tudehope: Point of order: I ask that the member be directed back to the motion rather than the merits of the substance or arguments surrounding the problems that he identifies. If he wants, he can identify the amendment that he has made to the motion—and I understand what it says—but talking about it in the context of the evidence that is available to the committee he chairs, in my view, does not go to the amendment that he has moved.

The Hon. Adam Searle: To the point of order: I assume Mr David Shoebridge is speaking not only to the amendment but also to the motion that I moved. Those two things together cover the field and his contribution is entirely within the ambit of the debate.

Mr DAVID SHOEBRIDGE: To the point of order: I specifically direct the President's attention to paragraph 4 of the motion.

The PRESIDENT: Now that Mr David Shoebridge has moved his amendment, I take it that when a member is speaking, they are speaking to both the motion and the amendment that he has proposed. It may help the House if the member can specifically indicate at times what he is referring to, but the member is in order. I also indicate that a wideranging attitude is given to a member speaking on a motion of this nature. The member has the call.

Mr DAVID SHOEBRIDGE: In seeking to give an explanation, the Acting Chief Executive Officer of the Office of Local Government presented the extraordinary proposition that no council had ever heard about the $250 million fund until they had been contacted by the Office of Local Government and told that they had won a prize—in Hornsby council's case it was $90 million; in other cases it was $15 million here, $10 million there and $3 million over there. The bizarre, Kafkaesque explanation given to us by the Government is that the reason no council was ever put on notice that the fund was available was that a council was only eligible to receive the funds once the Government had decided to give them a funded project.

Until some mysterious government process had identified a council and a project, and had already agreed to fund the project, they were not even eligible for it. That was seriously the explanation given to us by Mr Hurst. What a terrible situation he is in because he has been dropped in it by the Premier. The Premier said that she did not make any decisions, notwithstanding the only communications and documents we have on the record under the Standing Order 52 process are a series of emails coming from her office saying that she had signed off on and approved the projects. But now the Premier is telling the media in a completely contra-factual world that she did not sign off or approve any of the projects.

The Premier is dumping Mr Hurst in it and saying that he did it all and approved it all. It is a very Trumpian kind of effort of completely denying reality and having an alternate factual scenario being delivered by the Premier time after time to the media. She is asked point-blank, "Did you sign off on it? Did you approve it?" She says, "No, I did not do it. All I did was indicate my comfort with it." I think that was the discussion we got from Ms Lau. The Premier indicated that she was comfortable with it.

We want to know and have a right to know but, more importantly, the public—who pay their taxes and contribute to the funding of this Government—have a right to know how and on what basis those projects were identified and approved. They have a right to get beyond the clearly disingenuous position being delivered by the Premier when she seeks to avoid responsibility for this despite the contemporaneous written records coming from her office that make it clear she signed off and approved these projects. We need to know what was in front of the Premier when she made these decisions. For the Government to say that there is nothing here because they have deleted and shredded it is just beyond remarkable. It is a disgraceful misuse of executive power to have all that knowledge in that office and then allow the Leader of the House to come in here and give us a half-truth to deliberately throw us off the scent. That is a Government with a lot to hide. We will no longer allow it to hide.

That is why we are moving these amendments: to require this urgent document recovery process, to identify and retrieve all working advice notes, howsoever named, that were referred to by Ms Lau, and to go in there and recover the documents that were deliberately deleted by the Premier's office to hide the trail. We know it can be done. As the Leader of the Opposition in this place said, we have got evidence from that most recent committee

inquiry with those highly credible forensic data experts, who said it is never, ever deleted. We said to them, "Well, what if you run it over with a tractor?" I think their response was that even that would not do it. You basically need to rewrite the hard drive at least seven times with the intent of destroying the core document for it not to be able to be recovered by forensic data recovery experts.

The Hon. Damien Tudehope: So that is how you do it.

Mr DAVID SHOEBRIDGE: I note that interjection. I kind of wish I had not said it. But I do note that part of what we are requiring is a full explanation of what went on since this moment has occurred, including a report about the forensic document recovery process. But, yes, that is what we were told. Maybe this extraordinary thorough cleansing process has been undertaken, in which case we will find out because the document recovery process will tell us that. I commend the motion to the House. I do give my genuine commiserations to the Leader of the House. He has been put in a dreadfully invidious situation by his own Government to be wound up and sent in here twice with such appallingly inaccurate and misdirected instructions. He does have my genuine sympathies but not so much that we will not insist upon finally getting to the truth.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (20:13:22**):** I will start by saying "into the breach". This is a deeply disturbing moment for me. The abuse of the House that this motion represents is deeply disturbing. In fact, it probably causes me to cry a bit. I am a bit overwhelmed by the position that I find myself in.

The PRESIDENT: If I recall, the Leader of the House took a point of order when somebody accused him of crocodile tears.

The Hon. DAMIEN TUDEHOPE: In the circumstances and the manner in which I have previously been represented, the point that you make, Mr President, is appropriate. Because I start by saying this: Why was the Leader of the Government excluded from the House on the last occasion? What had he done that required him to be removed from the House?

The Hon. Adam Searle: Nothing.

The Hon. DAMIEN TUDEHOPE: Nothing. I thank the honourable member. I accept that he had done nothing. In fact, the circumstances that arose and under which he was excluded on the last occasion were that those opposite were not satisfied with his explanation. It is interesting that the Leader of the Opposition sought to distinguish between the failure to produce the documents and the explanation and, in fact, appears to have moved away from the circumstance where an explanation would necessarily be the trigger for the Leader of the Government being excluded from the House. He would seek to have him excluded because of the failure to produce documents. What has occurred between the exclusion of the last occasion and now? Sarah Lau has given evidence to a committee. That is what this motion now is all about, because Sarah Lau has identified potentially two documents that may have been in existence. On the last occasion when the Leader of the House was excluded from this place—

The Hon. Scott Farlow: The Leader of the Government.

The Hon. DAMIEN TUDEHOPE: The Leader of the Government, I beg your pardon. We will get to me. When the Leader of the Government was excluded from this place, it was not on the basis that those documents had not been produced, because we did not even know about them. Some emails were signed off or whatever, but the fact of the matter is that the Leader of the Government gave an explanation and said there were no documents to produce. What has occurred and why we are here today is Sarah Lau has given evidence that there is a shredded document. I have got no idea how we are meant to produce that. I am sure Mr David Shoebridge has a manner in which he will require the shredded document to be brought back into existence. But it does not exist. The only document that can currently be the subject of this motion is a document that can be found on a disk which contained a deleted file. The question arises: Did any of the previous orders seek to have the Government produce a deleted file?

We are here today because the order is an acknowledgement first and foremost that on the last occasion we should never have excluded the Leader of the Government. It was an abuse of process at the time and in many respects should be acknowledged as such by those who seek any credibility in this place and are not completely disingenuous about the way that they are using Standing Order 52. Let us just have a look at how the orders have been drafted. The motion as I see it seeks to adjudge the Leader of the Government as guilty of contempt and continued claims that there are no documents to produce in response to the order for papers. That is the heart of it. The motion also calls for the production of working advice notes, howsoever named. There have been three orders for papers relating to the Stronger Communities Fund. None of them have called for the production of such working advice notes. None of them.

Accordingly, the House should not hold the Leader of the Government in contempt. The first order of 3 June 2020 called for certain documents held by the Department of Planning, Industry and Environment [DPIE] or the Minister for Local Government. The first order requested:

> (a) all documents concerning the assessment and approval process for determining funding allocations, including records of who was responsible for final approval.

No documents were returned. DPIE produced approval briefs signed by the Minister for Local Government or the CEO of the Office of Local Government under delegation from the Minister of Local Government. The second order of 16 September 2020 called for documents, within two days, held by the Premier, the Deputy Premier and Minister for Regional New South Wales, Industry and Trade, the Minister for Local Government, the Department of Premier and Cabinet [DPC] or the Department of Primary Industry and Environment, comprising:

> … the signed written brief approving successful applications which received funding in the tied grant round of the Stronger Communities Fund …

DPIE certified that all such briefs had already been provided in response to the first order. The third order of 20 October 2020 called for:

> … 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 current motion calls for the production of all working advice notes, however named, as referred to in evidence before the Public Accounts Committee held by the Premier's office or the Department of Premier and Cabinet. This is the first time that those particular documents have been asked for. Accordingly, the House should not hold the Leader of the Government in contempt for having failed to produce those documents on a previous occasion. It is a moot point whether an order for documents such as the motion that Mr David Shoebridge has moved includes deleted files found on a disc that require an analysis of that disc to produce that document. I anticipate that the Government will endeavour to comply with that.

But let us talk about electronic backup systems. As explained in the submission by the Department of Premier and Cabinet to the inquiry on privileges in the 2009 Mt Penny return to order, the retention and storage of documents by agencies—including by ministerial offices—is required to be carried in accordance with the State Records Act 1998. It places obligations on a person to protect State records subject to appropriate document disposal schedules. The documents provided in a return to an order under Standing Order 52 are retrieved and collated from an agency's physical files and electronic records that are kept in accordance with State records obligations.

However, there may be other potential sources for documents that are not immediately accessible to the agency—in which case the so-called inducement to lie that was allegedly attributed to those instructing me probably falls away—which are kept in accordance with the State records obligations. However, there may be other potential sources for documents that are not immediately accessible to an agency. For example, DPC's information technology system may at any time include certain electronic document information that is not accessible to DPC using its usual hardware and software programs. Electronic material that has been deleted or overwritten might survive in some form for a period of time on the backup tapes of a server for disaster recovery purposes. In some cases it might be possible to reconstruct a document that has been deleted or saved over using this electronic material.

However, such documents are no longer held for State record purposes. The backup material is for disaster recovery purposes only. The material is not easily searchable and the reconstruction of documents from the material can require significant and costly specialist IT resources. That is what this motion tonight really goes to. For the above reasons, I am advised that agencies, including ministerial offices, will search electronic backup systems only when they are aware that the information may have been lost as a result of having been destroyed or otherwise dealt with in contravention of the State Records Act 1998 or contrary to an agency's established record management procedures. The longstanding practice is reflected in section 53 (4) of the Government Information (Public Access) Act 2009, which provides:

> An agency is not required to search for information in records held by the agency in an electronic backup system unless a record containing the information has been lost to the agency as a result of having been destroyed, transferred, or otherwise dealt with, in contravention of the State Records Act 1998 or contrary to the agency's established record management procedures.

Although attempts will be made by the Government to see if this deleted file can be obtained, we are faced tonight with a completely different motion than was used to justify the exclusion of the Leader of the Government on the last occasion. That in many respects was an abuse of the House. It is worth putting on record the advice of Bret Walker, SC, in relation to the exclusion of the Leader of the Government for not giving an explanation that

was satisfactory to those opposite in relation to a contempt application and potential removal from the House. At paragraph 15 of his advice Mr Walker said:

> It is at this point that I see grave reason to doubt the availability of the contempt sanction to be visited upon the Leader of the Government by reason of his "explanation" not satisfying the House, or not being "clear". My misgivings arise from the accepted practice and convention of the House in relation to questions, formally so-called, directed to ministers (including those representing portfolios in the Legislative Assembly).

He further stated:

> This is not a matter of construing Standing Orders — these being creatures of the House, amenable to ad hoc dispensation. They therefore do not describe in a legal sense the extent of the House's power. Self-imposed limits found in Standing Orders may without any excess of power on the part of the House, be dispensed with or altered, for particular occasions or for the indefinite future generally.

He goes on:

> The issue, rather, concerns the question whether political dissatisfaction with an answer, or the provision of information amounting to an answer, either as to its content or level of detail, or clarity in the estimation of a majority of the House, can properly result in the sanctions for contempt. Of course, there is a broad range of political sanctions against inadequate answers as to form, content or even tone, upon which Members of the House scarcely need my advice. This Opinion should not be understood as expressing any views about them or their exercise. They are, in my view, not justiciable at all, and not really in the same area of discourse as the limits of power to impose sanctions for contempt, with resulting suspension from service of the House and consequential use of force to remove a suspended Member from the Chamber. It is not for the judges, or lawyers, to comment on their possible deployment. It is ultimately a matter for the voters. This is the important point:
>
> But suspension from service in the House affects the representation of the voters, if only temporarily. As well, the manner in which a Minister answers a question must be informed by an appreciation on the part of his or her audience in the Chamber that it is part and parcel to the freedom of speech existentially vital to the conduct of the House. It is unthinkable, to use an extreme hypothetical example, that political opponents—

bear this in mind—

> could wield the sanction of contempt and consequent suspension with physical removal against Members opposite whose Ministerial answers did not suit or advance the political position held by their opponents.

Members should cast their minds back to what occurred on the last occasion when the Leader of the Government was excluded from the House. The information that was available to the House was that there were no documents. The Leader of the Government gave an explanation as to why there were no documents and the explanation was not satisfactory to members opposite.

Therefore, on that basis and on that basis alone, he was excluded from the House. When one gets to that point, the Opposition is using the contempt powers of the House for political purposes, which in many respects is an abuse of the process of the House. The contempt motion tonight, which was moved by the Leader of the Opposition without amendment from Mr David Shoebridge, requires the Leader of the Government to give an explanation to the House and seeks to exclude the Leader of the Government should the Opposition not be satisfied with his explanation. I submit that that decision on its face would be an abuse by members opposite, which is why the Government has tabled the advice.

As much as I would hate to litigate the issue against the President—and I do not make threats in relation to that—the Government may require clarification around the issue if those steps are taken by members opposite. I submit that the motion tonight is a new motion that seeks to obtain different documents. It is a new motion in that it seeks to obtain electronic documents, electronic versions of documents or deleted documents that are contained on a hard drive. It is a new motion. Consequently, the Leader of the Opposition urges a contempt motion on the House tonight when the Leader of the Government has not had an opportunity to comply with the new motion. In those circumstances the House ought to reject the contempt motion. I am not making a representation on what view the House would find on another occasion, but certainly on this occasion, when new obligations are being imposed upon the Government in relation to the production of documents, the contempt component of the motion that is being urged by the Leader of the Opposition ought to be opposed.

The Hon. JOHN GRAHAM (20:32:49**):** I thank the Leader of the House for his contribution. It may be a new motion, but it is certainly an old issue. That is how the debate feels tonight. The House has covered that ground before. The position that the Opposition has taken should hardly come as a surprise. That is the view that I put before the House. I thank the Leader of the House. I will put a couple of things on record up-front. First, I absolutely accept that he is acting under instructions. I take the view that that may have been uncomfortable at times, given the facts that are now before the House. The Leader of the House has argued the case hard. He has put the case that has been put to him by some combination of the Department of Premier and Cabinet [DPC] and the Premier's office. I suggest that it was the Premier's office in this case. The Leader of the House has argued that case hard and has said that those documents do not exist. He said that the Opposition cannot will them into being and he has put that case repeatedly.

The problem for the Leader of the House is that, after all the months during which the Government has put that case to the House, and after the explanation by the Leader of the Government on 22 October when he put to the Chamber the facts of what might have happened and how it could be true, just one day later on 23 October the senior policy adviser from the Premier's office explained in two hours and in very clear terms what happened. Documents did exist and they were destroyed. The paper copies were shredded and the electronic copies were deleted. That is the problem for the Leader of the House. There was months of persuasive argument, the lawyer's case was put, on instruction, and in two hours that case was torn apart by the facts and by the truth. That is the problem he has. Labor does not seek to put that at the feet of the House. The advice that he was given was appalling and at some point there must be a price to pay.

The Opposition respects the role that the Leader of the House plays. It is an embarrassment to put him in that position to argue the case that the Premier's office has asked him to argue. That is the view of the Opposition. I will deal with some of the specifics that the Leader of the House has put. In some ways he sought to fight some of the previous orders, but today members are debating the motion that is before the House. The Leader of the House said that there has been no call in the previous orders for those working advice notes. I will make some observations. First, Labor indicated quite broadly in the last motion what it was looking for: the briefs approving those grants or any other documents that met that description. Labor did consciously seek to broaden that in the motion that is before the House.

Secondly—and this is the key for me—the intent of the House could not have been clearer. No-one could have misunderstood what the Opposition was looking for: $250 million of public funds were spent and Labor simply wanted to know how that was approved. That is not an unusual question in government. That is an entirely routine inquiry and it received an entirely routine answer in almost every case that I have ever seen except in this case. Now we have rapidly moved into the realms of the unbelievable. Whatever the arguments might be about the details of those motions, the intent of the House is clear and the intent of what Labor seeks is clear. There can be no dispute about that. To argue about the details is to miss that broader point. I accept that the Leader of the House is doing his job in arguing that case hard.

I do not accept that there is some sort of abuse of process by the House. Members are doing their jobs. That is Labor's view. Imagine describing the gentle questions that we have put over months as an abuse of process, compared with $250 million of public money that was allocated to win an election. Some 95 per cent of that money went to Government seats. The shredders were rolling, the delete button was being hit and that is not the abuse of process. The Opposition does not accept the argument that the Leader of the House has put. I will deal with his issue about the advice from Bret Walker. I agree with the position that the Leader of the Opposition has already put where the motion relies on the non-production of documents. That is the issue that the Opposition seeks to pursue. In fact, the explanation that was asked for earlier in the process was to weaken the House's powers. In some of those earlier motions, Labor was trying to give the Government an out, to explain how it was possible that this situation could exist.

The Opposition has read the advice and seeks to rest the motion on the non-production of documents. That is where the House has clear powers. Labor does not seek to suspend the Leader of the Government in the motion. Labor is taking protective action and seeks to inquire further into what those documents are. I will deal with some of the facts of the case as they are now known, because much more is now known. The House does actually have some facts. The key fact is that, despite all of the arguments over many months, there were notes that advised the Premier about those grants. They did exist; of course they had to exist. But the trouble is that they were shredded and deleted. What we know about the process was spelt out very clearly, in plain English, in good evidence from the senior policy adviser to the Premier.

Those grants were assembled by the marginal seats through the Premier's office. That is what happened. They went to Government MPs who were told to go to their councils and seek grants that public money might be applied to. They were then assembled. The director of policy and the Premier's office played a role in their assembly. The senior policy adviser then collated and wrote this down in two working advice notes of possibly two pages each. Those notes were then sent to the Premier. The Premier then wrote on them. In some way, she indicated her view about those projects. They were then conveyed out of the Premier's office to the senior policy adviser who wrote a contemporaneous email that recorded the outcome, but not necessarily the input, of the notes. That contemporaneous email variously said that the Premier had signed off the grants. It said that the Premier had approved them. Those paper notes were then shredded and the backup electronic records deleted.

There was strong objection to our asking questions such as how could it be the case that nothing ever existed and how could a quarter of a billion dollars of public money be spent without some paper in front of the Premier? In all those months of arguing it never came up that those notes existed and that they were shredded. It never came up, despite the Government having the opportunity to explain. We have called for those documents and now we are insisting that they be reconstituted.

I will explain why those documents are now of such significance. This matter is relevant to the State Records Act, as the Leader of the House referred to. Those documents now sit alone. Unlike almost any other decision, there is no brief from DPC or from the Office of Local Government [OLG] that would accompany virtually any other decision. As a result, those possible four A4 pages have a greater significance than they otherwise would. Those working advice notes contained markings from the Premier. Although her comments may have been brief, we know that she indicated on them her views about those grants. I do not think it is disputed that she had written on those working advice notes. Those notes might have been things such as initials, dates or some other indication. We do not know because the policy adviser could not recall the Premier's notations. They might have included recommendations or reasons.

The Hon. Trevor Khan: Pure speculation on your part and not put to her.

The Hon. JOHN GRAHAM: I acknowledge that interjection. It was put to her. The alternate case is that there was no recommendation and no reason ever put for those grants, which in itself would be incredible. Those notes might reasonably have included, however brief they may have been, a recommendation, a reason or an alternative policy. This is what we seek to find out. Most importantly, those four A4 pages allocate $141.8 million of public funds. That is why we seek them. I make the point that because of that status, those notes are the only ones that go in and out. They are the only notes that the Premier writes on. There is no brief as there almost always would be. That is why we say that those notes have a special significance under the State Records Act because of the guidance provided by the State Archives and Records GDA 13, which is the General Retention and Disposal Authority. It is issued for a range of authorities but GDA 13 is the one that applies to Ministers' offices:

1.7 Briefing notes or papers maintained in the Premier's Office.

They are required as State archives, which means they are not just required to be kept for administrative purposes. They should be kept for quite some time for audit purposes. There may well be an audit of this scheme and those papers will not be available. They should be. Beyond that, they should have been retained for the State archives. Clearly, they are the only briefing notes or papers that exist because there was not a departmental one. For that reason, they have this status that attaches to the Premier's office. They should have been kept and it is a major problem and they are now the source of investigation. It is a major problem, with penalties, to then destroy them, and that is what happened. Those notes were shredded and deleted.

It is also a breach of the Government Information (Public Access) Act. Those documents have to be retained in case some inquiring soul such as a member of the public requests them. Destroying them is a breach of that Act and, again, this matter should be investigated. The Opposition has real concerns about those documents. That is what we are seeking to do in this motion. It is not to throw out the Leader of the Government.

The Hon. Trevor Khan: Yes, it is.

The Hon. JOHN GRAHAM: On this occasion.

The PRESIDENT: Order!

The Hon. JOHN GRAHAM: The motion is not to throw out the Leader of the Government. We are merely seeking those documents by noon on Monday. What happens after that is a matter for the House and the Government. We are not seeking to prejudge that. I will make some observations.

Mr David Shoebridge: It is a very potent expectation.

The Hon. JOHN GRAHAM: That is right.

The PRESIDENT: Order!

The Hon. JOHN GRAHAM: Finally, I want to make a number of points about who is accepting responsibility for this grant scheme, because it has been pretty hard to find the culprit in amongst all the finger-pointing and people saying that it was not them. The Premier has been very clear. In a press conference on 22 October she said, "I personally did not make decisions. I am sure I was consulted at the time, as were other Ministers, and that is the normal course of action." That is the Premier's view. It was not me; I did not make the decisions. The trouble is that those emails are the only contemporaneous records that we have because the documents have been destroyed. The emails state that she signed off and approved. The Premier says she did not, but the emails state she did.

The Deputy Premier in a press conference on 21 October said, "Firstly, the Stronger Communities fund is not a fund that I administer. If DPC have not done the right thing, that is for DPC to answer. I can't answer that." This is factually incorrect. However, that is the Deputy Premier's view; he is pointing the finger elsewhere. On 23 September Tim Hurst from the Office of Local Government said in an answer to a question on notice:

> Of the $252 million total in the tied grants round, $141.8 million was allocated by the Premier, $61.3 million was allocated by the Deputy Premier and $48.9 million was approved by the Minister for Local Government.

Tim Hurst was very clear that he was not responsible; it was the Ministers. Not only that, in a subsequent answer to a question on notice he set out exactly who did what, grant by grant. He went through the 33 allocations and indicated grant by grant, area by area exactly whom the expenditure was authorised by and the cheque signed for the Office of Local Government on each occasion. He absolutely accepts responsibility for the expenditure authorised on each occasion.

I will not read them all, but projects were identified for the New South Wales Government by the Deputy Premier, the Premier and the Minister for Local Government. All of those were identified and the Office of Local Government did not identify those projects. Mr Hurst is very clear that the Office of Local Government did not pick which councils, which projects and how much. He goes through the project identifications and names the deputy chief of staff and director of policy in one office and the senior policy adviser from the Office of the Premier. It is a crystal clear, grant by grant rejection of the Premier's view that she did not make decisions. That is the view of the Office of Local Government. The Leader of the Government was keen to make it clear in this place that the Premier was not the only one tied up in this. In fact, he was very keen to make sure that the Deputy Premier's grants also drew attention. He said:

> 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.

Here the Leader of the Government is drawing attention to the Deputy Premier. In the Premier's office the senior policy adviser says it is the policy director. When I asked who made the decision that this council gets this amount of money and that council gets that amount of money, the answer was, "My former policy director advised me on the proposed allocation of funding." That is significant. It was the same story when it came to the guidelines. We had multiple answers, including to the Parliament, where the answer about who approved the guidelines was changed in the Minister's office. The answer from the Office of Local Government was clear. The OLG stated that it was:

> … advised that the Premier approved the allocation of funds, and the nominated projects, under the Stronger Communities Fund tied grants round to Hunters Hill Council.

My colleague Mr David Shoebridge referred to this before: It was a totally different answer by the time it made its way to the Parliament. The answer read:

> OLG allocated funds based on the Stronger Communities Fund Grants guidelines, approved by the former minister for local government in 2018.

One could not find a bigger round of finger-pointing—fingers pointing in every direction about who was responsible for this, no-one wanting to take responsibility—but it was crystal clear in the discussion in front of the inquiry about what was going on. This was cooked up in the Premier's office, sourced by the Premier's marginal seats team from Government MPs. We hold the Premier responsible. That is the purpose of us pursuing this set of issues. If that was not the case—and this is the biggest problem that the Government has got here—and in fact it was Tim Hurst in the Office of Local Government who decided which councils would receive grants, then the ICAC says it is possible corrupt conduct to do that:

> If the minister is not the appointed decision-maker, directing or urging a public servant to make a decision preferred by the minister.

That is the ICAC's view that a rain of emails from the Minister's office—in this case the Premier's office—saying that the Premier approved this, the Premier signed off on it, is totally inappropriate if the Office of Local Government is the decision-maker; if Tim Hurst is in charge, this is corrupt conduct. That is the problem that the Premier has got with the defence she has launched: "I personally did not make the decisions." What is her office doing emailing directing funds?

The Hon. Trevor Khan: Point of order: This has been going on for well and truly too long.

The Hon. JOHN GRAHAM: Two months!

The Hon. Trevor Khan: I will get to that. This motion deals with specific matters. What the member is doing now is making a speech that may be entirely perhaps off point but would be consistent if what we were doing was debating a report of the grants inquiry. That is not what is before the House. This is well and truly beyond what is relevant and the member should be drawn back to the motion.

The PRESIDENT: I have indicated earlier that normally wide latitude is given in debate to these matters but I am struggling to see where the member is being relevant to the motion and the amendment of Mr David Shoebridge. I believe that the member has transgressed outside the motion.

The Hon. Trevor Khan: You said about five minutes ago that you were winding up.

The Hon. JOHN GRAHAM: I have been winding up on this for quite some time. I simply say that I feel sorry for the Leader of the House. He has been given these instructions by the Premier's office. We have asked the question: How did this possibly happen? How was it that all these grants became approved without any paperwork? He has been sent out by the Premier's office to argue that magic happens. They have had him driving the North Coast in the Kombi van with the big "Magic Happens" bumper sticker on the back. The trouble is that magic did not happen. These documents were shredded, they were deleted. The Leader of the House has had to argue that case and it is appalling that he was ever put up to it. It has totally been defeated by the actual facts of what has gone on here and that is why we are pressing this case tonight.

The PRESIDENT: I call the Hon. Adam Searle in reply. The Hon. Adam Searle can also comment on the amendment of Mr David Shoebridge, which was moved after his initial contribution, in his reply.

The Hon. ADAM SEARLE (20:54:25**):** In reply: I will be supporting Mr David Shoebridge's amendment. It provides the Government with yet a further opportunity to make amends for its continued and contemptuous non-production of the documents sought by this House on a number of occasions. To be very clear, there is no abuse of process either on this occasion or on previous occasions. Tonight we are not debating a new matter. Although it is a new motion, no new documents are being sought. They are the same documents that this House has consistently sought and, yet again, the Government is seeking to resist through obfuscation and delay. Those instructing the Leader of the House have not understood the responsibility of Executive Government to produce these documents.

Mr David Shoebridge's amendment has had to specify a digital recovery mechanism to assist those opposite and the Executive because they have shredded the physical document—the document upon which the Premier wrote. But they have tried to delete the electronic record, which we know cannot be destroyed. We have had to descend to this degree of detail but it need not have occurred: the Government should have produced. The Leader of the Government was, in substance, suspended from the service of the House briefly because of that non-production and tonight the contempt motion was moved for that reason: the continued, consistent failure to produce.

Let us unpack some of the things that the Leader of the House has had to say. The great complaint he brings forward is that this House has not previously called for "the working advice notes". Two things. First, the motions of this House calling for the documents clearly extended to such documents and beyond, so "working advice" documents were clearly a subset. But, it is true, that on this side of the House we were not aware of the use of that terminology for this purpose within the office of the Premier until Ms Lau's startling evidence to the Public Accountability Committee inquiry hearing on 23 October. Clearly those documents were a subset of those sought by the House and they readily meet the description of a signed written brief and the other descriptors in the motions calling for documents passed by the House.

The Leader of the House, perhaps more accurately, says that the Leader of the Government did not know about those documents either. So the Leader of the Government should not now be called to account for the continued non-production of those documents because he did not know about them. There are two issues here. First, the Leader of the Government is being called to account here tonight not for any personal failure, as far as we know, but in a representative capacity. Second, the Executive did know. The Executive at all material times knew these documents had existed and knew what terrible fate had befallen them but, despite this issue being canvassed in this House on a number of occasions, the Executive knowingly and wilfully, and we say contemptuously, has failed to advance an explanation to the House or to produce those documents.

As part of this process, not unreasonably, we have asked for an explanation if there are no documents. It is not unreasonable, in a House of Parliament accountable to the people, that we would ask the Government that if it had nothing to produce could it just tell us why. The Government clearly did not. The yawning chasm between the explanation given by the Leader of the Government in this place on 22 October and the evidence of Ms Lau given the following day shows that this Government, on instructions, has not been frank or honest about these issues.

I come now to the Bret Walker advice that has been weaponised by the Government. The first thing is that we do not know what questions Mr Walker was asked in detail but we do know what his advice is. It is interesting that there is no suggestion by Mr Walker in his advice that the House has reached its views in the past arbitrarily or capriciously, or deliberately to contrive a state of "political dissatisfaction". Mr Walker is talking about a very different hypothetical set of circumstances that could arise if the House for a political purpose has set up the Leader of the Government and is simply using a partisan advantage for a sanction purpose, not for a proper purpose that the House has the power for.

The House has not unreasonably wanted the Government to explain itself in a frank way if the documents were not produced—and, of course, those documents were failed to be produced. The issue that Mr Walker was

describing in that advice has not arisen in the House to date and does not arise this evening. So I give all honourable members the comfort of knowing that this is not an abusive motion. We are simply sanctioning legitimately the Leader of the Government in his representative role because there has been no production and at all times the Government knew what had happened to those documents and where they were. The Government has not produced these documents even to this date but—thank you to Mr Shoebridge—we are giving them an additional opportunity. Let us see what Monday brings.

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

Amendment agreed to.

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

The House divided.

Ayes 22
Noes 16
Majority.....6

AYES

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

NOES

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

PAIRS

Veitch	Mitchell

Motion as amended agreed to.

Business of the House

NOTICES OF MOTIONS

The Hon. PETER PRIMROSE: By leave: Pursuant to Standing Order 71, I give notice of a motion relating to an order for papers regarding the Newcastle Education Precinct.

Sessional Orders

ORDER FOR THE PRODUCTION OF DOCUMENTS

Mr DAVID SHOEBRIDGE (21:14:58**):** I move:

(1) That, for the duration of the current session and unless otherwise ordered, in exceptional circumstances, where an agency subject to an order for papers under Standing Order 52 considers that:

(a) the time frame for production of documents for an order for papers is unduly onerous;

(b) the terms of the order is likely to result in producing a significantly large number of documents which are reasonably believed to be not directly relevant to the original order for papers; or

(c) the Department of Premier and Cabinet may, by communication in writing to the Clerk within seven days of the date of the passing of the order for papers, seek the approval of the House for the scope of the order to be varied.

(2) An application to vary the scope of an order for papers must be supported by reasons setting out:

(a) why a review of the period for production of documents is required; or

(b) why a review of the nature of the documents relevant to the order for papers is necessary, including a general description or list of the classes of relevant documents (for example: emails (including deleted items), notes of meetings or telephone calls, text messages); or

(c) an estimate of the significant number or volume of documents involved; or

(d) an estimate of the likely cost of complying with the order for papers; or

(e) the required information can be provided by compilation of a document; or

(f) the required documents can be provided by alternative means (for example, by electronic communication in a data storage device).

(3) An application to vary the scope of an order must also include any document brought into existence as a result of this order.

(4) An application under this order must have regard to the objective of the order for papers and the overriding obligation to provide all documents covered by the order for papers.

(5) The Clerk is to provide the correspondence seeking to vary an order to the President and the member who moved the original order for papers.

(6) If the President and the member agree to all or any part of the request, the Clerk is to advise the Department of Premier and Cabinet in writing of the varied terms agreed to.

(7) Compliance with the agreed varied terms of the order is taken to be compliance with the original order of the House until such time as the House considers the varied terms of the order on the next sitting day.

(8) On the next sitting day, the Clerk is to table the correspondence from the Department of Premier and Cabinet and the varied terms of the order.

(9) The House will then decide on a question proposed without amendment or debate, "That the varied terms of the order be agreed to", except a statement by the member who moved the original order for papers and a Minister not exceeding 10 minutes each.

(10) If the question is resolved in the negative, the original order remains in force.

Having had a somewhat fractious debate about Standing Order 52, I hope this is a moment when all members can come together. The call for papers process under Standing Order 52 is an extremely important part of the powers of this House and, indeed, of the ability of the Parliament to hold the Executive to account. The Greens seek to use the powers under Standing Order 52 for legitimate and essential purposes of transparency. We appreciate that that a majority in this House—sometimes a shifting majority—has turned increasingly to Standing Order 52 to force transparency on the Executive Government. For myself, part of my mission in this House is to try to empower the Parliament as against the Executive to return some of the traditional power that the Parliament had in the ongoing tussle of wills between any elected parliament and the Executive of the day.

The House has done important work across the Chamber in delivering a series of Standing Order 52 precedents, in being respectful in how we use Standing Order 52 and in having an ongoing, sometimes quite difficult but, by and large, respectful engagement with the Executive of the day about the operation of Standing Order 52. The volume of work under Standing Order 52 has increased. On other occasions I have explained the reason for the increasing reliance on Standing Order 52: applications under the Government Information (Public Access) Act 2009 have been ignored completely or treated with derision by various government agencies; answers to questions on notice, especially from Ministers in the other place, rarely elicit adequate information; and often budget estimates processes are stymied by non-responsive answers. There is a reason why we have relied increasingly on Standing Order 52 to force the production of documents.

Unquestionably, calls for papers under Standing Order 52 have increased substantially, which comes at a cost in relation to programs as large as the Stronger Communities Fund, a single round of which is $250 million. An order under Standing Order 52 may involve 100 hours of work by bureaucrats in finding documents in response to it but that is proportionate to the kind of transparency that we need. The use of Standing Order 52 relating to icare has been criticised. However, icare is a $17 billion scheme about which deep and real questions exist. Achieving transparency of projects of that size comes with some cost. But there have been occasions when we would all reflect upon an order having being made by the House under Standing Order 52 where what was eventually required from the Executive in response was an unanticipated, large volume of documents. On occasion the documents produced have not assisted greatly in providing transparency.

The issue has become more difficult with the change in the sitting pattern of the House. Previously, as a general rule, private members' motions were moved on a Tuesday and sometimes on a Wednesday but we would have until private members' business day on the Thursday to negotiate and to seek to clarify the effect of a proposed order under Standing Order 52. That has now been greatly reduced because we have private members' day on Wednesday, which comes quite quickly after notices of motions have been given on Tuesday. When we

talk about the sitting pattern for next year we should look at whether we continue to have private members' day on Wednesday or whether we move it to Thursday so that we have more time for that type of discussion. That is not the subject of the motion but it is something that we should consider. The motion seeks to provide a formal process for engagement between the Executive and the Parliament once a Standing Order 52 motion has been agreed to.

If, in exceptional circumstances, the agency that is subject to an order for papers considers that the time frame for the production of documents is unduly onerous, or that the terms of the order are likely to result in producing a significantly large number of documents that are reasonably believed to not be directly relevant to the original order for papers, it can then put in place a communication process between the Department of Premier and Cabinet and the Clerk. That must happen within seven days of the passing of the motion and then an application can be made by the Executive seeking to vary the scope of the order for papers. That application must be supported by reasons setting out:

(2) (a) why a review of the period for production of document is required; or

(b) why a review of nature of the documents relevant to the order for papers is necessary, including a general description or list of the classes of relevant documents (for example: emails (including deleted items), notes of meetings or telephone calls, text messages); or

(c) an estimate of the significant number or volume of documents involved; or

(d) an estimate of the likely cost of complying with the order for papers; or

(e) the required information can be provided by compilation of a document—

sometimes that can be a very useful shortcut to the massive production of documents—

; or

(f) the required documents can be provided by alternative means (for example, by electronic communication in a data storage device).

In order to protect the integrity of the House, which passed the motion, the proposed variation of the sessional order states:

(3) An application to vary the scope of an order must also include any document brought into existence as a result of this order.

(4) An application under this order must have regard to the objective of the order for papers and the overriding obligation to provide all documents covered by the order for papers.

(5) The Clerk is to provide the correspondence seeking to vary an order to the President and the member who moved the original order for papers.

It is only if both the President and the member agree to all or any part of the request that the Clerk is to advise the Department of Premier and Cabinet in writing of the varied terms agreed to. From that moment on:

(7) Compliance with the agreed varied terms of the order is taken to be compliance with the original order of the House until such time as the House considers the varied terms of the order on the next sitting day.

(8) On the next sitting day, the Clerk is to table the correspondence from the Department of Premier and Cabinet and the varied terms of the order.

(9) The House will then decide on a question proposed without amendment or debate, "That the varied terms of the order be agreed to", except a statement by the member who moved the original order for papers and a Minister not exceeding 10 minutes each.

(10) If the question is resolved in the negative, the original order remains in force.

So the House continues to remain the master of its own destiny. I appreciate the assistance I had in drafting the motion from the Clerks, who turned my idea into something useful and intelligible. I do not pretend that the motion is perfect and I have always been open to considering amendments. We have not been knocked over by amendments but, from the most recent round table—as far as I could tell—it was pretty clear that there was universal support for trialling this in the sessional orders. I hope it works and I hope that the Government acknowledges the fact that it is only to be used in exceptional circumstances. I commend the motion to the House.

The Hon. ADAM SEARLE (21:24:07**):** I indicate that the Opposition will support Mr David Shoebridge's motion. As he outlined, it was discussed at the recent round table convened by the President with the Presiding Officers, the Government, the Opposition and crossbench members. It was a constructive idea and we embrace it wholeheartedly. It provides a formal mechanism to address what has been partly done informally. It is best that that be made regular and provide some sort of structure so that there is not simply a nod and a wink breach of the orders of the House, but a mechanism to vary them—at least temporarily—with the House ultimately remaining master of its own destiny as to whether those variations would be ratified or not. It is a sensible measure.

Yes, we could probably tweak it with an amendment here or there, but let us get the idea in the running and see how it goes in practice. There seems to be cross-party support for the idea. Let us hope that it works.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (21:25:20**):** The Government will also support the motion. I put on record my appreciation for the initiative taken by the President to convene the round table on Standing Order 52. I also acknowledge the presence of the independent legal arbiter at that round table, who gave advice to members about claims of privilege and the like, all of which beset Standing Order 52 applications and make the process quite difficult. The discussions at the round table were illuminating, in one sense. Generally, the problem between the parties starts from the fact that there is inherent distrust of the Government by members opposite. It is difficult to try to reach a practical solution when one side has immovable distrust. I understand the arguments made by Mr David Shoebridge that Government Information (Public Access) Act applications and questions on notice are abused. Every other process of government, in the eyes of some, is always the subject of an attempt by the Executive of government to avoid transparency.

The motion potentially reaches some sort of consensus, though, in circumstance where, in the first two years of this Government, we have already exceeded the number of Standing Order 52 applications that were at a zenith when members opposite were in government and the current Government was in opposition. The current Government was accused of all sorts of abuses of the Parliament, but in this term of Government we are already exceeding the number of Standing Order 52 applications. On any reading of it, the amount of time taken by public servants and bureaucrats in complying with Standing Order 52 motions is a waste of government resources. Significant resources are imposed upon the staff of the House in dealing with the amount of documentation.

I put to members opposite that there must be a lot more thought given to the need, the drafting and the scope of Standing Order 52 motions to reach rational positions about how they are approached in the House. I can understand the position of making no concessions because one does not trust the Government but, on the other side, if we look at the facts and circumstances of the manner in which Standing Order 52 has been used, a rational person would come to the conclusion that something must be done to have a more streamlined system. The member has brought this motion tonight seeking to afford some of that process and for the purposes of trying to make sure that there is a more streamlined process. Quite frankly, it does not go nearly far enough.

[*A member interjected*.]

Do not withdraw it. It would be bad faith to withdraw it.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): The member will not respond to interjections.

The Hon. DAMIEN TUDEHOPE: We have got to continue the discussions. I would urge everyone that for the smooth running of this place going forward for years to come that we need a better system to deal with this process and not overburden or hinder the process of government in dealing with the number of applications made under Standing Order 52. The Government will not be opposing this motion. We welcome it. I appreciate the amendments the member is proposing. The Government will no doubt avail itself of the opportunity of hopefully acting in good faith, like we always do in respect of responding to Standing Order 52 applications, and seek to make sure there is a smoother process. For those reasons, the Government will not be opposing this motion.

Reverend the Hon. FRED NILE (21:30:46**):** I thank the President for convening the round table, which helped to bring about Mr David Shoebridge's motion.

Mr David Shoebridge: It did not come from the round table. It was drafted in August.

The DEPUTY PRESIDENT (The Hon. Shayne Mallard): Order! Reverend the Hon. Fred Nile has the call.

Reverend the Hon. FRED NILE: That is my understanding, and other speakers have made the same reference. I agree with this motion in principle. I will wait and see how it works in practice and whether it helps make Standing Order 52 work more efficiently in this House. The last time I spoke about Standing Order 52 was on 26 August. I made reference to page 161 of the *Annotated Standing Orders of the New South Wales Legislative Council* concerning where the power of the order comes from. A footnote on that page clarifies this with reference to authority. Key parts read as follows:

> The power of the Legislative Council to order the production of state papers is derived from the common law principle of reasonable necessity. This principle finds expression in a series of 19th-century cases decided by the Judicial Committee of the Privy Council between 1842 and 1886, in which it was held that while colonial legislatures did not possess all the privileges of the Houses of the British Parliament, they were entitled by law to such privileges as were 'reasonably necessary' for the proper exercise of their functions.

The authorities cited for that proposition included *Kielly v Carson* [1842] 12 ER 25, *Fenton v Hampton* [1858] 14 ER 727 and *Barton v Taylor* [1839] 112 ER 1112. Members will note that the general date range of

these authorities corresponds with the period in which this House was founded. That is where the powers of the standing order originated. The three authorities should therefore provide guidance in respect to the exercise of the power, which is grounded in the common law and which states that the power can only be legitimately exercised if it is "reasonably necessary". The manner in which Standing Order 52 has been used in recent times has been very far from satisfying the test of "reasonable necessity". I am pleased to support this motion. I trust that it will help with a more efficient method of dealing with applications made under Standing Order 52. If not, we may have to revisit the issue again as to how and when the order is used in this House.

Mr DAVID SHOEBRIDGE (21:34:34**):** In reply: I appreciate the contributions from the Leader of the Opposition and the Leader of the House. From what I can tell, this has been sitting on the books since 25 August. I would hate to see a full-blown attack on a motion if that was the Leader of the House's speech in support of the motion. I was listening carefully. I think it maybe said it supported the motion at the end. The intent of this is to try and assist. I said before that The Greens believe firmly in supporting the powers of this House and the ability of Parliament to hold the Executive to account.

We believe Standing Order 52 is an increasingly important tool used by this House to hold government to account. If one looks across the Commonwealth, the way in which it has been used in this place and its ability to shine transparency on government is actually unique. It is not used in this manner in other chambers. It is because the House took it down, tested the power in the courts and had the power affirmed in the Court of Appeal and in the High Court. It was not easy and I commend those earlier members who had the courage to take it down and assert that position. It is our job to ensure that it is now done with as much regularity and clarity as possible, and to seek to incrementally improve upon the process and enforce and enhance it.

In the past few months we have had very informal exchanges between the Executive and various members in the House where there has been a kind of willingness to turn the eye away from non-compliance with orders in order to come to some kind of practical resolution. The Greens do not believe that is a good process. Where there is a genuine issue that can be resolved between the mover of the motion and with the President playing that honest broker's role on the part of the House and the government of the day after a passage of the motion, that should be done in a regular fashion. It should not be just a sort of nod and wink and "Let us not worry about non-compliance." We should try and formalise that in a way that works for both parties. That is what this tries to do. I appreciate the support of the House.

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

Motion agreed to.

Disallowance

WATER MANAGEMENT (GENERAL) AMENDMENT (EXEMPTIONS FOR FLOODPLAIN HARVESTING) REGULATION 2020

Rescission

The Hon. DAMIEN TUDEHOPE: I move:

That the resolution of the House of Tuesday 22 September 2020, disallowing the Water Management (General) Amendment (Exemptions for Floodplain Harvesting) Regulation 2020 be rescinded.

This is an unusual motion. The exemption for floodplain harvesting represents an important transitional step towards the licensing of floodplain harvesting. The regulation provided certainty to farmers on a temporary basis with the intention to repeal the regulation once licensing came into effect on 1 July 2021. When the disallowance was voted for by honourable members on 22 September this year they were doing so based on a view established by testimony pertaining to the legal status of floodplain harvesting, which was the subject of an inquiry.

On 22 September at the inquiry into the impact and implementation of the Water Management (General) Amendment (Exemptions for Floodplain Harvesting) Regulation 2020 it was stated that the legality was clear given that the activity was included in water sharing plans and the regulation was in force. Since then, as a result of the disallowance, the Government has received Crown Solicitor's advice that provides that the practice is now subject to a great deal of uncertainty. Given this information and the impending rainfall events associated with La Niña, which has recently been declared across New South Wales, it is the Government's view that there is sufficient justification to consider the rescission of this motion.

I mentioned earlier that the rescission of motions like this is reasonably rare. The last occasion was in 1996, as I understand it. The precedent was set then when the Legislative Council rescinded a disallowance to allow the Labor Government to remake a regulation with amendments requested by non-government members. That said, we on this side recognise the concerns raised that the regulation could have been made clearer through the insertion of a sunset clause. Like the Labor Government in 1996, the Government is open to replacing the disallowed

regulation with one that has amendments that the non-government members of the Legislative Council have requested. Should the rescission motion succeed, the Government intends to table a draft regulation that addresses the concerns raised. Notably the draft regulation includes a sunset clause of 30 June 2021. It brings forward the measurement requirements for floodplain harvesting and clarifies the definition of a flood plain to show where the exemption is limited.

Following the requests from upper House members, the Government has tabled the Crown Solicitor's advice on the legality of floodplain harvesting. It is worthwhile clarifying that advice around whether there would be any ambiguity if a person was to hold a water access licence, water supply work approval or basic landholder right in respect of that activity. At this point in time this is a hypothetical situation. The advice that there would generally be no ambiguity, subject to reasons set out in that advice, does not mean that the regulation is not needed. The fact remains that there are no such licences or approvals to authorise floodplain harvesting take until 1 July 2021. It is that gap that needs to be filled. Supporting the rescission motion today will enable farmers to have that certainty during the intervening period.

As I mentioned earlier, on 22 September at the inquiry into the impact and implementation of the proposed regulation it was stated that legality was clear, given that the activity was included in water sharing plans. Since then the Government has received subsequent advice that provides that the practice is a lot more uncertain than initially thought. The Crown Solicitor's advice has highlighted why there is uncertainty about whether floodplain harvesting is legal. The Crown Solicitor states:

> First, there is potentially some doubt as to whether "water flowing across a floodplain" is, or forms part of, a declared water source. … Secondly, depending on the circumstances in which it is undertaken, there is a question as to whether floodplain harvesting constitutes a "take" of water from a water source for the purposes of section 60A of the Water Management Act.

This is the important point as to why it is necessary to rescind this motion. Without rescission, farmers with relevant structures will only get certainty by seeking their own legal advice. This will be an expensive endeavour for people who are only now emerging from the drought.

The Government is also aware that there is some public discussion about whether the disallowed regulation could be legally made. Prior to the introduction of the regulation, advice was sought from Parliamentary Counsel—as is standard practice—as to whether the regulation could be legally made. Parliamentary Counsel confirmed that it could. The Government is happy to provide that advice to any member of the House. The principal reason that we are seeking to rescind this motion is because of the uncertainty that this causes for farming communities. There might be a difference between northern and southern farmers and the like, but the reality is that there is a significant amount of uncertainty out there that needs to be addressed. It is easy to say, "This is too hard to do," or, "We don't like the water Minister. She puts out press releases that we don't like."

The Hon. Penny Sharpe: If you want to deal properly with people, you don't behave like that.

The Hon. DAMIEN TUDEHOPE: The fact of the matter is that we should be doing it because it is the right thing to do and not because we do not like a press release or the Minister criticises someone. We make every attempt possible to talk to the Shooters, Fishers and Farmers Party. We say to them to do this because it is good for farmers. Do it because it is good for the farming community, which needs certainty. That is why they should do it. They should not come down here and say that they cannot do it because One Nation will not support it. Those in One Nation come in here and say that they will only support it if the shooters party support it. Really? Is this what we are doing here in government? The fact of the matter is that people should vote to rescind this motion because it is the right thing to do to give to farmers the certainty that they deserve, in circumstances where there are some significant rain events occurring and where they do need that certainty in relation to the manner in which water is currently being harvested. I urge members to put aside those concerns that they may have. I will say this to the shooters party: Ask Roy Butler whether he wants this. Ask him. Does Roy Butler want this rescinded? The answer is yes, he does.

The Hon. Mark Banasiak: He wanted the Crown Solicitor's advice six months ago.

The Hon. DAMIEN TUDEHOPE: He has got it. We have got it and we have tabled it. To come in here and say, "We are not going to support this,"—okay. Go back and tell the farmers that he represents that his party is going to vote against this. That is in many respects letting down the people that the Shooters, Fishers and Farmers Party is supposed to represent.

The Hon. MICK VEITCH (21:47:10**):** I join in on this rather rare occasion in the upper House, I must say: a rescission motion of a resolution of the House. I did a little bit of research on this. If members are looking for where I drew this from it is pages 340 and 341 of Want and Moore's *Annotated Standing Orders of the New South Wales Legislative Council,* Lovelock and Evans' *New South Wales Legislative Council Practice* on page 296 and Erskine May's *Parliamentary Practice* on page 421—for those who are parliamentary nerds and want to work out how all of this comes about. The Minister is correct that the last time we went through this

exercise in this House was in 1996. Essentially what happens under the Interpretation Act 1987 is that a disallowance motion, if carried, causes the statutory rule to not exist. That is what has occurred with this particular regulation.

If the House were to support the rescission of the disallowance motion then, as I understand it, the Minister for Water, Property and Housing would then be permitted to introduce a new regulation worded in a similar vein to the one that was disallowed by the House because we would essentially be within the four months of the disallowance of the previous motion. This is the issue about bringing another regulation forward. Lovelock and Evans have stated in their book *New South Wales Legislative Council Practice* that a rescission motion should not be used to simply override a decision of the House. Erskine May states:

> Rescission is opposed to the spirit of the existing rule that no question shall be offered which is substantially the same as one on which judgement has been expressed during the current session. Essentially the rescission motion is the Government's way of moving through the situation that is currently before it. The House has actually on two occasions adopted a rescission motion of a disallowance. In both instances the Minister quoted legal advice from the Crown Solicitor or from Parliamentary Counsel to say that if the Council had not rescinded its resolution, then the effect of section 8 of the Subordinate Legislation Act 1989 would prevent any new regulation from being published for four months. Essentially that would have left industries involved unregulated for the period. Acting on that legal advice, the Council voted in both instances to rescind its disallowance, which brings us to the rescission motion and the legal advice of the Crown Solicitor, which was tabled today by the Leader of the House.

I have been engaged in consultations with stakeholders since notice of the rescission motion was provided by the Leader of the House at the last sitting of Parliament. I thank those stakeholder groups. The Leader of the House touched on the interesting legal advice of the Crown Solicitor in his contribution to debate. Question 4 is contained in the second set of documents from the Crown Solicitor that were tabled today. It states:

> Prior to the making of the exemption regulation, was there any ambiguity as to whether a person could carry out floodplain harvesting, if they did hold a water access licence, water supply work approval or basic landholder right in respect of that activity?

The answer to the question states:

> 2. Generally no, subject to the assumptions below. Prior to the making of the exemption regulation, a person could carry out floodplain harvesting using a water supply work without breaching the *WM Act* provided that the person:
>
> (a) held both a water access licence (which authorised the relevant take of water) and a water supply work approval (which authorised the relevant use of a water supply work), and complied with the terms and conditions of these; or
>
> (b) had a basic landholder right (that is, an entitlement referred to in Pt 1 of Ch. 3 to the WM Act) which entitled the person to the relevant take of water and use of a water supply work, and complied with any limitations of this.

There is latitude in the debate because members cannot talk about the rescission without talking about the disallowance and what the regulation was about. That is a broader debate. We would normally stick to the ambit of the motion. The regulation was brought in in February this year prior to a rather large first flush event in the Barwon-Darling river system. The previous occasion when that occurred was in 2016. We did not need the regulation in 2016, so what has changed between 2016 and February 2020? What has changed that means we need the regulation now when we did not need it then? Regardless of the basin that we are debating, there is contention as to whether the regulation was required or legal.

One of the changes is that in 2018 Minister Blair implemented the Natural Resource Access Regulator [NRAR]. Now there is actually a policeman on the beat, so to speak. The previous powers of the NRAR did not allow for that. One of the concerns that irrigators have is if there is no regulation, how will NRAR apply itself if there is a flooding event? How will it go about policing or checking compliance? On 16 October 2020 NRAR put out a press release. It would be no shock to anyone to know that the first thing it said was:

> Water management laws are complex. That is why NRAR approaches all investigations on a case by case basis, including assessing each individual landholder's circumstances.

Further on it said:

> NRAR doesn’t make the law, we enforce it. As it currently stands, the law will be enforced in the event of serious, substantiated and wilful non-compliance.

That is the part that members must reflect upon. Members may look at the NRAR statement and measure what has happened between now and 2016. Members can look at the legal advice that the Regulation Committee sought from the Minister; it is very clear in the transcript. The Minister took on notice that the Government would provide it to the committee, which it did not do. It would have been a lot easier if that had occurred. Today the Crown Solicitor's advice was tabled in the House. To avoid ambiguity, members can look at the answer to question 4, which states, "Generally no, subject to the assumptions below", which I have read on the record. Two things will guide the Labor Party through this rescission motion. First, the NRAR public advice that it has no problem understanding or implementing the rules and regulations as they stand; and secondly, the answer to

question 4 in the Crown Solicitor's advice, which clearly states that there is no ambiguity in the law. On that basis Labor will not support the rescission motion moved by the Leader of the House.

The Hon. MARK LATHAM (21:55:08**):** I seek to rebut the comments that were made by the Leader of the House about the role of One Nation. I met with the northern irrigators last Friday morning. We nutted out a strategy to try to assist and we are sticking to that strategy. On that basis One Nation does not support the rescission motion. I visited cotton farms in the Moree district and I love what they do. I describe the way they have sculpted the land through floodplain harvesting as the Michelangelo of farming. It is beautiful to see. I have urged the northern and southern irrigators to see that their battle is not against each other. Their battle is to get fair access to water, because too much goes into environmental flows and too much goes to South Australia.

I completely repudiate the suggestion of the Leader of the House that the role of One Nation in this is some slippery, slimy attitude of political opportunism. Much has been discussed in recent times about the electorate of Murray and the role of irrigators there and their interests. I spent a good part of the weekend reading about the Murray electorate and the United World Enterprises project at Leeton. I assure the Leader of the House that I do not spend any of my time trying to aid and abet a crook, which the Leader of the Government did. I will not be lectured to by a member of the Government about the morality of One Nation's position when the leader of that Government spoke to her crooked boyfriend—

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

The Hon. MARK LATHAM: —to provide spying advice about the role of her office in the most disgusting and corrupt fashion. I will not be lectured to.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): The member will resume his seat. I will hear the point of order.

The Hon. Natasha Maclaren-Jones: It is getting late, but the honourable member knows that if he wants to make reflections on members of the other House he should do so by substantive motion and not in this debate.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): The Government Whip is correct. The remarks of the Hon. Mark Latham against a member of the other place must be made by substantive motion.

The Hon. MARK LATHAM: Those things happened in the electorate of Murray, not in the electorate of Wagga Wagga. It is not fair for members of this Chamber to be lectured to about morality, honesty and integrity from a government that shields a Premier who has done those things.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): I have made a ruling.

The Hon. MARK LATHAM: I put that on record and I will not resile from it.

The Hon. MARK BANASIAK (21:57:46**):** I will associate myself with some of the comments that have been made tonight. The Hon. Damien Tudehope talked about how the regulation provided certainty, but when one looks at what came through the inquiry and the call for documents, that is one of the most laughable comments that has been made in this place. There was no certainty. What was certain was that this was done with a seat-of-your-pants attitude. The farmers did not know what was happening. They were flying by the seat of their pants, the department was flying by the seat of its pants and communication could best be described as absolute rubbish. There was no certainty.

If we continue with that theme of certainty, the Hon. Mick Veitch spoke about how the inquiry asked for that legal advice. Before the inquiry even started I asked for that legal advice at budget estimates and the response that I received on notice was, "We cannot give it to you because it is legal privilege." That notion does not even exist, from what I understand. My colleagues Mr Roy Butler, Ms Helen Dalton and the Hon. Robert Borsak have asked for legal advice many times—zip.

Seven hours before we were to debate the rescission motion, the Crown Solicitor's advice somehow turned up. That is disrespectful to the House, this process, the budget estimates process and the inquiry process. It is disrespectful to the farmers in the north and the farmers in the south that, at five minutes to midnight, the Crown Solicitor's advice somehow magically turns up. How is that respectful to everybody who has been calling for months for that certainty from the Minister? How is that supposed to convince us that we should go against what we voted for originally and rescind this disallowance?

I draw attention to two clauses in the Crown Solicitor's advice, 10 (b) and 13 (b). The Crown Solicitor is quite noncommittal in those clauses. For that reason and because the Minister has not been able to demonstrate respect for this place and its processes and come clean and present the Crown Solicitor's advice, and to come clean about what she is trying to achieve with the regulation she disallowed, we will not be supporting this rescission motion. If the Government has an amended regulation that it wants to present, my response is to cough it up first.

Show us respect and give us the time to look at the amended regulation and digest it. Show us the amended regulation to contemplate whether it is fit for purpose before it comes with this poxy rescission motion, tabled with last-minute Crown Solicitor's advice.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): According to sessional orders, proceedings are interrupted to permit the Minister to move the adjournment motion if desired.

The House continued to sit.

Ms CATE FAEHRMANN (22:01:45**):** On behalf of The Greens, I speak in opposition to the rescission motion put by the Government. I will speak briefly about the water Minister's history over the past couple of months in relation to this regulation. The Minister has for some time stuck to her claim that floodplain harvesting was legal under the 1912 Water Act and that this regulation did nothing more than provide clarity to farmers across the State. In a statement directly following the disallowance in this place, the Minister had this to say to all farmers in New South Wales:

> The disallowance removed the Regulation which provided certainty about the legality and enforceability of the law, potentially placing 12,000 farmers across the State in handcuffs, jeopardising at least half a billion dollars of the NSW productive sector.

I draw the attention of the House to a question that I posed in July. I asked the Minister during the inquiry into this regulation whether the regulation sought to give legality to floodplain structures that have never been through a licensing or approvals process. The Minister's response was no. I also draw the attention of the House to the fact that the Minister has stated previously in the other place in response to a question by the member for Murray that the practice of floodplain harvesting is legal. It appears that the legality of floodplain harvesting under the Water Act 1912 exists in a quantum state, and it changes states at the whim of the Minister.

Yet today the Government has finally tabled advice in this House by the Crown Solicitor on the legality of floodplain harvesting. To be clear, this is not the advice that the water Minister has alluded to many times as the basis upon which she has stressed that floodplain harvesting is legal. Members of this House have been seeking this advice—I am one of them—for some time, yet the Minister has failed to provide it throughout the lengthy debate on this issue. Instead, again, only today the Government has tabled it. It was requested by the Minister on 3 November—so one week ago, which is well after the debate. But in a classic Nationals move, the advice does not clarify anything because it addresses floodplain harvesting really in name only—or perhaps not even that. The advice defines floodplain harvesting as:

> "the use of a water management work to capture, store or use water flowing across a floodplain (where 'use' has the same meaning set out in the Dictionary to the WM [Water Management] Act)".

Unfortunately, this fails to address the reality of floodplain harvesting as it is practised and defined by the department. The NSW Floodplain Harvesting Policy defines "floodplain harvesting" as:

> The collection, extraction or empowerment of water flowing across floodplains including rainfall runoff and over-bank flow, but excluding the taking of water under a Water Access Licence that is not a floodplain harvesting access licence; water under a basic landholder right, including water taken under a harvestable right; water under an applicable water access licence exemption under the Water Management Act, used irrigation water. So the Minister has dropped a red herring into the middle of this debate, with no intention of actually resolving the query from members in this place and all around the State about the true nature of the legality of floodplain harvesting. Unfortunately, that is typical of the behaviour we have come to expect from this Minister and from The Nationals, and indeed from this Government, in order to confuse, muddy and distort the debate around the management of this State's precious water.

Minister Pavey has done nothing to address the very serious and legitimate concerns that have been raised about floodplain harvesting and its impacts on the health of the State's rivers, farmers and communities in the southern basin. To add insult to injury she now asks members in this place to rescind the disallowance of this poorly thought out regulation after members in this place thought through it. After members in this place inquired into it we are now being asked to rescind it with this advice, which has come too late and does not really answer anybody's questions.

I ask Minister Pavey to go back to the drawing board and come up with something that works for more than her big irrigator mates up north. I note the contribution of the Hon. Mark Latham about the big cotton dams, the huge mass water storages up north being basically similar to other contributions that Michelangelo made to our incredible world of art. I wonder whether the communities down south would have such glowing praise for water storages that have completely devastated those communities. I am particularly referring to the Darling Barka. Let us remember that when Northern Resources Access Regulator made it clear during stakeholder meetings across the northern Basin in 2019 that without licences floodplain harvesting breached the New South Wales Water Management Act 2000 and it would be enforcing the law, the New South Wales Government jumped and acted in response and made that regulation. The submission of the Environmental Defenders Office to the inquiry into the regulation stated:

> … we think it is logical to assume that the Regulation was made to prevent affected landholders from committing an offence under s. 91B of the WM Act—which is constructing or using water supply work without, or otherwise than as authorised by, a water supply work approval. In other words, it was done to legalise floodplain harvesting. In 2018, the South Australian royal commission described floodplain harvesting as "one of the most significant threats to water security in the Northern Murray-Darling Basin to both licence holders and downstream states."

This House should not be forced today to agree to a regulation based upon the Minister's pleas and threats that we must provide certainty to farmers. The Government could have provided certainty to farmers when it was elected almost a decade ago by committing to manage our precious water resources across the basin equitably, transparently and sustainably, but far from it. The Greens strongly oppose this rescission motion and urge the Government to instead focus on enforcing the requirements under the Water Management Act for all water take beyond basic landholder rights to be done via an appropriate licence and to be metered and to impose penalties until all illegal structures are removed. The Greens oppose this motion.

Mr JUSTIN FIELD (22:10:43**):** I oppose this rescission motion. Anyone out in public land who is watching the live feed tonight will be scratching their head. We are debating a rescission motion of the disallowance of the Water Management (General) Amendment (Exemptions for Floodplain Harvesting) Regulation 2020, a regulation that came at the end of 10 years of regulatory development and has resulted in, at this stage, no action on what has been recognised by the Government in our inquiry as being an unregulated growth of this type of water take and which has now exceeded the limits set out under the Murray-Darling Basin Plan—that is, an illegal take of water in excess of the agreements that have been struck between New South Wales and the other States to ensure the health of the Murray-Darling Basin system. At the end of the day, the regulation acted to provide a broad exemption for everyone who engages in this type of take, essentially to just make it illegal because we had not dealt with the fact that a bunch of it was illegal. I do not think that is acceptable.

It is curious to me that after a prolonged public debate, a parliamentary inquiry and a debate on the disallowance motion, the Minister has only today tried to address the fundamental questions about the legality of the practice in general and how this regulation would have ultimately changed the legality of what is happening on the ground. I have met with the Irrigators' Council, I have spoken to the Southern Riverina Irrigators, I have spoken with other stakeholders, both during the inquiry and separate to that, and I recognise that there are a lot of people who have gone through the work, have sought approvals and have developed their infrastructure on their farm with a recognition of good floodplain management tactics and technologies. They are maximising the value of the farming potential no doubt but they are trying to do it inside the law.

I also recognise that there are other farmers on the flood plain that do not take advantage of floodplain harvesting water. They do not even take their harvestable rights—dryland farmers, for example, who might be on a flood plain and might have flood flows across their properties but do not take advantage of it. This policy will be a gift to those who have done works in the past, maybe some of it illegally. Others who chose not to do it will not have access to the near $4 billion worth of licences that could be handed out. I recognise what is happening on the ground; I recognise that the majority of farmers are doing the right thing. But when all is said and done and we have had a look at the way this regulation was written, the advice that came to the inquiry and the public debate, I cannot help but feel that someone is getting a gift but I do not quite understand what it is. If the rain falls between now and when these licences are due to be finalised and handed out by the middle of next year, someone is getting a windfall from illegal activities. People know about it but it is being hidden in the gobbledegook of this whole process.

It is particularly curious to me that the arguments advanced today by the Government are fundamentally different to those that were made by the Government in the disallowance debate and different again to those that were made in the inquiry. In the Government's response to the disallowance—and I know it was a Government member who said this but it would have been written in the same office; I do not think that Minister Tudehope wrote the speech that we heard here tonight—this was the lead-in, the key takeaway from the Government during the disallowance debate:

> The Government opposes the disallowance motion because disallowing the regulation would stop the Government from implementing cease-to-pump orders if floodplain harvesting issues arise between now and the issuing of floodplain harvesting licences.

Members did not even hear that tonight. It was not in the Minister's media release when she announced that she was going to move this rescission motion. It has not been in the public relations campaign that has come off the back of that in the past couple of weeks. It was not mentioned at all by the Minister in this Chamber tonight. What is the truth of this? In fact, what the Minister said was closer, I might add, to what was stated in the inquiry and the Minister's submission to that inquiry. She stated:

> The Regulation is required under the Policy as a transitional arrangement to completing the licensing process. These transitional arrangements will ensure that there is more certainty for water users and that the Natural Resources Access Regulator [NRAR] has clear and unambiguous rules to follow until the Policy is implemented.

I acknowledge that that is much closer to what was said in this House by the Minister tonight. Then what was the Minister's media release that came out when she announced the rescission? It stated:

> The disallowance removed the Regulation which provided certainty about the legality and enforceability of the law, potentially placing 12,000 farmers across the state in handcuffs, jeopardising at least half a billion dollars of the NSW productive sector.

She went on to state that floodplain harvesting "has always been a grey area of this law". It is just PR spin to try to play the fights that they have with the shooters party within constituencies, but the constituencies that care about this actually understand—

The Hon. Robert Borsak: The Shooters, Fishers and Farmers Party.

Mr JUSTIN FIELD: The Shooters, Fishers and Farmers Party. The constituencies out there watching this actually understand what is going on. The Minister is trying to pull the wool over their eyes. The reality is in black and white in the evidence we got during the inquiry. In its submission the NSW Irrigators' Council was not concerned it was going to end up in handcuffs if the regulation was not in place. It stated:

> It is important to note that if the Regulation did not exist, water users would still have legitimate access to floodplain harvesting (including rainfall runoff) due to existing rights within the Water Act 1912.

That was its view. The Crown Solicitor's advice does not go to the question of the 1912 Act—I think there is actually a legal question there; I am not sure the NSW Irrigators' Council is quite right. But it weighed up the legality of floodplain harvesting activities under the Water Management Act 2000 and still came to the same conclusion that, basically, there is a rule book there that people can use.

Obviously it is confusing; there is actually legal uncertainty. But I tell members what you do not do when you have this massive, historically unregulated take, some of which is illegal: You do not just give it a broad, blanket exemption. That is not the way to deal with this—not when it has such consequential impacts downstream; not when it could lock in $4 billion worth of compensatable rights for a handful of irrigators in one part of the State. If members get this wrong—if we over-allocate those licences—then we will be paying the price for that for the river system, for downstream communities and for farmers right across the basin. Certainly we will be paying the price economically, because ultimately we will have to buy them back.

At the end of the day, the Natural Resources Access Regulator has made clear that it understands where the rules are and the processes that are in place. I have said to the NSW Irrigators' Council and others that I support a process being brought to conclusion. We need to work out what is an appropriate way to manage this type of take and to license it accordingly. I think we are going to have a big barney over the rules around how that happens in the water sharing plans and the like when they come into effect. I am deeply concerned about some of the information that is out there about how the border rivers will deal with this. But what you do not do is just give this blanket exemption that will potentially lock in this legal expectation or obligation on the New South Wales Government.

The Hon. Mick Veitch raised this point, and I have mentioned it to him and to others as well. I put it to the NSW Irrigators' Council when I met with it last week: If there was so much concern about this, why was it not raised in 2016 during those events? There did not seem to be legal uncertainty then. There were no cries about legal uncertainty from the NSW Irrigators' Council. The only thing that has changed is that the Natural Resources Access Regulator has come into effect. We know that conversations were being had late in 2019 where the suggestion was that the regulator was going to start to look closely at floodplain harvesting. That suggests to me that before the regulator was in place the Government acknowledged there was historically illegal, unregulated and growing take in the northern part of the basin.

But I think that landholders, some of whom who knew they were probably doing the wrong thing or at least playing close to the line, had the wink-wink, nod-nod from the Government and Ministers of the day, a bit like what we saw through the pumped *Four Corners* episode, a bit like what we saw with Minister Humphries and the land clearing at the time. People will remember the nod-nod, wink-wink at the pub, "Don't worry, take what you can while you can, we will not be coming to have a look." We have got a regulator in place now and they said, "No, we are going to look at this closely." Now all of a sudden we have got some legal uncertainty here.

I think that should point everyone to the concerns that exist about the nature of the take in some areas of the northern basin. We know how deep the concern is all the way down the basin. It is all well and good for the Minister to say—and I am not a defender of the Shooters, Fishers and Farmers Party in many ways but we have worked pretty constructively on water issues. Do not convince yourself that there is a big constituency out there that is deeply upset if this rescission motion goes down tonight. That would be a falsehood. There are a few hundred farmers probably thinking about whether they have been following the rules who are deeply concerned. Then there is an entire basin that is looking north, going, "What is going on up there?"

That constituency is far broader for the member for Barwon and obviously the member for Murray has her own interests, but I am hearing from stakeholders right across the basin concerned about where the policy is heading. The exemption, if it is allowed to stand, could lock us in for failure for the future. So I will not support the rescission motion and I would go as far as saying that the Minister has indicated that—and I think this is fair, although I am happy to be corrected—if the rescission motion were to pass tonight and the regulation were to be real again, it would be rescinded and remade in the version I have seen. I am not sure if others have seen what is being suggested.

I suggest that if that is genuinely on the table and that is the option we are considering tonight, and if the House decides to not support the rescission, it would be an act of bad faith for the Minister to simply wait out the four months and on 22 January put in place that regulation, which the House is saying does not have the support of the Legislative Council. I suspect that is the way that the vote will go. That is an absurd position when it could be another six weeks before the House could revisit that regulation. I say to the Minister, do not try that on, listen to the House's genuinely engaged discussion and debate on this issue—both in the House and in the inquiry—because there are concerns here.

Doing that with only a few months to go before the licensing is supposed to be in place is a breach of faith. The Minister should focus on the licensing and focus on building the bridges between the north and south where this has gone wrong. Maybe we need a different approach to the public relations coming out of the Minister's office because that would help a lot. Ideas are being circulated. The Hon. Mark Latham mentioned a discussion he had with the Irrigators' Council. I am sure others have had that as well. There are people who actually want to resolve the issue. The opportunity was there after the disallowance to do that but the Minister did not take that up with much gusto. She took a different approach—a pretty heavy-handed approach. I ask her to take the loss tonight as an opportunity to re-engage genuinely with everyone who wants to see a good resolution for the rivers and for farming communities and other communities along the basin.

The Hon. WES FANG (22:23:16**):** I have a brief contribution and note the contributions already made tonight. We have certainly ventilated this argument enough in the Chamber for a number of nights and for a number of reasons. I will address some of the comments made tonight and express my disappointment in the way that they have been presented and the commentary around those affected. Members in the Chamber make those who produce our food and fibre in this State sound like criminals.

I note that the speeches made by Ms Cate Faehrmann and Mr Justin Field were almost suggesting that the Government is participating in a conspiracy by moving the motion for rescission of the disallowance, whereas the Government is trying to give certainty to our farmers. It is disingenuous to refer to the big irrigator mates of The Nationals because it is not for the big irrigators that the Government is moving for rescission. The Government is supporting farmers who do not have certainty and who cannot obtain legal advice from the Crown Solicitor. Those farmers just want to know what they can do and the regulation provides them with certainty.

Our farmers are in a totally different position to that of the big guys and they are the ones that members of this House should be thinking about. However, nobody is thinking about those farmers. Ms Cate Faehrmann was talking about conspiracy theories. Has she ever even met one of the farmers? I am not talking about the big irrigators but the farmers who have endured three years of drought and who finally have had a little bit of rain. They are just trying to get a good season to be able to look after their kids who are away at school. You probably have not met one of them, have you? You come into this place and you talk about—

Ms Cate Faehrmann: Point of order—

The DEPUTY PRESIDENT (The Hon. Taylor Martin): I will take the point of order. I suspect I know what it will be.

Ms Cate Faehrmann: Mr Deputy President, firstly, for the record I have met dozens of farmers. The Hon. Wes Fang is directly asking me questions. I ask you to direct him to refrain.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): I uphold the point of order. The Hon. Wes Fang will direct his comments through the Chair, which he knows full well he should do.

The Hon. WES FANG: Thank you, Mr Deputy President. In conclusion, I express my disappointment in the commentary of the shooters party and by members of One Nation. They both say they represent the little guy but, honestly, once again we are seeing politics overriding good policy. Come July we would have certainty. The Government is trying to provide farmers with certainty up to that point. As we know, the member for Barwon supports what the Government is trying to do. I ask members of the crossbench to listen to local members of Parliament like the member for Barwon and understand that he has spoken to the same farmers I have spoken to. I ask them to support what the Government is trying to do tonight.

The Hon. Adam Searle: You cannot let that one go.

The Hon. ROBERT BORSAK (22:27:53**):** I intended to participate in the debate to say something about my colleague in the other place the member for Barwon. I thank the Hon. Wes Fang for mentioning him because the member for Barwon is very concerned for the people of the Barwon electorate and for the northern Basin irrigators. He does speak to the irrigators. Over a week ago I met them. They are concerned about uncertainty. They do not like it that, despite this Government having been in power for the best part of 10 years and having Minister Humphries, Minister Blair and the current Minister, no-one has made any progress or even attempted to do anything until—guess what?—the shooters party won the electorate of Murray and the electorate of Barwon. We started agitating about the issues concerning water and the water theft that goes on among certain irrigators. This Government has had plenty of time—lots and lots of time—to sort this out. Now at five minutes to midnight—

The Hon. Wes Fang: You talked to the irrigators—

The DEPUTY PRESIDENT (The Hon. Trevor Khan): Members will cease interjecting. It is 10.30 p.m.

The Hon. ROBERT BORSAK: I put on record that the member for Barwon is very much across the issues in his electorate. He is very connected with the irrigators in his electorate and he is consulting with them. That is why he has been working—or trying to work—with the current water Minister for the past 2½ months at least. He has been trying to offer a solution that would get us somewhere but he has been repelled, ignored and treated like a nobody. Instead, the Minister would prefer to play pretend, divisive games with our member for Murray and our member for Barwon. The Shooters, Fishers and Farmers Party will not fall for that mug game. It does not work and it will never work with us because we know where we are going with these policies. We will look after the irrigators. We will get water back to the irrigators, the farmers in both basins, and we will make sure that they get what they deserve at a price they can afford to pay. That is where we are going.

The Minister turns up at five minutes to midnight and collars me about the matter outside this House. I have had no representations from her or from any of her people until tonight. We will not do this on the fly. It is not something that should be ill-considered or done on a whim. We have engaged in considered discussion and in a thoughtful process. We have given the Government plenty of opportunity to come up with a solution. If anyone knows Roy Butler, they know that he is a conciliator. If anyone knows me, they know that I am something different, but that is not what this is about. This is about an opportunity given by our party and, I am sure, by One Nation as well to try to do this properly, fairly and in a way that will work for everybody. The Government has not taken up that opportunity. Instead, at five minutes to midnight the Government is playing a game, saying that unless we support a rescission motion then somehow or other we have done something wrong. We have not.

If the House does not agree to this motion, which of course we do not support, the Natural Resources Access Regulator [NRAR] will not go after the irrigators in the northern basin and prosecute them. The Minister will not go after them either in some sort of pointscoring exercise. So what is this really about? It is about trying to save the skin of a Minister who is not up to the job. How long has she occupied that ministry when all of a sudden after March 2019 she has been busy playing games, pretending conflict exists between the northern and southern basins, instead of sitting down constructively with them and our two members and coming up with a solution? She has not attempted to do that at all. In turning up at this late stage to try to heavy me, to get people from Macquarie River Food and Fibre to ring me and ask me to consider their last-minute solution, she is trying to con those poor people into thinking that somehow or other she has the solution when she does not.

As I said earlier, NRAR will not prosecute anybody. It has already indicated that. We know that is the case, so what is this really about? It is about trying to save an incompetent Minister from her own incompetence and laziness. She should stop calling the member for Murray, Helen Dalton, names. She should stop playing games with the member for Barwon, Roy Butler. She should work constructively. Now it is too late. As I said, she has had plenty of opportunities. My colleague the Hon. Mark Banasiak spoke to it. He sat on the water inquiry. We know what is going on and we understand all the issues. We will not support the rescission motion.

The Hon. DAMIEN TUDEHOPE (Minister for Finance and Small Business) (22:33:40**):** In reply: What do I say? I thank all the members who have made a contribution to this debate. The rescission of this regulation was predicated upon a perception that farmers who have invested in significant infrastructure have significant uncertainty in respect of their ability to engage in floodplain harvesting. The Crown Solicitor's advice confirms that uncertainty. Each individual landowner now has to seek their own advice about their own particular circumstances. This regulation is designed to relieve that uncertainty. In the circumstances, in the Minister's and Government's submission, this is a reasonable thing to do to protect the interests of those persons who are adversely affected by the rescission of this regulation. The Government urges members to support those communities who rely on that infrastructure to be in place and the certainty that is afforded to floodplain harvesting using that infrastructure.

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

The House divided.

Ayes 16
Noes 23
Majority.....7

AYES

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

NOES

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

PAIRS

Mitchell	D'Adam

Motion negatived.

Business of the House

POSTPONEMENT OF BUSINESS

The Hon. DAMIEN TUDEHOPE: I move:

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

Motion agreed to.

Bills

RETIREMENT VILLAGES AMENDMENT BILL 2020

Second Reading Debate

Debate resumed from 22 October 2020.

Ms ABIGAIL BOYD (22:47:02**):** On behalf of The Greens I speak in debate on the Retirement Villages Amendment Bill 2020. The Greens are broadly supportive of the bill and its intent, and we welcome the commitment by the Government to overhaul the retirement villages sector. In 2017 a joint investigation by the ABC and Fairfax Media exposed the extraordinary rort at the centre of the billion-dollar retirement village industry. Younger generations of Australians were shocked to learn about the price gouging, misleading marketing, extraordinary fees and charges, and further dishonest business practices found in the largest for-profit retirement village operators. Older Australians were not so shocked.

There are 66,000 people over the age of 55 living in more than 550 retirement villages across New South Wales. Retirement villages are a popular housing choice for older people who have left full-time work—and for good reason. Retirement villages provide a unique opportunity for community and for freedom, in addition to the very practical benefit that comes from the cost of buying into a retirement village, which is often a fraction of the cost of buying an equivalent home outright. That is why it is so devastating that sections of the retirement village industry have been able to exploit a lack of regulation to swindle thousands of often vulnerable people out of their pensions and retirement savings.

The Government-commissioned Greiner report into the New South Wales retirement village sector was an indictment on the exploitative practices of the industry exposed by the ABC and Fairfax. The Greens are pleased to see that the Government is continuing to put the recommendations of the Greiner report into practice. The bill is an excellent step, but it is certainly not the end of ensuring current and former retirement village residents are given the protection they deserve from predatory business practices. Of course, operators that take advantage of existing lax regulations are not the majority; however, the impact on some of the most vulnerable people in our community when taken advantage of compels us to ensure that our laws are as strong as they can be.

I thank the many industry and resident stakeholders for their advice and consultation. In particular, I recognise the tireless work of the Retirement Village Residents Association and its president, Jim Gibbons, in working to achieve the best outcome for the diverse community of retirement village residents across New South Wales. I flag now that The Greens will be moving a series of amendments to strengthen the protections currently provided in the bill for current and former residents and to smooth the transition process between the commencement of the bulk of the bill on 1 January and the commencement of the 42-day recurrent charges cap on 1 July 2021. I thank the Minister and his staff for their cooperation in discussing and agreeing to these amendments. We move our amendments in the spirit of the bill's intent. Retirement villages when run ethically and transparently are an extraordinary asset to the community of New South Wales. The Greens wish to see the sector thrive while ensuring current and former residents are treated with dignity and respect.

The Greens welcome the new aged-care rule, which will effectively allow a former resident to request the village operator make payments to their new aged-care provider out of exit entitlements not yet released in order to cover daily accommodation costs while their assets remain tied up in their former retirement village. We further welcome the ability for former residents to seek an exit entitlement order from the Secretary of the Department of Customer Service where the sale of their former residence is unreasonably delayed by the retirement village operator. However, we do not agree that these two reforms should be mutually exclusive. Both reforms are important pieces of the retirement village overhaul puzzle and there is no evidence that suggests the application of both reforms in a single case would cause additional cost for a retirement village operator.

More than 60 per cent of retirement village residents transition into aged care. It is unacceptable to ask older people who are already making a difficult life decision—often while facing health complications or escalations—to choose between easing the burden of a lack of liquid assets to pay their daily aged-care expenses today and the potential to seek compensation tomorrow for the unreasonable delay of their retirement village operator in selling their former residence. I foreshadow that The Greens will move an amendment to ensure retirement village residents moving into aged care can access both of these key reforms. The Greens also welcome the introduction of a 42-day cap on the recurrent charges that can be charged to former residents. This is a key reform which will ensure that people who have moved on from their former residence in a retirement village will not be on the hook for regular fees indefinitely if their former residence is, for whatever reason, not sold by the operator. People who have retired rarely have enormous pools of liquid money, with budgets for those living on a pension or superannuation being just as tight as those of people who are not retired, if not more so.

Being indefinitely liable for maintenance and services costs, council rates and insurance for your former residence when you are also paying for your current residence—whether that is aged care, a private home or elsewhere—is an extraordinary burden which people do not deserve. Older people remaining in retirement villages after members of their community move on do not deserve to be paying the price of the village operators' inability to fill residences. I foreshadow that The Greens will be moving an amendment which seeks to prevent operators increasing recurrent charges payable by residents to recoup the cost incurred as a result of the introduction of the 42-day cap, except where the regulations otherwise provide. We understand that in some circumstances operators will have no choice but to share this cost with residents but, particularly in profit-motivated organisations, this should be the last option. The 42-day recurrent charges cap is a motivation for operators to swiftly engage with the market. The cost of not doing so cannot be allowed to be passed on to residents while profit margins remain steady.

I move now to mention the planned regulations which will supplement the amended Act. In supporting this bill, The Greens seek clarification from the Government on a number of points which we understand will be addressed further in the regulations. Firstly, we seek an indication as to how the regulations will define what does and does not constitute an "unreasonable delay" on the part of the village operator in the sale of a residence. While it is important to recognise the reality of demand on sale prospects, it is equally important that operators are not able to claim, for instance, that the possibility of a low sale price dissuading genuine attempts to sell is in any way reasonable.

Additionally, we seek confirmation from the Government that independent valuers appointed by agreement of the former occupant and operator will be required to demonstrate independence as a requirement of their being appointed. It has been raised with The Greens that particularly in regional areas the pool of valuers from which to

select is likely to be small and former residents may feel pressure to agree to appoint a valuer whose independence they are not sure of if the alternative is not finding a valuer at all. For this reason, The Greens would like to see the regulations reflect the need for confirmation of independence by implementing the requirement that a statutory declaration confirming independence must be completed by an independent valuer appointed by agreement between the former occupant and operator under division 4 section 182AI.

Finally, The Greens seek clarification from the Government on the prescribed period after which a former resident can apply for an exit entitlement order. We understand that the regulations will set the prescribed period at six months for metropolitan areas and 12 months for regional areas. We would like clarification as to how metropolitan and regional areas will be defined under the regulations. The Greens strongly support the three key reforms in the bill. The retirement village sector is in extreme need of overhaul. The bill begins the process of ensuring that older people do not need to worry about being ripped off or let down by the organisations that provide them access to rich and vibrant retirement communities.

The Hon. DANIEL MOOKHEY (22:55:15**):** I lead for the Opposition in not opposing the Retirement Villages Amendment Bill 2020. Based on feedback from stakeholders, we will not seek amendments to the legislation. These measures have the support of both the Retirement Village Residents Association and the Property Council of Australia New South Wales branch, two organisations that often disagree on policy direction. I am indebted to the member for Granville for leading Labor's engagement with this piece of legislation. The Opposition does not say that there are no issues with the legislation—and I will outline some of them later—but the importance of these changes means that the we will offer our support to the bill in the hope that it improves the retirement village sector for older residents.

As outlined in the second reading speech, reforms are proposed to the Retirement Villages Act 1999 that will simplify complicated contracts and reduce fees charged by retirement village operators. The Opposition believes that these reforms are largely reflective of the recommendations of Kathryn Greiner, AO, in the 2017 *Inquiry into the NSW Retirement Village Sector Report*. The inquiry reviewed the fairness and transparency of business practices in the retirement village industry and found serious problems. The findings and recommendations of the report were primarily informed through consultation with the public and key stakeholders in the retirement village sector as well as targeted consultation with other jurisdictions and industry experts. In short, it concluded that the operation of the retirement village sector needed to be cleaned up and made more transparent to stop residents being ripped off.

The final report found that the industry could be improved in three key areas: increasing the transparency of exit fees and contracts; clarifying the funding arrangements for ongoing maintenance costs shared between residents and operators; and providing more support when disputes arise and reducing the potential for disputes to occur in the first place. Ms Greiner's inquiry made 17 recommendations to achieve these improvements, some of which have already been enacted through the Retirement Villages Amendment Act 2018. In February 2019 the Government made a pre-election promise to enact further recommendations from the inquiry by introducing mandatory buyback provisions and a cap on recurrent service charges. It has been almost two years since that election commitment, and I am pleased that the Government has finally got round to delivering on it.

The retirement village sector is enormously important for our State. It is the only non-government funded source of affordable, age-friendly, independent living communities. There are many reasons why people move into a retirement village. Often it is to downsize, combining the benefits of being in a private and secure environment with a home that is easily maintained. It offers an important middle point for older Australians between the family home and an aged-care facility. For the majority of people and providers, the experience is overwhelmingly positive. At its best, it offers a wonderful lifestyle for older people. Unfortunately, at its worst it can be financially crippling and a nightmare for residents.

In New South Wales there are more than 66,000 retirement village residents, and this number is expected to almost double by 2023. According to figures from the Property Council of Australia, although retirement villages are generally open to retired people over the age of 55, the average age of a person entering a village is 74 years of age and the average age of a village resident is 81 years. Additionally, approximately 70 per cent of residents living in retirement villages are female and 70 per cent of these residents live alone. I mention those statistics to illustrate that many residents of retirement villages are often older, particularly when they exit villages, and they are sometimes not well equipped to navigate the complicated arrangements that structure many villages.

The Property Council figures indicate that 60 per cent of people exiting retirement villages are entering aged-care facilities. Over the years we have seen many terrible examples where residents leaving villages have been hit with exorbitant fees and complex contracts at a stage of their lives when they are arguably least able to represent themselves. Legislation that helps ease those issues is welcome. In deciding its position on this bill, the Opposition spoke to several key stakeholders. I thank them for their feedback, in particular the Retirement Village Residents Association [RVRA] and the Property Council of New South Wales. Both organisations were involved

in the development of amendments and both have indicated their broad support for these measures. Despite this support, both organisations have also expressed some concerns over the detail not provided for the implementation of the amendments contained in the bill.

I turn now to the substance of the bill. There are three key measures in this bill. These include the introduction of a cap for the period during which former residents continue to pay charges for general services once they have left a village; a requirement for operators to pay exit entitlements to former residents where there has been an unreasonable delay in the sale of their property; and measures intended to make the transition to aged care easier by allowing former residents to access a percentage of their exit entitlement to cover fees prior to their property's final sale to cover accommodation costs. The first reform introduces a 42-day time limit on the payment of recurrent charges for general services such as office management, cleaning and gardening after a registered interest holder leaves a village.

The definition of "permanently vacates" is also being amended in the Act to make it more easily understood when control of a property is given to the operator and when the property is empty. This was a reform proposed by the Greiner inquiry and is a positive change that the Opposition supports. The fact that departing residents will no longer have to pay for general services from 42 days after their departure does seem fair. It resolves a common complaint from former residents who feel it is unfair that they continue to pay for services and amenities that they are not accessing. This amendment brings the position for leasehold-registered interest holders into line with the current provisions for non-registered interest holders. Labor is also pleased with the decision to include all present and future residents in the 42-day cap. This is a sensible decision that will ensure residents are protected.

Though we support this measure, the Opposition has concerns with the lack of clarity about who will pay for costs following the 42 days. Stakeholders have advised they are concerned that the bill does not specify how this additional cost will be addressed between operators and continuing residents. I note it was implied in the Greiner report that it would be the operators who pay. This matches the arrangement that applies to new builds until the first buyer moves in. Ms Greiner's intention in placing the cost of the post-42-day charges on the operator was that it provides one of several incentives for the operator to onsell the unit quickly. I acknowledge that this may not be practical for small operators who do not have surpluses or reserves to draw on, but remaining residents should similarly not be expected to carry this charge alone.

Stakeholders have indicated that there are also significant concerns around the after-cap recurrent charges and the possibility that they may be recovered from elsewhere in a village's budget. They are worried that some unscrupulous operators will endeavour to manipulate budgets to avoid a deficit emerging by using other funds in other budget line items. Steps should be taken to avoid this where possible. Based on the comments in the second reading speech of the Parliamentary Secretary, these are issues that will be addressed by regulation but there is no indication yet about what form this will take. We ask the Government to clear up this ambiguity and the Opposition calls on them to consult stakeholders before finalising this regulation.

The second significant measure in the bill provides a right for orders to be applied for the payment of exit entitlements if a property has not sold within six months for premises in a metropolitan area or 12 months in regional locations. This is a significant improvement on current arrangements and allows residents to access their entitlements earlier than they otherwise would have under the current rules. This measure will give residents who are registered interest holders the right to apply to the Secretary of the Department of Customer Service if after the six- or 12-month time frame they think the operator has unreasonably delayed the sale of the dwelling. The onus of proof will be on the operator to prove that they have not unreasonably delayed the sale. The exit entitlement, including any capital gain, would be based on either an agreed sale price or one determined by an independent property valuer paid for by both parties.

Again, this is a reform proposed by the Greiner inquiry and is a positive change that the Opposition supports. Importantly, this measure provides further incentive for operators to sell as quickly as possible—a key issue raised in the 2017 inquiry. From our conversations with stakeholders, there is broad support for this measure. In particular, the fact that departing residents can apply directly to the secretary as opposed to the NSW Civil and Administrative Tribunal [NCAT] greatly simplifies the process. The age of exiting residents skews older and often these people are unable to navigate the NCAT process due to poor health or a lack of resources. But there are still a few issues of concern.

Firstly, there has been no clear indication of what will constitute an unreasonable delay. Again, to be inferred from the second reading speech, we understand that this will be outlined in the regulations. In drafting the regulations the Opposition asks the Government to consult closely with relevant stakeholders. The other concern relates to the relationship between the new aged-care rules, specifically that the proposal will not apply to those residents who choose to apply for payments from the operator under the aged-care rule. I will outline this concern shortly.

The final significant reform in the bill is a new aged-care rule. Unlike the other two reforms, this one was not a suggestion that came from the Greiner review nor was it an election promise. It was proposed by the Property Council of Australia based on a proposal from the RVRA to address the issue of potential hardship for residents when they move into aged care. I note that this reform is also based on similar reforms that have operated in South Australia and Victoria. More than 60 per cent of retirement village residents transition directly into aged care and they often do not have the funds available to cover the costs of the move. Where a resident wants or needs to move quickly into aged-care accommodation and is unable to afford the cost, the aged-care rule requires an operator to pay a portion of the estimated exit entitlement to an aged-care provider.

After entering an aged-care facility the person has only 28 days to decide whether they want to pay via a large refundable bond, a residential accommodation deposit or the daily payment. A former resident whose premises are not yet sold and is moving to residential aged care will be able to request the operator to make a daily accommodation payment to the aged-care facility where the former resident is to reside. An operator who is requested to pay daily accommodation payments may apply to the tribunal for an order to extend the time for payment or to exempt the operator from having to make the payment. The tribunal may make an order only if it is satisfied that making the payment would impose a significant financial burden on the operator. The operator will not be required to pay daily accommodation payments if the payments reach 85 per cent of the resident's exit entitlement, the village premises are sold, the former resident asks to stop the payments, the former resident does not enter the aged-care facility or the former resident dies.

I acknowledge that this is a measure that makes an effort to balance the interests of both operators and departing residents. While the Opposition is supportive of this measure, as previously indicated we have some concerns. The first relates to proposed section 182AB, which stipulates that former residents who access the aged-care rule are unable to access the exit entitlement orders. This will mean only 40 per cent of departures will have access to the exit entitlements process and will potentially create a subclass of ex-resident. Another concern is a question mark over the ability of some small operators to adjust budgets to meet liabilities generated by people moving into aged care. Although many operators will be able to meet this cost, it may not be practical for small operators who do not have surpluses or reserves to draw on. It then creates a situation where operators could attempt to pass this on to residents. This is a problematic situation, particularly in older villages with high vacancies.

Another concern is that after entering an aged-care facility an individual only has 28 days to decide whether they want to pay via a large refundable bond or a daily payment. However, it should be noted that the daily fee is only payable until the full bond is paid, which has the potential to cause significant financial hardship. These are issues the Minister will need to monitor closely in the implementation stage of the bill to ensure these problems are managed. The Opposition welcomes these changes. As previously stated, we say these changes are long overdue, particularly given the promises that were made in the lead-up to the last New South Wales election by the then Minister, and that it has been three years since the Greiner review was handed down and these matters came to public attention. The proposed changes are designed to allow residents to be able to more fluidly and fairly leave a village, to improve their financial security and to give certainty to the industry.

Given the scale of the reforms and that they would apply to all current and future residents, we agree that the transitional period laid out in the second reading speech is necessary and reasonable to allow village operators to adjust their budgets. We appreciate the Government's attempt to balance the needs of the sector and the residents, and the involvement of both the Property Council of New South Wales and the RVRA in the drafting process. Given the concerns expressed by stakeholders, I ask the issues that I have raised—in particular, the questions about the exact nature of the regulation, which is yet to be finalised—be addressed by the Parliamentary Secretary in reply.

The bill is a significant improvement to the retirement villages arrangements. It goes a long way to addressing many of the issues that have unfairly affected people who live in retirement villages. Its measures will improve access to exit entitlements, help ensure that the financial future of older Australians is secure and support residents moving into aged care. Labor looks forward to its implementation and the improvements it will provide to residents.

Reverend the Hon. FRED NILE (23:09:17**):** On behalf of the Christian Democratic Party I am pleased to support the Retirement Villages Amendment Bill 2020. The bill will introduce amendments to the Retirement Villages Act 1999. First, it will require operators to pay exit entitlements to former residents where there has been an unreasonable delay in the sale of their property. Secondly, the bill will make the transition to aged care easier by allowing former residents to access a percentage of their exit entitlement to cover fees prior to the property's final sale to cover accommodation costs. Thirdly, the bill will cap the period of time that former residents continue to pay charges for general services once they have left the village.

The amendment bill is part of the New South Wales Government's comprehensive response to the sector review conducted by Kathryn Greiner, AO, in 2017. The amendment bill has been developed through extensive consultation with stakeholders, including a public consultation on a discussion paper throughout 2019 and targeted consultation on the contents of the bill with village residents, operators and peak bodies in 2020. Submissions have been received from the Property Council of Australia and from the New South Wales Retirement Village Residents Association. The bill seems to meet most of their concerns, so I am pleased to support the bill before the House.

The Hon. NATASHA MACLAREN-JONES (23:11:16**):** On behalf of the Hon. Damien Tudehope: In reply: Statistics show that people worldwide are living longer. The proportion of the world's population over 60 years is forecast to nearly double by 2050. For many they will have increased medical needs and they will need additional support and services. It is critical that society and the Government provides for those people and ensures that laws are there to protect them. Retirement villages offer independent living and therefore differ significantly from aged-care or nursing home facilities, which offer higher care assisted living. As the population of New South Wales ages, the retirement village industry will play an increasingly important role in meeting the housing needs of seniors who seek a safe, secure and low-maintenance lifestyle. Relocating to a retirement village enables seniors to choose appropriate accommodation that suits their needs.

The decision to move into a retirement village is often a lifestyle choice based on the sense of community, safety and security, increased access to support services and the reduced maintenance that those properties offer. The New South Wales Government has delivered systemic changes to the retirement villages sector over its term of government to secure not only enhanced rights and safeguards for residents, but also to promote a more financially secure and sustainable sector. The Retirement Villages Amendment Bill 2020 builds on the Government's commitment to the sector. As honourable members are aware, the bill seeks to achieve three primary goals: first, to create a new exit entitlement order scheme that allows former residents to access their exit entitlements sooner; secondly, to provide a more seamless transition process for residents moving into aged care by allowing former residents to access their exit entitlements to pay for aged care; and, thirdly, to put a cap on the payment of current charges by former residents once they have moved out of the village.

The effect of the package is to make it easier for residents to financially prepare for their next accommodation choice, whether it be in another retirement village, an aged-care facility or with family. The changes will allow former residents to access exit entitlements sooner, which in turn impacts operators. The Government has welcomed the support of industry representatives in finalising the bill, particularly the willingness of operators to support changes that benefit former residents, even where that creates additional obligations on an operator. The ongoing cooperation from industry and the buy-in that the Government has had from residents' representatives indicates that it has struck the right balance with the reforms. I will thank members who have contributed to debate. In particular, I acknowledge Ms Abigail Boyd, the Hon. Daniel Mookhey and Reverend the Hon. Fred Nile.

A number of issues have been raised during the debate. Members have asked questions in the House and outside regarding the creation of a prescribed period under the Act for the new exit entitlement orders scheme. Under the bill, a former resident can only apply to the secretary for an exit entitlement order once in the prescribed period if their property has not been sold, the prescribed time limit has been reached and the secretary has not issued an order. The bill provides that the prescribed period will be set through regulation. I inform the House that the Government's intention is that the prescribed period will be six months for metropolitan areas and 12 months for other areas.

The regulation will prescribe the local government areas that will be treated as metropolitan areas. NSW Fair Trading modelling has shown that retirement village premises in New South Wales experience, on average, a maximum period of 202 days, or 6.7 months, between vacancy and settlement for the majority of residences in metropolitan local government areas and 399 days, or 13.3 months, in other areas. To ensure that the prescribed periods are applied fairly across metropolitan and regional areas, the regulation will entrench a differentiated approach. This will provide certainty for residents, but it also recognises the different markets that operators will be selling properties in.

I turn now to the shortfall in budgets caused by changes to the cap. The amendments in the bill will ensure that former residents who are registered interest holders will not be required to pay recurrent charges after 42 days. The cap responds to recommendations from the 2017 Greiner review and is supported by industry and resident stakeholders. While there is general support for the proposed amendment, the issue raised by some members inside and outside the House is how the shortfall in village budgets will be covered once former residents are not required to contribute recurrent charges. I note that amendments to the bill have been proposed to help clarify this issue, but I will make clear the Government's position.

The Government supports former residents' obligation for recurrent charges ending after 42 days and does not believe that operators should pass on the added cost to maintain the services to other residents that financial year. The Act already prohibits that occurring, and the Government welcomes any further amendments that clarify this. However, the Government recognises that when future budgets relating to the provision of general services are presented for approval to residents, operators should continue to be able to take into account any vacancies in the village. This will ensure that operators are not required to run at a deficit year in and year out, which could clearly have adverse impacts on residents who remain throughout a potential reduction in services due to a reduction in the level of recurrent charges that are levied. To ensure that this issue is appropriately dealt with, the Government will work with representatives of operators and residents to develop a regulation that clarifies how any reductions in recurrent fees are managed in a way that ensures that the quality of services is maintained and that the burden of any increased costs is shared equitably.

I turn now to the definition of "unreasonable delay". The definition of what constitutes an operator engaging in an unreasonable delay to facilitate the sale of a retirement village property will be contained in the regulations. Members have sought clarity on what will be contained within the definition. The following factors, while not exhaustive, will be considered by the Secretary of the Department of Customer Service in determining whether an operator has unreasonably delayed the sale of a retirement village property; whether an operator has facilitated an inspection of the residential premises for the purpose of assessing any refurbishment that is required to prepare the premises for sale; whether the operator has sourced relevant quotes and confirmed a provider of services for the refurbishment; whether the operator has provided reasonable assistance and oversight to relevant persons to undertake refurbishment that is required to prepare the residential premises for sale to ensure that work is completed as soon as possible; whether there have been delays in engaging legal service to effect the sale of the property; whether there have been delays in engaging real estate services to effect the sale of the property; and whether access to the property is facilitated for the estate and for interested parties to inspect the property.

I turn now to determining the value of residential premises. Members have been interested in the mechanism for determining an independent value of a property where a dispute arises between the resident and the operator. Clause 182AI requires the independent valuer to be appointed by agreement between the resident and the operator. If they cannot agree, they can apply to the president of the New South Wales division of the Australian Property Institute, who will appoint a suitably qualified and independent valuer. There may not be a large number of suitably experienced valuers in a regional area. If there are only a few, an operator may have had to engage the same ones continually. That does not mean in itself that the available valuer is not able to discharge their duties in an impartial way and take all parties' interests equally into account when making a valuation.

Valuers are usually members of a professional association, either the Australian Property Institute or the Real Estate Institute of New South Wales. Residents can also ask for details about recent valuations that the valuer has done to determine if the operator has used them before. Professional associations have strict educational requirements, including continuing professional education and ethical and conduct requirements that members must observe for continued membership. The bill requires the valuer to provide both the operator and the resident with detailed reasons for the valuation and to specify the matters they had regard to when making their determination. This would include records of recent similar sales in the village or a similar nearby village if there is one. This allows residents to make ready comparisons.

Residents can also use the information from their recent village contract information meeting with the operator to review any valuation. If the resident requests a meeting, the operator is required to provide the estimated sale price of the residential premises, amongst other information. The Australian Consumer Law also applies to the conduct of a property valuer in relation to the work they do. I note amendments have been moved by Ms Abigail Boyd to be considered by the House that relate to issues that have been raised in debate. I reserve commenting on those issues during the Committee stage. As members are aware, the Government has supported and actioned many of the recommendations made by the Greiner review.

This bill is the culmination of that action to support the needs of residents while ensuring a viable, vibrant and continuing retirement village industry into the future. The Government has carefully considered all of the feedback received in relation to the proposed amendments and has listened to the voices of industry and residents. I am confident that this bill responds to a significant portion of the almost 800 submissions received by Government. However, there is still work to be done on the supporting regulations. I thank Minister Anderson, who I note is present in the Chamber, and his staff. I thank the department for its efforts to produce this comprehensive bill. The bill reflects a new era of a fair go for 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.

The DEPUTY PRESIDENT (The Hon. Trevor Khan) (23:22:02**):** Before I put the question, I will make a brief remark. I make it clear that this remark is not aimed at the Parliamentary Secretary at the table. It has

arisen on a number of occasions in recent speeches in reply, so this is an opportunity to put a brief observation on record in that respect. I take members to the observations in Lovelock and Evans *New South Wales Legislative Council Practice* at pages 304 and 305:

> The right of reply gives the member of a substantive motion an opportunity to refute arguments against the motion which have been raised during the debate and to indicate their position in relation to any amendments … While the standing orders do not specifically preclude the introduction of new material during a speech in reply there are several rulings indicating that when speaking in reply members should relate their remarks as far as possible to the debate that has already taken place.

I make the observation that on recent occasions speeches in reply have in essence been a repeat of the second reading speech. For the benefit of all members, if that continues, then Parliamentary Secretaries and Ministers will be embarrassed by being pulled up.

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 sheets of amendments from The Greens.

Ms ABIGAIL BOYD (23:24:55**):** By leave: I move The Greens amendments Nos 1 and 2 on sheet c2020-216F in globo:

No. 1 **Termination of residence right**

Page 4, Schedule 1[9], line 5. Omit all words on that line. Insert instead—

Omit the subsection. Insert instead—

(3) The operator of the retirement village must not increase the recurrent charges payable by the residents of the retirement village as a result of any liability that may be incurred by the operator once the former occupant's liability to pay recurrent charges ceases under subsection (2), unless the regulations otherwise provide.

No. 2 **Exit entitlement order**

Pages 5 and 6, Schedule 1[13], proposed section 182AB(3), line 44 on page 5 to line 2 on page 6.

Omit all words on those lines. Insert instead—

(3) The prescribed period commences 40 days after the following, whichever occurs first—

(a) the date the former occupant's premises are first advertised for sale,

(b) the date the former occupant permanently vacates the premises, including by returning to the operator all keys to the premises,

(c) if the former occupant does not intend to move out of the premises while the premises are for sale—the date the former occupant gives written notice to the operator of that fact.

I will deal with these amendments together because amendment No. 2 is of a relatively minor nature. Amendment No. 1 captures some of the issues we were talking about before. It is primarily an issue of fairness and transparency. I acknowledge the concerns of the Retirement Village Residents Association that residents remaining in a retirement village following the departure of other residents will potentially be stuck with grossly increased recurrent costs designed to make up the operator's actual or projected losses and former residents will not, after these reforms, be on the hook indefinitely for recurrent charges in their former residence.

The Greens have concerns about the circumstances in which operators might pass on these costs to residents. We believe it requires strong regulation from the Government to ensure transparency for residents, and that is what this amendment intends to do. The amendment intends to ensure that the Government will provide this through regulation and guidelines to remove that concern. Amendment No. 2 closes a small loophole that will delay an exit entitlement order in the unlikely, but still possible, circumstances of a former occupant's premises being first advertised for sale before the former resident has either permanently vacated the premises or notified the operator they do not intend to move out of the premises before the sale.

The Hon. NATASHA MACLAREN-JONES (23:26:47**):** First of all, I thank Ms Abigail Boyd for bringing forward these amendments, which the Government will be supporting. Amendment No. 1 on sheet c2020-216F inserts a new clause 152 (3) (c) stating that the operator must not increase the recurrent charges payable by residents of the retirement village as a result of the new provisions for the 42-day cap unless the regulations provide otherwise. This is a good safeguard for residents, and builds on the safeguards already provided for in the Act. It will prevent an operator increasing the charges for those residents who remain to make

up for the shortfall of those who have left and are no longer paying for general services unless the regulation prescribes otherwise.

The Government has made it clear that it will work with both operators and resident groups to determine an equitable means by which any shortfalls in the recurrent budget will be dealt with and, while we are strongly of the view that the regulation-making power already exists to achieve this outcome, the amendment puts this beyond doubt. Amendment No. 2 provides an additional criterion for deeming provisions of the 40-day time period for the six- and 12-month clock to start under new section 182AB (3). The date the former occupant's premises are first advertised for sale has been inserted into the provision. This means that after 40 days from the date when the premises is advertised for sale the six- and 12-month time clock will start. This is also fair and reasonable. A premises is advertised for sale once legal contracts have been drawn up and real estate agents engaged. This is an approximate time to commence the 40-day time period.

The Hon. DANIEL MOOKHEY (23:28:32**):** The Opposition does not oppose the amendments.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Ms Abigail Boyd has moved The Greens amendments Nos 1 and 2 on sheet c2020-216F. The question is that the amendments be agreed to.

Amendments agreed to.

Ms ABIGAIL BOYD (23:29:05**):** By leave: I move The Greens amendments Nos 1 to 3 on sheet c2020- 234I in globo:

No. 1 **Exit entitlement order**

Page 5, Schedule 1[13], proposed section 182AB, insert after line 39—

(1A) However, this section applies to a former occupant who has been paid any part of the former occupant's exit entitlement by way of an accommodation payment under section 182AG only if the former occupant's residential premises have not sold within 2 years after the date on which the former occupant first entered the aged care facility to which the payment relates.

No. 2 **Exit entitlement order**

Page 6, Schedule 1[13], proposed section 182AB, insert after line 2—

(3A) Subsection (3) does not apply to a former occupant referred to in subsection (1A).

No. 3 **Exit entitlement order**

Page 6, Schedule 1[13], proposed section 182AB(7), definition of ***prescribed period***, line 12. Omit "182AE.". Insert instead—

182AE, or

(c) for a former occupant referred to in subsection (1A)—2 years from the date on which the former occupant enters into an aged care facility after permanently vacating the residential premises.

These amendments address the need for former retirement village residents to be able to access both the new aged care rule reform and the exit entitlement order process. As I mentioned in my contribution to the second reading debate, The Greens believe that both of these key reforms are crucial for older people moving from retirement villages into aged care and in fact complement rather than contradict one another. The amendments allow people accessing the aged-care rule to also access an exit entitlement order after 24 months as opposed to six or 12 months, as was referred to in the Parliamentary Secretary's reply speech in the second reading debate. Importantly, the amendments do not allow the estate of a deceased person to apply for an exit entitlement order.

The amendments ensure that if someone is in aged care and their daily accommodation payment is being paid by their former retirement village operator out of their exit entitlement and they are still waiting for their unit to sell 24 months after they have moved into aged care, they can then apply for an exit entitlement order. It differs from the exit entitlement order time line, which the Government has indicated will be implemented in the regulations. We believe that this 12- to 18-month extension for operators to sell the former residences of people accessing the aged care rule is generous and strikes a balance between the concerns of operators and the concerns of residents that operators will de-prioritise or delay selling units whose former residents have access to the aged care rule. I thank the Minister and his staff for their cooperation in discussing and agreeing to this key amendment in particular. It has not been easy to balance the concerns of residents and operators, but I believe that we have reached a point of compromise in this amendment that has managed to strike that balance.

The Hon. NATASHA MACLAREN-JONES (23:31:20**):** I again thank the member for bringing forward these amendments, which the Government will support. Amendments Nos 1, 2 and 3 allow a former resident of a retirement village who is having their daily accommodation payments paid for by the operator to apply to the secretary for an exit entitlement order after 24 months from when the former resident enters an aged care facility.

The provisions in the bill in relation to the exit entitlement orders would still apply; however, as the premises would have already been on the market during this 24-month period, the six- and 12-month time frame provisions would have been met. Thus the former resident could apply to the secretary straightaway after the 24-month mark.

These are fair and reasonable amendments and provide the former resident the ability to transition quickly to aged care, as is often needed when their physical or mental health is affected. They also provide for a 24-month period during which time the premises can be on the market for sale. The Government considers it a fair balance between the urgency provided under the bill for operators and the realistic expectation that after 24 months an operator needs to provide evidence why they should not pay out the remainder of the exit entitlement directly to the former resident.

The Hon. DANIEL MOOKHEY (23:32:56**):** The Opposition does not oppose these amendments.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Ms Abigail Boyd has moved The Greens amendments Nos 1 to 3 on sheet c2020-234I. The question is that the amendments be agreed to.

Amendments agreed to.

Ms ABIGAIL BOYD (23:33:25**):** I move The Greens amendment No. 4 on sheet c2020-234I:

No. 4 **Savings and transitional provisions**

Page 11, Schedule 1[15], insert after line 28—

Payment of recurrent charges during prescribed period

(1) This clause applies to a former occupant of residential premises in a retirement village who is—

(a) a registered interest holder in respect of the premises, and

(b) liable to pay a ***recurrent charges payment***, being recurrent charges payable in relation to general services under section 152 after the former occupant has permanently vacated the residential premises.

(2) A former occupant to whom this clause applies may request an operator of the retirement village make a recurrent charges payment from the prescribed component of the former occupant's exit entitlement.

(3) A request must—

(a) be made in a form approved by the Secretary, and

(b) include the information prescribed by the regulations.

(4) An operator to whom a request is made must make the recurrent charges payment from the prescribed component of the former occupant's exit entitlement within 14 days after the request is first made.

(5) However, an operator is not required to make a recurrent charges payment from the prescribed component of the former occupant's exit entitlement if—

(a) the former occupant ceases to be liable to pay the recurrent charge under section 152, or

(b) the former occupant makes a written request to the operator to cease making the recurrent charges payment from the prescribed component of the former occupant's exit entitlement.

(6) To avoid doubt—

(a) an operator must pay any part of the former occupant's exit entitlement that is not paid towards a recurrent charges payment to the former occupant in accordance with section 180, and

(b) a former occupant to whom this clause applies is not prevented from applying for an exit entitlement order after 1 July 2021 merely because of this clause.

(7) This clause ceases to have effect at the beginning of 1 July 2021.

(8) In this clause—

exit entitlement and ***prescribed component*** have the same meanings as in Part 10AA of the Act.

prescribed period means the period commencing on the commencement of Schedule 1[13] to the *Retirement Villages Amendment Act 2020* and ending on 30 June 2021.

This amendment seeks to bridge the gap between the commencement of the bulk of the bill on 1 January and the commencement of the 42-day recurrent charges cap on 1 July 2021. At the outset I acknowledge that the need for this amendment was raised with The Greens by the member for Sydney in the other place, who became concerned about the unnecessary continued burden to pay recurrent charges during the six-month period after being

approached by a constituent whose father was experiencing financial stress caused by his transition from a retirement village to aged care. I thank the member for Sydney for his representation and advocacy.

This amendment recognises that retirement village operators cannot adjust their budgets midyear, so reforms included in the bill that will have an impact on a village budget cannot take effect until a new financial year. It also recognises that current and former residents have been waiting years for these changes since the Greiner report recommended an overhaul of the industry, and a technicality should not be allowed to put a further six months of financial difficulty on them. That financial difficulty is very real, as we have seen from that representation from the member for Sydney. In seeking to circumvent the issue of the budget impact, this amendment will create a temporary process which allows former residents to request that recurrent charges payable in relation to general services be deducted from their as yet unpaid exit entitlement. This process will be in effect from the commencement of the bill until the 42-day cap comes into effect on 1 July.

The Hon. NATASHA MACLAREN-JONES (23:35:10**):** The Greens amendment No. 4 seeks to provide new transitional arrangements that would allow former residents to pay for their recurrent charges liability out of their future exit entitlement. The proposed amendment would allow payment of recurrent charges between 1 January and 1 June 2021 to be deferred until the sale of the property. At this point, the operator would deduct the outstanding recurrent charges from the resident's exit entitlement. The amendment covers the period between the commencement of the Act and the commencement of the changes to the cap on recurrent charges to ensure that former residents during this period are able to access the benefits of the new scheme. The bill provides that the 42-day cap on recurrent charges does not commence until after 1 July to allow village budgets to take into account the reduced payments they will be receiving from former residents towards general services.

The Government supports this amendment and thanks Ms Abigail Boyd for working with it to finalise the amendment as presented to the House. These amendments are the result of important advocacy by the Retirement Villages Residents Association and feedback from operators. The Government has worked with The Greens to come up with a set of equitable and sensible amendments for both residents and operators that will further strengthen this bill. These amendments strike a sensible balance for the key stakeholders involved in these reforms, and the Government is proud to support them. Again I thank Ms Abigail Boyd for bringing forward the amendments to the bill. They strengthen the bill and provide important clarifications. The Government is committed to ensuring that the retirement village industry continues to play an important role in meeting the housing needs of seniors seeking a safe, secure and low-maintenance lifestyle while protecting residents' rights and interests.

The Hon. DANIEL MOOKHEY (23:36:54**):** The Opposition does not oppose the amendment.

The TEMPORARY CHAIR (The Hon. Shayne Mallard): Ms Abigail Boyd has moved The Greens amendment No. 4 on sheet c2020-234I. 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. NATASHA MACLAREN-JONES: 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. NATASHA MACLAREN-JONES: On behalf of the Hon. Damien Tudehope: I move:

That the report be adopted.

Motion agreed to.

Third Reading

The Hon. NATASHA MACLAREN-JONES: On behalf of the Hon. Damien Tudehope: I move:

That this bill be now read a third time.

Motion agreed to.

Adjournment Debate

ADJOURNMENT

The Hon. NATASHA MACLAREN-JONES: I move:

That this House do now adjourn.

TRIBUTE TO DAVID ANDREW IPP, AO, QC

The Hon. TREVOR KHAN (23:39:42**):** I acknowledge the passing of David Andrew Ipp, AO, QC, born in 1938, who sadly died on 8 October 2020. It was my honour to sit on the Independent Commission Against Corruption committee at the time of his appointment to the Independent Commission Against Corruption. I will return to that later. An incomplete history of Mr Ipp is that he was born in Johannesburg, South Africa in 1938. He was admitted to practice as a solicitor of the Supreme Court of South Africa in 1963, before going to the bar in 1973. In 1981 he moved to Australia and was admitted to the Western Australian bar. He was then appointed as Queen's Counsel in 1985. From 1989 to 2002 Mr Ipp served as a justice of the Supreme Court of Western Australia. From 2001 to 2002 he was an acting judge of appeal of the New South Wales Court of Appeal, before being appointed a judge of the New South Wales Court of Appeal in 2002.

In addition, in 2002 he was appointed chairman of the panel appointed by the Governments of the Commonwealth States and Territories to review the law of negligence. From 2006 to April 2009 he had a part-time appointment as a judge of the Supreme Court of Fiji—the highest court of that country. In addition, he filled the roles as a part-time commissioner of the New South Wales Law Reform Commission and as an arbitrator of the international court of sport. In November 2009 he was appointed as the Commissioner of the New South Wales Independent Commission Against Corruption. He remained in that role until October 2013, when he announced his retirement with effect from late January 2014, citing ill health.

I acknowledge the passion with which Mr Ipp performed his role as Commissioner of the Independent Commission Against Corruption. He plainly understood the importance of the role and that of the commission and was prepared to defend the organisation from criticism. From my position, I thank him for his boldness in that regard. In that respect, in August 2014 he met with *The Sydney Morning Herald* journalist Michaela Whitbourne, who wrote:

> The commission has come under fire this year as it switches its focus from Labor to Liberal heavyweights, with calls for it to hold its hearings in private to minimise reputational damage.

Ipp said:

> I think that is absolute rubbish.

But more on that later. Whitbourne continued:

> I can tell you that my experience is the ordinary man and woman in the street are very satisfied with what ICAC has done.

She continued:

> But he is disturbed by recent calls for the commission to hold its hearings in private, and says one of the ICAC's "most important weapons" is the use of public exposure. "The whole raison d'etre of ICAC is the exposure of corruption," he says. "The idea of exposing corruption behind closed doors is oxymoronic."

For what it is worth, I agree with his observations. In conclusion I quote the words of the Governor, Margaret Beazley, who sat with Mr Ipp on the Court of Appeal bench. In an article in *The Sydney Morning Herald* on 12 October this year it observed:

> (She) remembered his sharp intellect, quick mind and "ferocious appetite for knowledge". "As a judge of the NSW Court of Appeal David's legal and judicial talent came to the fore, his judgments being erudite, promptly delivered and invariably correct," she said.
>
> "David was a big personality, with the most infectious laugh, and felt things keenly, both the good and the bad. He held his friendships dear and it was a privilege to be amongst them.
>
> "Sad as his death is, I know from conversations with him over the last couple of weeks that he was at peace with the end of his life, save that he was to be separated from the 'love of his life', wife Erina and family."

I conclude by saying that David Ipp's family have much to be proud of. Vale, David Ipp.

TRIBUTE TO SUSAN RYAN, AO

The Hon. PENNY SHARPE (23:44:32**):** Tonight I pay tribute to the life and work of former senator and Minister the Hon. Susan Ryan—feminist, reformer and pioneer for Australian women and girls. I pay my respects and sincerest condolences to Susan's children, Justine and Ben, and her partner, Rory, her extended family and the many friends who miss her dearly. Susan Ryan was elected to the Senate as a senator for the Australian Capital

Territory at age 33. Her campaign slogan was, "A woman's place is in the Senate". At the time she was one of only six women in the Federal Parliament. She served as a senator for the ACT from 1975 to 1987.

In 1983 Susan Ryan was appointed as the sole woman and the first woman to sit at a Federal Labor Cabinet table as part of the incoming Hawke Government. The fact that I now, as Deputy Leader of the Opposition in this place, serve as part of a leadership team that is three-quarters women and part of a shadow Cabinet made up of 50 per cent women, is because of the shattering of the glass ceiling for women in the Labor Party begun by Susan Ryan. Affirmative action was recognised by Susan Ryan as the mechanism to ensure that Australia drew on all of the talents of all of our population; that women could, and must be, included in the decision-making of our nation. Two pieces of legislation, the Commonwealth Equal Employment Opportunity (Commonwealth Authorities) Act 1987 and the Commonwealth Affirmative Action (Equal Employment Opportunity for Women) Act 1986 laid foundations for the advancement of women and in the equality of women in Australia.

Within the Labor Party it was women like Joan Kirner and Penny Wong who were inspired and supported by Susan Ryan to take up the fight to ensure that affirmative action within the Labor Party would deliver women-elected representatives to our parliaments and Cabinet tables. Susan was born in 1942, the daughter of a sales assistant and a public servant. She grew up in Maroubra. Susan trained and worked as a schoolteacher until she had a first child in 1964. After obtaining a Masters of Arts degree from the Australian National University, Susan was then appointed as the national executive officer of the Australian Council of State School Organisations. Not content, she was very busy at the time, it was during this time that she helped to found the Women's Electoral Lobby. Susan Ryan talked about her commitment to founding an organisation seeking to empower women in our democracy through the Women's Electoral Lobby. Susan said this:

> Those of us caught in the whirlwind saw that society was structured and manufactured by its rulers to achieve these endless disparities between the sexes.

She went on to say:

> Our subordination was not destiny; it was the construct of men in which we had acquiesced for far too long.

One of Susan's most significant legacies was the foundation she laid to outlaw discrimination in Australia on the basis of sex, marital status and pregnancy. The Sex Discrimination Act was hard-fought for reform. Prior to these laws it was lawful to discriminate against women in employment, education, accommodation and the provision of goods and services. A woman's credit rating and earning capacity were not enough to get a loan from a bank. Women could not secure credit unless their husbands or their fathers took responsibility. Landlords could refuse to rent homes to single mothers. Community clubs throughout the country were able to bar women. Women were sacked because of their age, their marital status or their pregnancy.

In 2020 this seems absurd but at the time these laws were considered dangerously radical. Susan weathered many attacks in the lead-up to the passage of those laws. Many were critical of the Sex Discrimination Act—and not just those opposed to women's equality. Susan was attacked by feminists who argued that the Act that was passed was a shadow of the private member's bill she had developed in Opposition. They argued that it did not go far enough and that it contained a number of problematic exemptions. However, Susan Ryan did not let the perfect be the enemy of the good. Susan recognised that it was better to get a basic anti-discrimination structure in place and then work to remove those exemptions over time. She won support in the community, but crucially within her own Government.

This has been, and continues to be, the reality of how reform is achieved. Susan showed so many that tenacity, persistence and pragmatism was just as important as smart strategy to make change really happen. Susan's other policy passion was education. Another of her enduring legacies was her contribution to the education of Australian children and young people. School retention rates doubled, while university and TAFE enrolments grew to historic levels when she was the education Minister. After leaving Parliament, Susan continued her activism. She served as Australia's first Age Discrimination Commissioner and she also served as the Disability Discrimination Commissioner. She also headed up the Australian Republican Movement and was a kind word in the ear to many, including me, over many issues including reproductive rights. Recently my colleague Penny Wong recognised the life of Susan Ryan. Penny said:

> It is often said "you cannot be what you cannot see" … The truest of leaders have the vision of what is possible, the courage to take on the fight against those vested in the status quo, the intellectual power to craft the strategy and the charisma and humanity to bring people with them. For us, for Labor women, that was Susan Ryan.

PROPERTY RIGHTS

The Hon. MARK BANASIAK (23:49:41**):** Some 800 years ago in 1215 the *Magna Carta* was written to prevent the sovereign of the time from taking property from his subjects. In 1773 jurist William Blackstone wrote:

There is nothing which so generally strikes the imagination, and engages the affections of mankind, as that of property rights.

Common law has long regarded a person's property rights as absolute. Yet in the twenty-first century we find ourselves with ever-increasing interference from government regulating those property rights away from us with absolutely no line of recourse for property owners, financial or otherwise. For hundreds of years property rights have been considered so essential to common law that one cannot exist without the other. That line, crucial to modern civilisation, can be read often when referencing property rights. I speak on the subject of property rights because over the past week we have witnessed this Government regulating more land into oblivion in the Snowy Monaro local government area. Under the new Snowy Monaro Regional Council Rural Land Use Strategy proposal, great swathes of privately owned land are being rezoned E3 Environmental Management and will have absolutely no value to the landowner.

The strategy's name is a misnomer, because under the strategy the land will be deemed largely "no use". Of course, people can make submissions and go to the consultation nights but at the end of the day both of those avenues are useless. The State Environmental Planning Policy (Koala Habitat Protection) 2019 is the perfect example of just how useless the submissions and consultations provided for by this Government are. The consultation process for the koala State environmental planning policy did not even mention that it concerned the SEPP; only that it was a strategy put forward for koalas. Of all the private property owners that have been impacted by the SEPP, as well as forestry operations and private native forestry operations, only 191 people were consulted.

The recent Local Land Services Amendment (Miscellaneous) Bill 2020 introduced by the Minister for Agriculture and Western New South Wales is supposed to be the panacea for the absolute overreach, or should I say violation of private property rights, but it only deals with the koala SEPP. It does not deal with all the other regulations, subordinate legislation and environmental planning instruments that have eroded land values in this State to virtually nothing simply to build on the Government's informal national parks system. Commonwealth law states that the Federal Government cannot take private property without offering just terms to its owners. That does not apply to the State. If an uneducated green bureaucrat walks onto a person's property or, in the case of Snowy Monaro Rural Land Use Strategy, peers over the fence and gets a vibe, that is all it would take for this Government to rezone the person out of productive land.

In fact, a few years ago the figure suggested was somewhere around the $200 billion mark. That is the hit we took because of the loss of productive agricultural land, regulated out of productive hands for the sake of carbon sequestration or environmental and heritage values. A lot of that environmentally significant land was labelled using predictive and spatial mapping that we now know is completely flawed. Nothing is ground truthed. Maybe I am wrong and koalas have decided that they want to get on the smashed-avocado bandwagon as well. Again, in the case of the Snowy Monaro local government area, no mapping has been ground truthed. In the other place the Minister for Planning and Public Spaces has stated that e-zones require ecological evidence—field surveys and biodiversity reports. But none of that has happened because private property rights are at the whim of the Government, which can regulate so it has no value whatsoever, with no obligation to compensate the landowners.

Regulation by regulation, rural and regional people are losing their incentives to invest in agricultural land. The uncertainty of what one can do on one's own property will halt economic progress. I ask members: Who will provide this country with food and fibre? The Snowy Monaro region is one of our biggest and proudest timber and cattle regions. But with a flick of a pen that can, and probably will, be taken away. One of our most sustainable industries is the timber industry. Private native forestry provides valuable income to our farmers. State forests that are managed under forestry and provide a steady income for this State are home to most of our koala populations. But this Government would rather put its head in the sand about the benefits of our timber and agriculture industries and appease the city elites whose attempts to feel less guilty about their privilege through environmental virtual signalling will kill the environment. That is what it is doing. It is killing our koalas and our biodiversity because it is ignoring—and I am going to say it—the science.

In the past 20 years that we have locked up and left our national parks our koala populations have plummeted. But instead of managing national parks in the way that State forests are managed or in the way that private land is managed—which seems to be the way koalas like it—this Government simply regulates land to suffer the same fate as our national parks. So no-one gains anything. It is a loss of our biodiversity, a loss of our koalas and a loss of an absolute right that has been entrenched in civilisation for centuries.

MANUFACTURING INDUSTRY

The Hon. LOU AMATO (23:54:07**):** I have spoken on a number of occasions about the dismal state of the Australian manufacturing industry. The Scott Morrison Government originally announced $1.5 billion to boost manufacturing. This is no doubt a move in the right direction. As a nation we are beginning to come to terms,

rather slowly, with the folly of allowing our manufacturing industry to all but die. Occupying only 5.8 per cent of our national economy, Australia has the smallest manufacturing sector in the western world. Greece, which is not even included in discussions of manufacturing, currently has 9.6 per cent of its economy actively engaged in making things. How did we get here? Growing up in the sixties and seventies, like most young people, you either loved Ford or Holden. Loving one brand usually meant a total dislike of the other. Personally, I was a Holden man.

I felt proud to drive an Australian-made vehicle and my love of machines was a major driving force behind my decision to study automotive engineering. Remember the battle on the hill between the two Australian icons, Ford and Holden? They were the good old days. The Ford versus Holden story had one flaw that not many Australians were aware of: Neither Ford nor Holden were Australian companies. Both of these motor vehicle giants are American companies that opened manufacturing facilities here in Australia. In fact, many of the brands that we think of as Australian are foreign-owned entities. To illustrate, if you asked the average person about Cadbury chocolate most will tell you that Cadbury is Australian owned. False. Cadbury Schweppes is a British multinational confectionery company wholly owned by Mondelez International since 2010. Mondelez International is an American multinational confectionery, food, holding and beverage and snack food company. Cadbury may have manufacturing facilities in Tasmania but the company is not Australian owned.

The industrialisation of Australia came rather later than in most western civilisations. As Australia was originally a penal colony it expanded as a nation almost solely on investment from England. As the Australian population grew the need for manufactured items was satisfied by imports or, in many cases, foreign-owned entities establishing local manufacturing facilities to meet demand. Foreign investment from already established manufacturing enterprises was welcomed as the large-scale production of finished goods required huge capital investment, which was not easy to obtain. The easy solution was to encourage foreign-owned manufacturing entities who already possessed the resources and skills to establish operations in Australia. The establishment of manufacturing by foreign-owned corporations, although a crucial step in the genesis of heavy industry in Australia, was attended with significant drawbacks.

All enterprises can only survive if their operations achieve profit generation. A foreign-owned manufacturing outpost in Australia can quickly become non-viable if profit margins do not meet expected returns on investment. Since patriotism is not attached to the continuance of operations in offshore manufacturing outposts, closure and relocation to other more profitable geographical locations is simply a senior management decision. Such a decision is not connected to country, nor is it attended with nationalistic pride. The closure of Ford in Australia was not made by an Australian but by an executive most likely in faraway office headquarters in the United States. The question important to us, since we now occupy the last spot in western world manufacturing, is: How do we rebuild our manufacturing industry, attain self-sufficiency and have at least some control on its continuance?

It is important to note that Australian Government policy of the past has at times made the transfer of foreign-owned operations to other locations rather attractive. The dreaded carbon tax was one of those policies that provided a negative outcome to Australian manufacturing and had zero effect on emissions. Ford and Holden simply transferred operations to other countries where carbon tax laws are non-existent. Trade unions made unreasonable pay demands on foreign-owned manufacturing concerns, which included strike action and other disruptions to profitability. Again someone in a faraway place simply closed the operation and transferred it to a more favourable location.

The end result was the loss of manufacturing expertise, thousands of jobs lost and the embarrassment of having the smallest manufacturing sector in the western world. The Morrison Government's injection of funds to reboot our manufacturing industry undoubtedly includes some hope that foreign-owned entities will once again set up shop here in Australia. Without foreign investment, the $1.5 billion is simply not enough to kickstart our manufacturing industry. For this to happen, governments and trade unions must remember that we must maintain a political system conducive to profitable operations or we can expect any foreign investment in manufacturing to be rather short lived.

WESTERN SYDNEY JOBS GROWTH

The Hon. PETER PRIMROSE (23:58:37**):** I have previously spoken about how the New South Wales Government will have to provide the equivalent of eight Barangaroo-sized projects by 2036 to meet the jobs growth figures it projects for western Sydney. That is one Barangaroo every 24 months. With the State budget coming down next Tuesday, frankly, I do not see how anyone can believe that this Government will be able to deliver the number of jobs it says it can. The pudding has been over-egged. The construction sector and mega transport projects have a critical place in the mix of economic and industry policies we need to see New South Wales getting back to work.

One sector that is often left out of the job creation and investment equation is that which provides care and support services. Care and support workers provide the essential social infrastructure that our communities need and the vital jobs that keep our economy moving. A recent paper entitled *The gendered employment gains of investing in social vs. physical infrastructure: evidence from simulations across seven OECD countries* calls into question relying solely on the construction sector to build our way out of the social and economic mess COVID has wrought. That research looks at the care and support sectors as social infrastructure and compares the effects of the same investment in physical infrastructure, in particular, the construction sector.

The paper models the impact of investing 1 per cent of gross domestic product in the construction compared to care and support sectors across seven OECD countries, including Australia. The results of the modelling demonstrate that with the same investment dollars, care and support sectors generate more total employment, including indirect and induced employment, and provide greater benefits to women's participation in the paid labour market. The fiscal returns from investing in care and support are also higher than that of the construction sector. That economic modelling also confirms that investing in the care and support sectors provides greater gains than those same dollars invested in construction.

I am not trying to pit two sectors of our society and economy against each other; both are vitally important. The first question that will be shot back is, where is the money to increase funding in the care and support sectors? One source is obvious: The funding could have come from the mega transport projects that have run over budget under this Government. Inland Rail is now approximately $5.5 billion over budget; the difference in the estimates between 2015 and now of the Sydney Metro City & Southwest ballooned out to $4.5 billion; and CBD and South East Light Rail ran $1.5 billion over budget.

Between those three projects alone there is an $11.5 billion overrun that could have been spent on our care and support sectors, delivering untold and multiple benefits to small local businesses, housing security, and women's workforce participation, to name only three. Most importantly, that investment would have delivered vital services to the community. The construction sector is critical to our society. No matter where I go in New South Wales—whether it be Narromine, Narrabri, Nambucca, Narooma or Narellan—local communities need major construction projects.

But I also hear in those communities about the great job that the local care and support sector workers are doing—nurses, early childhood educators, social workers, teachers, disability support workers, home-care assistants and doctors. Everywhere people wish they had more of those workers because they are so desperately needed. The New South Wales Government's response has been to give many of them a pay cut. Construction jobs are important to our economy and society, but I have not heard the Liberal-Nationals Government speak of the importance of care and support sector jobs to the cohesion, stability, and growth of our communities and our economy.

ELECTRICITY INFRASTRUCTURE ROADMAP

The Hon. ROBERT BORSAK (00:03:17**):** Where do I begin with the Government's announcement this week of its Electricity Infrastructure Roadmap? It is certainly no light bulb moment for the Government, particularly for the Deputy Premier. It is further proof that Mr Barilaro has well and truly lost his bottle and will now do what he is told by the Government to keep his job. The roadmap is absolute nonsense. It is another green pitch for the inner-city elites to save their North Shore, northern beaches and eastern suburbs electorates.

The Government, along with Mr Barilaro, plan to shut down our coal industry and replace it with renewables, which will supposedly save a pitiful $130 off family electricity bills that are already running up to $1,000 per quarter. I suspect that the exact opposite will occur. They fail to mention that they will be plunging New South Wales into a dark age of blackouts and budget blowouts by switching over to an intermittent power supply. It is not great news, particularly for those with mansions on the northern beaches and in the eastern suburbs. Just picture how much fun it would be roaming marble hallways at night with only a candle to light the way.

The policy will replace our reliable baseload power, which currently supplies 80 per cent of the State's power, with intermittent energy sources. It will convert prime agricultural land into "renewable energy zones" made up of communist-made solar panels and backed up by wind and pumped hydro. It is all preposterous, particularly the pumped hydro. Has the Government forgotten that we have just come out of an almost four-year drought? It is stupid to say that we are going to use hydro-electricity when not a single dollar has been invested in building dams. The Government wants to increase the demand for water without producing any more water. Whose water allocations will be reduced—the environment, town water or the long-suffering farmers yet again? Can Minister Pavey please explain that one? Hydro-electricity in places like New Zealand make sense. They have the rainfall and the topography. In Australia we lack both of those integral factors for hydro-electricity. We have low rainfall and we are virtually flat. Where can we produce hydro-electricity?

Be prepared for when the next drought hits and, instead of our water going to our primary producers and the environment, it will go straight to the hydro station. We have it on good authority that at least 20 per cent of dam capacity will have to be reserved. Is that really what the Opposition and The Greens want? It is also important to note that multiple campaigns are occurring all over regarding wind farms. The Liberals may not be aware of them because they are not building wind farms on city skylines; they are building them in the bush. Be assured, as someone who travels weekly around regional and rural New South Wales, people do not want a looming structure in their backyard that kills birds and renders their tranquil landscapes industrial zones. The electricity generated bypasses their own grids and goes straight to the city. It is all a bit unfair—not only unfair but a big city rort.

The Liberals and The Nationals are beating their chests about the jobs that the policy will produce. That is just spin. How many people does it take to service a wind or solar farm? Once it is built there are no more jobs. They are decimating regional economies in areas like the Hunter and Tamworth and trying to sell us a pup by saying that those from the coal industry will be retrained. Where is the road map? Where is the investment in TAFE and the drive forward for local manufacturing? There is a $1.5-billion package going out to lease land off property owners to host renewable infrastructure. So where is the money that will be going into packages for retraining those who have lost out? The failure of governments in the past to consider those industries they destroy has played out in a devastating way with the timber workers in Tasmania, for example, where six months after they lost their jobs in the timber industry and were retrained, they have not got another job.

The Government has not thought this through for our regions and the Deputy Premier has stuck his head in the sand yet again. We need another road map on plans for local procurement by the Government—not just steel mesh and aluminium ingots, but real job creation and a return to local manufacturing and long-term funding for our regions. The policy is touted to "renewable energy zone" investors as some sort of long-term revenue certainty—in other words, guaranteed income from tax dollars and overpriced electricity for clients of city-based lobbyists. Little of the taxpayer money poured into the projects will be spent in the regions. Despite the spin from the Government, the policy will lead to higher prices, lower reliability and the destruction of our beautiful regional towns by massive wind farms and solar structures. It will lead to the theft of yet more water from town water supplies all over the State. To save his job, the Deputy Premier has sold out the bush once again.

HEATHCOTE ROAD DUPLICATION

The Hon. MARK BUTTIGIEG (00:08:20**):** Last month we had the spectacle of the member for Heathcote, Mr Evans, stating that he has been misled by his own Government—by the department of transport—about the duplication of Heathcote Road, which was a rock-solid election commitment that the people of Heathcote expected to be delivered. Then the other day we had the spectacle of the Minister for Transport and Roads, Mr Constance, announcing $35 million worth of funding for a Heathcote Road duplication but not the promise that was made to those residents of Heathcote, which needs to be made good—that is, the duplication of the bridge over the Woronora River.

This is a bridge where there have been multiple accidents and multiple fatalities, and the poor old member for Heathcote, who is trying to do the right thing by his residents, cannot even get his own Minister to make good on the promise to duplicate that bridge. The people of Heathcote deserve for the promise made to them by their local member to be made good. We will keep pursuing this matter until that promise is fulfilled because governments and members get elected to make sure that those things are done. Again, a nothing statement and a promise not fulfilled is not good enough.

The DEPUTY PRESIDENT (The Hon. Taylor Martin): The time for debate has expired. The question is that this House do now adjourn.

Motion agreed to.

The House adjourned at 00:09 until Wednesday 11 November 2020 at 10:00.